



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Jan-16-2019 12:21 pm

Case Number: CPF-16-515183

Filing Date: Jan-16-2019 11:47

Filed by: KAREN LIU

Image: 06648329

ORDER

IN RE: DAVE JONES

001C06648329

Instructions:

Please place this sheet on top of the document to be scanned.

1 XAVIER BECERRA
Attorney General of California
2 LUCY F. WANG (State Bar No. 199772)
Acting Supervising Deputy Attorney General
3 455 Golden Gate, Suite 11000
San Francisco, California 94102-7004
4 Telephone: (415) 510-4400
Facsimile: (415) 703-5480
5 Email: Lucy.Wang@doj.ca.gov

6 THOMAS J. WELSH (State Bar No. 142890)
CYNTHIA J. LARSEN (State Bar No. 123994)
7 ORRICK, HERRINGTON & SUTCLIFFE LLP
400 Capitol Mall, Suite 3000
8 Sacramento, California 95814-4497
Telephone: (916) 447-9200
9 Facsimile: (916) 329-4900
Email: tomwelsh@orrick.com
10 cjlarssen@orrick.com

11 Attorneys for Applicant Ricardo Lara,
Calif. Ins. Commissioner in his Capacity as
12 Liquidator of CastlePoint National Ins. Co.

FILED
Superior Court of California
County of San Francisco
JAN 16 2019
CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

13 **EXEMPT from filing fees per Govt.
Code § 6103**

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 CITY AND COUNTY OF SAN FRANCISCO

17 INSURANCE COMMISSIONER OF THE
18 STATE OF CALIFORNIA,

19 Applicant,

20 v.

21 CASTLEPOINT NATIONAL INSURANCE
22 COMPANY, and DOES 1-50, inclusive,

23 Respondents.

24
25 CLAIMANT: EITA (ITTY) PRUSS
26 PROOF OF CLAIM NO: 401212
27
28

Case No. CPF-16-515183

Per Court Order of 11/2/2018

[PROPOSED] ORDER

**(1) CONTINUING HEARING ON
APPLICATION FOR LEAVE TO
PURSUE ACTION IN NEW YORK,
(2) CONFIRMING TEMPORARY
STAY OF CLAIMANT'S
PROSECUTION OF PENDING
ACTIONS IN NEW YORK, AND
(3) ESTABLISHING PROCEDURES
AND SCHEDULE FOR HEARING
CLAIMANT'S ORDER TO SHOW
CAUSE ON ALLOWED CLAIM AND
APPLICATION FOR PREFERENTIAL
DISTRIBUTION ON CLAIM**

**Date: December 4, 2018
Time: 9:30 a.m.
Dept: 302
Judge: Hon. Harold E. Kahn**

JAN 16 2019

1 Claimant and interested party Eita (Itty) Pruss' *Application for Leave to Pursue Action in*
2 *New York* ("Application") *per Ex-Parte Order and Application filed on November 2, 2018*, came
3 on for hearing on December 4, 2018. Appearances were as follows:

- 4 A. Thomas J. Welsh of Orrick, Herrington & Sutcliffe LLP and Marguerite C.
5 Stricklin, Acting Supervising Deputy Attorney General, for Dave Jones, Insurance
6 Commissioner of the State of California in his Capacity as Liquidator of
7 CastlePoint National Insurance Company (the "Commissioner")¹.
- 8 B. Paul J. Edelstein of The Edelstein Faegenburg & Brown LLP and Jonathon Levy
9 for Eita (Itty) Pruss.
- 10 C. May-Tak Chin of Reed Smith LLP and Michael Brown of Ruskin Mosou
11 Faltischek P.C. for AmTrust North America, Inc. and its related parties ("ANA").
12

13 The Court, having duly considered the Application and all pleadings, filings, and evidence
14 related to same, and the matter having been fully briefed and argued, and good cause appearing
15 therefore, IT IS ORDERED that:

16 1. Stay and Continuance of Hearing on Application:

