

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:15-cv-00139-RJC-DCK**

**THE CINCINNATI INSURANCE  
COMPANY,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 )  
 **PARADISE HOME IMPROVEMENT,** )  
 **LLC, and SHARON WATSON,** )  
 **individually and as** )  
 **a class representative,** )  
 )  
 **Defendants.** )

**CONSENT JUDGMENT**

NOW COME the parties, The Cincinnati Insurance Company (“Cincinnati”), Paradise Home Improvement, LLC (“Paradise”), and Sharon Watson (“Watson”), by and through their attorneys, and hereby consent to the entry of a declaratory judgment in this matter, declaring as follows:

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332 (a)(1).
2. This Court has personal jurisdiction over all of the parties in this matter.
3. On or about January 8, 2015, Watson filed a suit entitled *Sharon Watson, individually and on behalf of all others similarly situated, Plaintiff, vs. Paradise Home Improvement, LLC, a Delaware limited liability company, Defendant*, in the United States District Court, Western District of North Carolina, as case number 5:15-cv-00003-RLV-DCK (hereinafter referred to as the “Watson Suit.”).

4. The Watson Suit seeks relief against Paradise Home Improvement, LLC on the basis of allegations that Paradise Home Improvement, LLC has engaged in conduct which violates the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”).

5. Up to this date, Cincinnati has been defending Paradise’s interests in the Watson Suit, but has reserved its rights to terminate its defense, and deny any obligation to defend or indemnify Paradise with regard to the Watson Suit.

6. Cincinnati issued policy number ENP 3663912, to Paradise, for the Policy Period of January 15, 2013 to January 15, 2014 (the “2013 Policy”).

7. Cincinnati issued policy number ENP 0176499, to Paradise, for the Policy Period of January 15, 2014 to January 15, 2015 (the “2014 Policy”).

8. In pertinent part, both the 2013 Policy and the 2014 Policy contain the following exclusion:

*This insurance does not apply to:*

(s) *Distribution of Materials in Violation of Statutes*

*“Personal and advertising injury” arising directly or indirectly out of any action or omission that violates or is alleged to violate:*

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or*
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or*
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.*

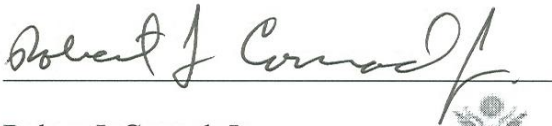
9. Cincinnati has filed a Motion for Judgment on the Pleadings, contending (in part) that this exclusion bars any claim for defense or indemnity coverage under either the 2013 Policy, or the 2014 Policy, pertaining to the Watson Suit.

10. No party has filed any brief in opposition to Cincinnati's Motion for Judgment on the Pleadings.

**WHEREFORE**, this Court finds that Cincinnati's Motion for Judgment on the Pleadings is unopposed and should be granted; and accordingly declares that Cincinnati has no duty to defend or to indemnify Paradise under the 2013 Policy or the 2014 Policy for damages that Paradise may incur in the Watson Suit.

**IT IS, THEREFORE, ORDERED** that judgment be entered in this matter in favor of Cincinnati, that all claims of the defendants are dismissed, and that the parties shall each bear the costs of this matter with no right to recovery of attorneys' fees.

Signed: December 17, 2015



Robert J. Conrad, Jr.  
United States District Judge



**WE CONSENT:**

**CRANFILL SUMNER & HARTZOG, LLP**

/s/Susan K. Burkhart

Susan K. Burkhart

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