

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CASE NO.: 2:24-cv-00417-JLB-KCD

PLEASANT HILL CHRISTIAN
CHURCH MINISTRIES, INC.,
Plaintiff,

vs.

OHIO SECURITY INSURANCE
COMPANY,
Defendant,

**PLAINTIFF’S AMENDED RESPONSE TO DEFENDANT OHIO SECURITY
INSURANCE COMPANY’S MOTION TO APPOINT UMPIRE FOR
APPRAISAL AND MEMORANDUM OF LAW IN SUPPORT**

Plaintiff, PLEASANT HILL CHRISTIAN CHURCH MINISTRIES, INC. (“Plaintiff”), by and through its undersigned counsel, hereby files this Amended response¹ to Defendant’s, OHIO SECURITY INSURANCE COMPANY (“Defendant”), Motion to Appoint Umpire for Appraisal, and states as follows:

INTRODUCTION

Plaintiff does not oppose the Court’s appointment of an umpire and agrees with Defendant that the Court has jurisdiction to do so. However, Plaintiff requests that the Court appoint the umpire that the appraisers initially agreed on instead of one of the appraisers now proposed by Defendant.

¹ This response has been amended to include the addition of two other potential umpires for the Court’s consideration.

FACTS²

1. In August, Plaintiff changed its appraiser from David Messeri to Shimmy Casper (“Mr. Casper”).

2. On August 19, 2024, Mr. Casper requested an umpire list from Defendant’s appraiser, Patrick Lewis (“Mr. Lewis”), a true and correct copy of this correspondence is attached hereto as **Exhibit “A”**.

3. Mr. Lewis responded that he did not have access to the umpire list at the time because he was traveling for inspections but asked if Mr. Caspder would agree to either Ted Taylor or Art Newman because he and Mr. Messeri allegedly narrowed down the list to these two umpires.

4. Mr. Casper stated that he could not accept either of the proposed umpires and asked for Mr. Lewis to resend the umpire list as he did not have access to the email correspondence between Mr. Messeri and Mr. Lewis.

5. On August 22, 2024, Mr. Lewis asked Mr. Casper to send him his list of umpires, which Mr. Casper promptly did and again requested Mr. Lewis’s list of umpires.

6. On August 23, 2024, Mr. Lewis sent an umpire list to Mr. Casper which included the three umpires proposed by Defendant, Rosa Rodriguez, Art Newman and Alan Green.

7. On September 3, 2024, Mr. Lewis requested the contact information for

² Plaintiff does not disagree with the timeline stated in Defendant’s Motion and, therefore, only lists here the facts relevant to the agreement on the umpire.

the umpires listed by Mr. Casper on August 22. Mr. Casper responded to the email with the requested contact information and included contact information for three new proposed umpires, including Patrick Perez, Omar Woodstock and Rex Harrington.

8. The appraisers continued to discuss the matter of appointing an appraiser and agreed to send a second list of umpires to each other. Both appraisers sent their lists with additional umpires listed.

9. On September 30, 2024, Defendant's appraiser stated that he could not accept any of the umpires listed by Mr. Casper and requested that Mr. Casper agree to one of the umpires he suggested.

10. On October 2, 2024, Mr. Casper responded to this email requesting that the parties use Patrick Perez as agreed, especially because Mr. Lewis spoke with Mr. Perez and decided to use him for another claim.

11. Mr. Lewis rejected this proposal stating that he only uses umpires on a single appraisal at a time to not cause a conflict, even though it is unclear what the potential conflict would be.

12. Mr. Perez is a licensed Florida Independent Adjuster. He has held that license since 2007. He has worked as an appraiser since 2010 and as an umpire since 2016. He is a WIND certified umpire and has been involved in over 6,000 claims. While he is not a certified general contractor, he was a construction foreman from 1997 to 2002 and worked on countless construction job sites with his father who is a certified general contractor. A true and correct copy of Mr. Perez's curriculum vitae is attached hereto as part of **Exhibit "B"**.

13. Omar Woodstock is a licensed Florida Independent Adjuster. He has held that license since 2008. Mr. Woodstock is also a Certified Property Insurance Umpire and a Certified Property Insurance Appraiser. He has been an umpire in over 500 claims involving various insurance companies. Additionally, Mr. Woodstock has been court-appointed as an umpire in both Miami-Dade and Broward counties. A true and correct copy of the court orders and Mr. Woodstock's curriculum vitae are attached hereto as **Composite Exhibit "C"**.

14. Rex Harrington is a licensed Florida Independent Adjuster. He has been license in Florida since 2006. Mr. Harrington has been an umpire in over 1,000 claims and has worked as an appraiser for both plaintiffs and defendants. A true and correct copy of Mr. Harrington's curriculum vitae is attached hereto as **Exhibit "D"**.

MEMORANDUM OF LAW

"Unlike arbitration procedures, appraisals are less formal proceedings, where the umpire independently attempts to resolve any differences in the appraisals offered by both sides." *See St. Lucia Condo. Assoc., Inc. v. Lexington Ins. Co.*, Case No. 2:20-cv-125-FtM-66NPM, 2020 WL 13882084, at *1 (M.D. Fla. Oct. 29, 2020)(citing *Preferred Nat'l Ins. Co. v. Miami Springs Golf Villas, Inc.*, 789 So. 2d 1156, 1157 (Fla. 3d DCA 2001)). When appointing an umpire, a court may appoint someone with the appropriate expertise. *Id.* "The Florida Supreme Court has held that, for an appraiser to be 'disinterested,' he or she cannot have a pecuniary interest in the outcome of a claim." *May S&P, LLC v. Axis Surplus Ins. Co.*, Case No. 8:22-cv-2254, 2023 WL

9953408, at *2 (M.D. Fla. Sept. 11, 2023)(citing *Parrish v. State Farm Fla. Ins. Co.*, 356 So. 3d 771, 779 (Fla. 2023)).

Here, both appraisers agreed that Mr. Perez was qualified and a good choice as the umpire for the claim. Mr. Lewis liked Mr. Perez so much that he used him for another claim but refuses to use him as an umpire on this matter. Mr. Lewis's preference to use an umpire on one appraisal at a time has no legal basis. Mr. Perez is a disinterested appraiser because he has no financial stake in the outcome of the appraisal. Further, any conflict that could arise from using Mr. Perez on this matter while he is an umpire on another matter would also apply to the three umpires offered by Defendant. As such, Plaintiff presents the Court with two other potential umpires who are not being used by Mr. Lewis in the event the Court is not inclined to appoint Mr. Perez.

CONCLUSION

Wherefore, Plaintiff, PLEASANT HILL CHRISTIAN CHURCH MINISTRIES, INC., respectfully requests that this Court grant in part and deny in part Defendant's Motion to Appoint an Umpire. Plaintiff requests that this Court enter an Order appointing Patrick Lewis as an umpire for the appraisal, or appoint Omar Woodstock or Rex Harrington in the alternative, and grant such other and further relief that this Court deems just and proper.

Respectfully submitted,

/s/ Tania Williams

Tania Williams, Esq.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record: Paul Hudson Jones II and Sarah McDonald, Butler Weihmuller Katz Craig LLP, at hjones@butler.legal, smcdonald@butler.legal and jmohammed@butler.legal, via electronic service and/or electronic mail.

/s/ Tania Williams
Tania Williams, Esq.
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