



KAJ 10/9/02 10:09
3:02-CV-00448 SOCIETY OF LLOYDS V. BLACKWELL
57
JOIN.

1 Defendants Robert C. Blackwell, Samme Jo Brady, John R. Dougery, Joseph Melvin
2 Gagliardi, Harry Walter Gorst, Frederick Gordon Graeber, Michael Calvin Hirsh, Ivars Ralph
3 Janieks, William Dobson Kilduff, Jane Elizabeth Lamb, Donald Rudolph Laub, Geoffrey O.
4 Mavis, William Fenton Miller Jr., Robert Marshall Morton, Charles Webb Ott, Ronald George
5 Speno, Stephen John Wilsey, Peter Francis Zinsli, ("Blackwell defendants") hereby file this
6 joinder in the Johnston Defendants' motion for an order postponing the hearing on Plaintiff The
7 Society of Lloyd's ("Lloyd's) Motion for Summary Judgment, pending completion of discovery.
8 The Lloyd's motion is premature as the Defendants have not had the opportunity to conduct
9 necessary discovery in this case.

10 Rule 56(f) provides that if the party opposing the motion needs to conduct discovery in
11 order to properly oppose the motion, the court may continue the hearing to allow discovery.
12 This prevents the "railroading" of a party by a premature motion for summary judgment.
13 (*Celotex Corp. v. Catrett*, 477 U.S. 317, 326 (1986)).

14 Lloyd's has refused to provide discovery or to provide Mr. Demery for deposition in
15 advance of the Case Management Conference presently set for December 16, 2002 at 9:00 a.m.
16 (See Ex. A attached). Plaintiff Lloyd's has not yet even answered co-defendants Counterclaim
17 in this case.

18 The Blackwell Defendants provide the Declaration of Greg J. Ryan pursuant to Rule
19 7.1(g)(2), attached as Exhibit B, in support of this joinder.

20 Respectfully submitted,
21 LAW OFFICES OF GREG J. RYAN, APLC

22 Dated: October 8, 2002

23 By: Greg J. Ryan
24 Greg J. Ryan, Esq.
25 Attorneys for Blackwell Defendants
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *John* DEPUTY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

| | | |
|------------------------------|---|---------------------------------------|
| THE SOCIETY OF LLOYDS, |) | Civil No. 02-0448 J (AJB) |
| Plaintiff, |) | |
| v. |) | Order Following Settlement Conference |
| ROBERT C. BLACKWELL, et al., |) | |
| Defendants. |) | |

On August 5, 2002, the Court convened an Early Neutral Evaluation Conference in the above entitled action. Appearing for Plaintiffs were Debra Torres, Esq.; Steve Alexander, Esq. and Nick Demery. Appearing for Defendants were Ken Chiate, Esq. (for the Johnson Defendants); Greg Ryan, Esq. (for the Blackwell Defendants); Theodore Grippo Jr., Esq. (for Blackwell, et al); Robert Lowry, Richard Rosenblatt, Robert Swisher, R. William Johnston, Frank Lin, Dawn Lowry, Ruth Swisher and John Sheitle.

Settlement could not be reached in the case. The Defendants will consider the Plaintiff's final position and report back if some other basis for settlement can be advanced.

Plaintiffs will be filing a motion for summary judgment. It is anticipated it will be several


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1 months before that issue can be heard and determined and based thereon, the Court sets a *telephonic*
2 Case Management Conference for *December 16, 2002 at 9:00 a.m.* Plaintiff's counsel is ordered to
3 initiate the conference call.

4 IT IS SO ORDERED.

5 Dated: 8/9/02

6 
7 ANTHONY J. BATTAGLIA
8 United States Magistrate Judge

9 cc: Judge Jones
All Counsel of Record

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LAW OFFICES OF GREG J. RYAN, APLC
2 1010 Second Avenue, Suite 2500
San Diego, CA 92101
3 Telephone: (619) 239-4848
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4 Theodore W. Grippo, Jr. (Admitted Pro Hac Vice)
5 LINDENBAUM COFFMAN, KURLANDER BRISKY & GRIPPO, LTD
Three First National Plaza, Suite 2315
6 Chicago, Illinois 60602-4206
Telephone: (312) 855-4410
7 Facsimile: (312) 855-4423