- 17 a. The Application is denied, without prejudice, and the hearing continued as
18 set forth below.
- 19 b. The Parties (the Commissioner, Pruss, and ANA) agree on the record, and
20 on that basis the Court orders, that prosecution of the Pruss actions pending
21 in New York (Pruss II and Pruss III, hereinafter "Pruss Actions") shall be
22 stayed pending a ruling on the Order to Show Cause ("OSC") and further
23 hearing on the Application.
24

25
26
27
28 ¹ On January 7, 2019, Ricardo Lara was sworn in as the Insurance Commissioner of the State of California.
"Commissioner" now refers to Ricardo Lara in his capacity as Liquidator of CastlePoint National Insurance
Company.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. The Parties stipulate and agree that ANA shall participate in the proceedings as a party to allow the Court to hear all facts and evidence related to the Pruss Claim and the OSC, and to fashion a final order on the matter.

3. The issues to be determined in the OSC are as follows:

- a. Whether Ms. Pruss is entitled to immediate and full distribution on her allowed claim on a priority or preferential basis; and
- b. Whether the Court's injunctions shall continue to preclude further prosecution of the Pruss Actions following the disposition of the OSC.

4. Discovery:

- a. Discovery into and document production regarding the Pruss Claims shall cover all communications by and between ANA claims personnel (inclusive of Brian Kuhn), the CLO, attorney Sherri Pavloff (and her firm), and attorney Curt Schiner (and his firm), between July 1, 2016 and December 31, 2016. Counsel for the Commissioner shall make a reasonable accounting that adequately describes materials within that scope withheld from the production, if any, and the asserted basis (e.g., attorney-client privilege) for withholding the documents.
- b. Documents and the accounting for withheld documents shall be exchanged among the Parties no later than January 25, 2019.
 - i. The Parties have scheduled a telephone conference with the Court on January 29, 2019 at 3:00PM (Pacific Time) to address any issues or disputes that emerge from the January 25, 2019 document production.
 - ii. If any Party is not able to complete the production of documents by January 25, 2019, this will be addressed with the Court on the January 29, 2019 call. The Party will notify the Court of the outstanding issues and discuss a timeframe for the completion of production.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

iii. If the Parties agree that a telephone conference is not necessary, counsel for the Commissioner will notify the Court by email with a copy to counsel for all Parties.

- c. The depositions of Brian Kuhn and Sherri Pavloff shall be conducted the week of February 11, 2019, if the depositions have not been conducted before that week by agreement of the witness and the Parties. The deposition of Ms. Pavloff will take place in New York, and the deposition of Mr. Kuhn will take place in either Florida or New York.
- d. The deposition of Paul Edelstein, with a reservation to take the deposition of Mr. Edelstein's colleagues as needed, shall be conducted the week of February 11, 2019, if the depositions have not been conducted before that week by agreement of the witness and the Parties. The deposition shall take place in New York.

5. Briefing:

- a. The Parties shall meet and confer on a statement of stipulated facts and exhibits (which shall be deemed to be authentic and admissible for purposes of the hearing on the OSC and the continued hearing on the Application). Any disputes regarding the fact and documentary evidence shall be identified for the Court. The stipulated facts and exhibits shall be completed by the Parties by March 1, 2019.
- b. The Parties shall file simultaneous opening briefs on March 15, 2019.
- c. The Parties shall file simultaneous responses/opposition by March 29, 2019.
- d. The Parties shall file simultaneous replies by April 5, 2019.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 6. Hearing:
 - a. The hearing on the OSC shall be set for a date in April 2019. Counsel for the Commissioner shall confer with counsel for the parties on one or more dates on which all parties are available for the hearing, and shall reserve a date with the Court Clerk in Department 302. Counsel for the Commissioner shall promptly serve notice of the hearing date and time on all parties.
 - b. The hearing on the Application is continued to the same April date as is set for the hearing on the OSC.
 - c. The hearing shall be oral argument on the briefs; however, any party that wishes to offer live evidence must meet and confer. If there cannot be an agreement, the party may bring an application for live evidence to the Court, with notice to the other parties, no later than 30 calendar days before the hearing. The application for live evidence must state what evidence the party wants to present and why.
- 7. ANA agrees that the statute of limitations is suspended as to any claims against ANA by Pruss.
- 8. This Proposed Order has been agreed to as of form by counsel pursuant to the signatures below.

