

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

LIMA LS PLC :  
v. : CIV. NO. 3:12CV1122 (WWE)  
PHL VARIABLE INSURANCE :  
COMPANY, ET AL :

**RULING/ORDER RE: JULY 15, 2014, CONFERENCE**

This ruling and order memorializes the Court's rulings made during a case management/discovery conference held on the record on July 15, 2014.

**Plaintiff's Discovery**

**1. Conference Call between IT Personnel and ESI Discovery**

Regarding Agenda Items Nos. 1 and 2: The parties will schedule a telephone conference with the technology personnel on both sides to confer regarding the search method utilized on HP's archival system. Defendants should endeavor to schedule this call within fourteen days.

The parties will commence production. Production should not be delayed until after the IT conference call.

As set forth at the conference, the parties should begin production, continue review of documents and continue to meet and confer regarding the reasonable resources devoted to document review, rather than argue an abstract notion of insufficient production. Ultimately, it is up to each side to produce documents responsive to the pending discovery requests. The parties will report back on their progress at the next conference.

## **2. Third-Party Discovery Materials**

Plaintiff will provide notice to third parties that it will be using discovery materials obtained in other litigation between Phoenix and U.S. Bank and/or Lima. The notice should also state that the third party may seek relief before this Court by filing a motion.

## **Defendants' Discovery**

### **1. Fenton/Binday/Wilmington Savings Cases**

Plaintiff's Requests for Production Nos. 60-61: Defendants will provide the Court with an existing document(s), agreement(s), or order(s) that indicates the scope of production in these three cases. Defendants do not need to create an inventory of the document production in these cases. Defendants

will provide a copy of the complaint, answer and settlement agreement/confidentiality order in Fenton for in camera review.

## **2. Requests for Production**

Plaintiff's Request for Production No. 33: Defendants will provide a copy of the Court's discovery order in the Linz case.

Plaintiff's Request for Production Nos. 53-55: Plaintiff will file a letter brief by July 22, 2014. Defendants' response is due on July 29, 2014.

Defendants' Request for Production No. 133: Plaintiff agreed to produce these documents.

Defendants' Requests for Production Nos. 144-45, 139: As a preliminary step, plaintiff will produce communications with investors regarding the funds. The parties will revisit this issue at a later date.

## **3. Interrogatories**

Interrogatories Nos. 16, 17, 23, and 24: Defendants are entitled to know the identities of the "investors," "others," and "policy holders" referenced in the Amended Complaint and the identity of the policy holders who Lima alleges were forced to sell their policies. Plaintiff will produce documents and information provided to prospective investors in the fund, including representations made by the fund manager. Plaintiff

will provide responses to these interrogatories and reference by Bates Stamp number any documents that are responsive to these interrogatories.

Interrogatory No. 26: Plaintiff will provide additional information.

Interrogatory No. 27: The parties will look at the documents and revisit whether Lima should amend its interrogatory response at another time.

Plaintiff's Initial Disclosures re: Damages: Plaintiff will continue to supplement all categories of its damages calculation as part of the initial disclosure.

### **Scheduling Order**

Discovery is set to close on May 15, 2015, and dispositive motions are due by July 15, 2015. [Doc. #126].

The parties will contact the Court if any issues arise that may delay the progress of this case, before these deadlines expire.

### **August 19, 2014, Conference**

The next case management/discovery conference will be held on August 19, 2014 at 11:00 AM. The parties will provide a joint agenda by the close of business August 14, 2014. The agenda may be submitted to the law clerk at:  
Alyssa\_Esposito@ctd.uscourts.gov

This is not a recommended ruling. This is a discovery ruling and order which is reviewable pursuant to the "clearly erroneous" statutory standard of review. 28 U.S.C. §636 (b) (1) (A); Fed. R. Civ. P. 6(a), 6(e) and 72(a); and Rule 2 of the Local Rules for United States Magistrate Judges. As such, it is an order of the Court unless reversed or modified by the district judge upon motion timely made.

ENTERED at Bridgeport this 30<sup>th</sup> day of July 2014.

\_\_\_\_\_/s/\_\_\_\_\_  
HOLLY B. FITZSIMMONS  
UNITED STATES MAGISTRATE JUDGE