8 Attorneys for Defendants, ROBERT C. BLACKWELL, SAMME JO BRADY, JOHN R. DOUGERY, JOSEPH
MELVIN GAGLIARDI, HARRY WALTER GORST, FREDERICK GORDON GRAEBER, MICHAEL CALVIN HIRSH,
9 IVARS RALPH JANIEKS, WILLIAM DOBSON KILDUFF, JANE ELIZABETH LAMB, DONALD RUDOLPH LAUB,
GEOFFREY O. MAVIS, WILLIAM FENTON MILLER JR., ROBERT MARSHALL MORTON, CHARLES WEBB OTT,
10 RONALD GEORGE SPENO, STEPHEN JOHN WILSEY, PETER FRANCIS ZINSLI,

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

12 THE SOCIETY OF LLOYD'S,

13 Plaintiff,

14 v.

15 ROBERT C. BLACKWELL, SAMME JO BRADY,
COCO ALEXANDRA ELIZABETH CARTER,
16 JOHN R. DOUGERY, JOSEPH MELVIN
GAGLIARDI, HARRY WALTER GORST,
17 FREDERICK GORDON GRAEBER, MICHAEL
CALVIN HIRSH, IVARS RALPH JANIEKS,
18 ROWLAND WLLIAM JOHNSTON, WILLIAM
DOBSON KILDUFF, JANE ELIZABETH LAMB,
19 DONALD RUDOLPH LAUB, FRANK F. S. LIN,
ROBERT KRAMER LOWRY, GEOFFREY O.
20 MAVIS, WILLIAM FENTON MILLER JR.,
ROBERT MARSHALL MORTON, CHARLES
21 WEBB OTT, RICHARD DAVID ROSENBLATT,
RONALD GEORGE SPENO, ROBERT LYNN
22 SWISHER, STEPHEN JOHN WILSEY, PETER
FRANCIS ZINSLI, DOES 1-100 AS PERSONAL
23 REPRESENTATIVES, BENEFICIARIES AND
TRUSTEES OF THE TRUST OF ALFRED
24 VERNE BALLARD'S ESTATE, DOES 1-100 AS
PERSONAL REPRESENTATIVES,
25 BENEFICIARIES AND TRUSTEES OF THE
TRUST OF DELMAR ABSHER BRADY'S
26 ESTATE,

27 Defendants.
28

) Case No. 02 CV 0448 J (AJB)

)
) **DECLARATION OF GREG J.**
) **RYAN IN SUPPORT OF**
) **BLACKWELL DEFENDANTS**
) **JOINDER IN JOHNSTON**
) **DEFENDANTS EX PARTE**
) **MOTION FOR CONTINUANCE**
) **OF SUMMARY JUDGMENT**
) **[FRCP 56(f); LCR 7.1(g)(2)]**

1 I, Greg J. Ryan, declare:

2 1. I am an attorney at law duly licensed to practice in all the Courts of the State of
3 California. I am certified to practice law in the United States District Court, Southern District of
4 California and I am co-counsel for the Blackwell defendants in this matter. I have personal
5 knowledge of the facts contained in this declaration and could and would competently testify
6 thereto if called upon to do so.

7 2. This declaration is submitted in support of the Blackwell Defendants joinder in
8 the Johnston Ex Parte Motion for Continuance of Summary Judgment and pursuant to Civil
9 Local Rule 7.1(g)(2).

10 3. On or about August 23, 2002, I was served with a copy of the Johnston
11 Defendants Notice of the Deposition of Nicholas P. Demery for September 5, 2002, along with a
12 cover letter from attorney Daphne P. Bishop, to Lloyd's counsel, Stephen D. Alexander noting
13 the requirements for an early meeting of counsel under FRCP 26(f). These materials are
14 attached as Exhibit "C" to the Johnston Defendants Motion for Continuance.

15 4. On or about September 3, 2002, I was served with a copy of the Johnston
16 Defendants Request for Production of Documents (Set One) and Requests for Admissions (Set
17 One) to Plaintiff Lloyd's. Pursuant to FRCP 34 and 36, Lloyd's responses would be due on
18 October 7, 2002. These materials are attached as Exhibit "G" to the Johnston Defendants
19 Motion for Continuance.

