

Cosby Argues AIG Can't Duck Coverage Of Defamation Suits

By **Daniel Siegal**

Law360, Los Angeles (September 15, 2015, 9:52 PM ET) -- Bill Cosby on Monday urged a Massachusetts federal judge to dismiss or stay AIG Property Casualty Company's suit seeking to avoid defending defamation claims brought by women who accuse Cosby of sexual assault, arguing fighting AIG's suit compromises his ability to defend the underlying suits.

AIG has filed declaratory relief actions in both Massachusetts and California against Cosby and several women who allege the disgraced comedian drugged and raped them — and then defamed them by calling them liars when they took their accusations public. AIG contends that Cosby's homeowner's policies, which cover defamation damages, contain an exclusion for any injury caused by sexual molestation, misconduct or abuse.

On Monday, Cosby filed a motion to stay or dismiss the Massachusetts case, telling U.S. District Judge Mark G. Mastroianni in a memorandum supporting the motion that while AIG is entitled to reserve its rights and seek recompense for the cost of defending Cosby in the underlying suits, it must “wait its turns” and let those suits resolve first. Cosby argues that allowing AIG to fight in federal court to get out from under the coverage — which would necessitate determining if Cosby's alleged defamation does stem from sexual abuse — would create a “prejudicial ripple effect.”

“This action is a perfect example of an insurer placing its own interests above those of its insured by initiating litigation that may substantially impair its insured’s defenses and ability to defend himself against underlying lawsuits,” the memorandum states. “AIG’s claims would force Mr. Cosby to litigate here issues implicated in the underlying lawsuits, thereby prejudicing his defenses and draining important resources.”

AIG filed suit in late June in both Massachusetts and California, seeking in both complaints a declaration that the insurance company does not need to defend Cosby in defamation suits alleging he raped women and then called them liars when they came forward with their accusations.

The Massachusetts suit contends AIG should not have to defend Cosby against defamation claims made in that state's federal court by Tamara Green, Therese Serignese and Linda Traitz, who all allege that in the 1970s Cosby offered them or pressured them to take pills — either misrepresenting them as cold medicine, or not saying what they were — and then raped them while they were drugged.

The California action brings similar claims as to the state court suit filed by model Janice Dickinson, who alleges that in 1982 Cosby drugged, raped and defamed her by calling her a liar after she took her

allegations public in a television interview.

On Monday, Cosby urged Judge Mastroianni to dismiss the Massachusetts case, arguing that “it is undisputed” the case involves state insurance law matters, and thus should be heard in state court.

“There is no reason why AIG cannot, at the appropriate time after resolution of the Underlying Lawsuits, bring this coverage dispute in a state court forum,” the brief argues.

A motion to dismiss had not yet been filed in the California suit as of Tuesday evening.

Representatives for the parties did not immediately respond to requests for comment

AIG is represented in Massachusetts by William A. Schneider and Gina M. Repucci of Morrison Mahoney LLP, and in California by James P. Wagoner, Leif E. Knutson and Graham Van Leuven of McCormick Barstow Sheppard Wayte & Carruth LLP.

Cosby is represented by Kirk A. Pasich and Kimberly A. Umanoff of Liner LLP, and Francis D. Dibble Jr. and Jeffrey E. Poindexter of Bulkley Richardson and Gelinias LLP. Dickinson is represented by Alan Goldstein of The Bloom Firm. Counsel information for Green, Serignese and Traititz was not immediately available on Tuesday.

The cases are AIG Property Casualty Company v. Tamara Green et al., and AIG Property Casualty Company v. William H. Cosby et al., case numbers 3:15-cv-30111 and 2:15-cv-04842 in the U.S. District Court of Massachusetts and U.S. District Court for the Central District of California, respectively.

— Editing by Ben Guilfooy.

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