SO ORDERED:

Dated: January 16, 2019



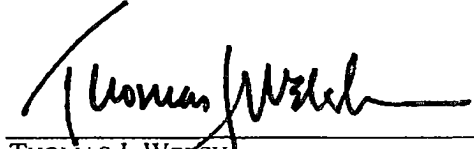
HONORABLE HAROLD E. KAHN
JUDGE OF THE SUPERIOR COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AGREED AS TO FORM:

Dated: January 10, 2019

THOMAS J. WELSH
CYNTHIA J. LARSEN
Orrick, Herrington & Sutcliffe LLP

By: 
THOMAS J. WELSH

Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of
California in his capacity as Liquidator of
CastlePoint National Insurance Company

Dated: January _____, 2019

XAVIER BECERRA
Attorney General of California

By: _____
LUCY F. WANG
Acting Supervising Deputy Attorney General

Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of
California in his capacity as Liquidator of
CastlePoint National Insurance Company

Dated: January _____, 2019

PAUL J. EDELSTEIN
The Edelsteins, Faegenburg & Brown LLP

JONATHON D. LEVY, (OF COUNSEL)

By: _____
PAUL J. EDELSTEIN

Attorneys for Eita (Itty) Pruss

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AGREED AS TO FORM:

Dated: January _____, 2019

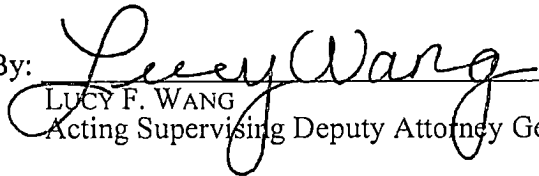
THOMAS J. WELSH
CYNTHIA J. LARSEN
Orrick, Herrington & Sutcliffe LLP

By: _____
THOMAS J. WELSH

Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of
California in his capacity as Liquidator of
CastlePoint National Insurance Company

Dated: January 10, 2019

XAVIER BECERRA
Attorney General of California

By: 
LUCY F. WANG
Acting Supervising Deputy Attorney General

Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of
California in his capacity as Liquidator of
CastlePoint National Insurance Company

Dated: January _____, 2019

PAUL J. EDELSTEIN
The Edelsteins, Faegenburg & Brown LLP

JONATHON D. LEVY, (OF COUNSEL)

By: _____
PAUL J. EDELSTEIN

Attorneys for Eita (Itty) Pruss

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AGREED AS TO FORM:

Dated: January _____, 2019

THOMAS J. WELSH
CYNTHIA J. LARSEN
Orrick, Herrington & Sutcliffe LLP

By: _____

THOMAS J. WELSH

Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of
California in his capacity as Liquidator of
CastlePoint National Insurance Company

Dated: January _____, 2019

XAVIER BECERRA
Attorney General of California

By: _____

LUCY F. WANG
Acting Supervising Deputy Attorney General

Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of
California in his capacity as Liquidator of
CastlePoint National Insurance Company

Dated: January 10, 2019

PAUL J. EDELSTEIN
The Edelsteins, Faegenburg & Brown LLP

JONATHAN D. LEVY, (OF COUNSEL)

By:  _____

PAUL J. EDELSTEIN

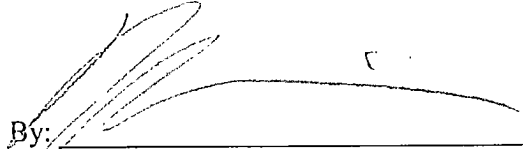
Attorneys for Eita (Itty) Pruss

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: January 10, 2019

MAY-TAK CHIN
JESSIE L. MILLER
Reed Smith LLP

MICHAEL D. BROWN
Ruskin Mosou Faltischek P.C.

By: 

MAY-TAK CHIN
Michael D. Brown

Attorneys for AmTrust Financial Services,
Inc., AmTrust North America, Inc., and Brian
Kuhn