20 5. On September 5, 2002, I was informed in a telephone conversation with Daphne
21 Bishop that the deposition of Mr. Demery would not be going forward on that date and that
22 discussions were under way with Lloyd's counsel to establish a new date for the deposition
23 which would be taken in New York.


24 6. On October 7, 2002, I was served with a copy of the Johnston Defendants Ex
25 Parte Motion for Continuance of Summary Judgment containing the Declaration of Kenneth R.
26 Chiate confirming a conversation with Lloyd's counsel on October 3, 2002, in which it was
27 stated that Lloyd's would not provide any of the discovery requested nor would Lloyd's produce
28 Mr. Demery for his deposition.

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7. In a telephone conversation with attorney Susan Chun for plaintiff Lloyd's on October 8, 2002, I was advised that Lloyd's opposed any request by the Blackwell Defendants for a continuance of the summary judgment motion to permit discovery.

I declare under penalty of perjury under the laws of the state of California, United States of America, that the foregoing is true and correct.

Executed this 8 day of October, 2002, in San Diego, California.



GREG J. RYAN, Declarant

1 I, Sheryl D. Adams, declare:

2 That I am, and was at the time of service of the papers herein referred to, over the age of 18
3 years, and not a party to this action; and I am employed in the County of San Diego, California,
4 within which county the subject mailing occurred. My business address is 1010 Second Avenue,
Suite 2500, San Diego, California 92101.

5 On October 8, 2002, I served the following document(s):

6 1. **BLACKWELL DEFENDANTS JOINDER IN JOHNSTON DEFENDANTS EX**
7 **PARTE MOTION FOR CONTINUANCE OF SUMMARY JUDGMENT [FRCP**
56(f); LCR 7.1 (g)(2)]

8 () **BY MAIL:** I declare that I am readily familiar with the business practice for collection and
9 processing of correspondence for mailing with the United States Postal Service; that the
10 correspondence shall be deposited with the United States Postal Service this same day in the
ordinary course of business; and that a true copy was placed in a separate envelope, with postage
thereon fully prepaid for each addressee named hereafter:

11 Steven D. Alexander, Esq.
12 Susan Chun, Esq.
13 Fried, Frank, Harris, Shriver
and Jacobson
14 350 South Grand Avenue
Two California Plaza, Suite 3200
Los Angeles, CA 90071-5438
15 (213) 473-2000
Attorney for Plaintiff
THE SOCIETY OF LLOYD'S

Kenneth R. Chiate, Esq.
Pillsbury Winthrop, LLP
725 South Figueroa Street, Ste. 2800
Los Angeles, CA 90017
(213) 488-7111
Attorneys for JOHNSTON
DEFENDANTS

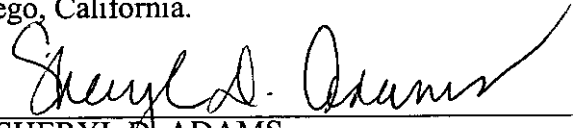
17 () **BY PERSONAL SERVICE:** I placed a true copy of the above documents in a sealed envelope
18 clearly labeled to identify the attorney for the party being served, and personally caused said such
envelope to be personally delivered by hand by DLS Attorney Service, leaving a copy with the
receptionist or other person in charge at the office of each addressee named hereafter:

19 () **BY FACSIMILE:** I declare that upon the prior agreement of the party being served, I served
20 the above named documents by facsimile transmission during usual office hours **from facsimile**
number (619) 239-5601, to a facsimile machine maintained by the person on whom it is served and
21 that the transmission was reported as complete and without error. Thereafter, I mailed (by first-
class mail, postage prepaid) a true copy to each addressee named hereafter:

22 () **STATE:** I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct and that this declaration was executed on October 8, 2002.

24 () **FEDERAL:** I hereby certify that I am employed in the office of a member of the Bar of the
Court at whose direction this service was made.

25 Executed **October 8, 2002**, at San Diego, California.

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27 
28 SHERYL D. ADAMS