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**UNITED STATES BANKRUPTCY COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION**


In Re:	)	<b>Chapter 11</b>
	)	
THE ROMAN CATHOLIC BISHOP OF	)	<b>Case No.: 23-40523 WJL</b>
OAKLAND, a California corporation sole	)	
	)	
Debtor,	)	
	)	
THE ROMAN CATHOLIC BISHOP OF	)	<b>Adversary Case No.: 23-04028 WJL</b>
OAKLAND, a California corporation sole	)	
	)	<b>CALIFORNIA INSURANCE GUARANTEE</b>
Plaintiff	)	<b>ASSOCIATION'S ("CIGA") REPLY TO</b>
v.	)	<b>THE ROMAN CATHOLIC BISHOP OF</b>
	)	<b>OAKLAND'S ("RCBO") OPPOSITION TO</b>
PACIFIC INDEMNITY INSURANCE	)	<b>CIGA'S MOTION TO DISMISS RCBO'S</b>
COMPANY OF AMERICA, AETNA	)	<b>THIRD AMENDED COMPLAINT OR FOR</b>
INSURANCE COMPANY, TRAVELERS	)	<b>A MORE DEFINITIVE STATEMENT</b>
INSURANCE COMPANY, CERTAIN	)	<b>UNDER FEDERAL RULES OF CIVIL</b>
UNDERWRITERS OF LLOYDS OF LONDON	)	<b>PROCEDURE, RULES 12 (b) 6 AND 12 (e)</b>
SUBSCRIBING TO SYNDICATES 2623 (AFB)	)	
AND 632 (AFB), INSURANCE COMPANY OF	)	Hearing Judge: Hon. William J Lafferty, III
NORTH AMERICA, ACE LIMITED,	)	Objections Due: February 28, 2024
UNITED STATES FIRE INSURANCE,	)	Hearing Date: March 19, 2024
EMPLOYERS REINSURANCE, CAN	)	Courtroom: 220
INSURANCE COMPANY, PACIFIC	)	Time: 10:30 am
EMPLOYERS INSURANCE, WESTCHESTER	)	Location: 1300 Clay Street, Oakland, CA 94612
FIRE INSURANCE COMPANY AND	)	
CALIFORNIA INSURANCE GUARANTEE	)	
ASSOCIATION	)	
	)	
	)	
Defendants.	)	
	)	
	)	
	)	

1 **TO THE COURT IN THE ABOVE-ENTITLED MATTER AND TO ALL PARTIES AND**  
2 **TO THEIR RESPECTIVE COUNSEL OF RECORD:**

3 Defendant California Insurance Guarantee Association (“CIGA”) hereby submits its Reply  
4 to the Opposition of Plaintiff The Roman Catholic Bishop of Oakland (“RCBO” or “Plaintiff”),  
5 Docket no. 202, to CIGA’s Motion to Dismiss Plaintiff’s Third Amended Adversary Complaint  
6 (“TAC”), Docket No. 171, under Federal Rules of Civil Procedure, Rules 12 (b) 6 and Rule 12 (e),  
7 Docket No. 167 (“Motion”).

8 Dated: March 12, 2024

BLACK, COMPEAN & HALL, L.L.P.

9  
10  
11 By:   
12 By: Michael D. Compean  
Frederick G. Hall

13 Attorneys for Defendant CALIFORNIA  
14 INSURANCE GUARANTEE ASSOCIATION  
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**TABLE OF CONTENTS**

<b>1. INTRODUCTION .....</b>	<b>1</b>
<b>2. THE TAC DOES NOT LIMIT THE CLAIMS AGAINST CIGA TO THE SUITS RELATING TO THE 24 CLAIMS THAT RCBO TIMELY SUBMITTED TO CIGA AS STATED IN ITS OPPOSITION. ....</b>	<b>2</b>
<b>3. THE TAC MUST BE AMENDED TO CLARIFY THAT THE RCBO'S CLAIMS AGAINST CIGA ARE LIMITED TO THE SUITS RELATING TO THE 24 CLAIMS THAT RCBO TIMELY SUBMITTED TO CIGA AS STATED IN ITS OPPOSITION .....</b>	<b>5</b>
<b>4. THE TAC ALLEGES THAT OTHER INSURANCE IS AVAILABLE TO RCBO. ....</b>	<b>5</b>
<b>5. CONCLUSION .....</b>	<b>7</b>

1 **TABLE OF AUTHORITIES**

2

3 **CASES**

4 *Parkwoods Community Assn. v. Cal. Ins. Guarantee Assn.*

5 141 Cal.App.4th 1362, 46 Cal.Rptr.3<sup>rd</sup> 921 (2006) . . . . . 7

6 *Quarry v. Doe I*

7 53 Cal.4th 945, 972, 139 Cal.Rptr.3d 3, 22, 272 P.3d 977, 993 (2012).. . . . . 1

8 *R.J. Reynolds v. Cal. Ins. Guarantee Assn.*

9 235 Cal.App.3d 595, 1 Cal.Rptr.2d 405 (1991) . . . . .7

10 *Stonelight Tile, Inc. v. Cal. Ins. Guarantee Assn.*

11 150 Cal. App. 4th 19, 33, 58 Cal. Rptr. 3d 74, 84–85 (2007) . . . . . 6,7

12

13 **STATUTES**

14 California Insurance Code

15 Article 14.2 . . . . . 3

16 Section 1062.12(a). . . . . 3

17 Section 1063.1. . . . . 7

18 Section 1063.1(c)(9). . . . . 5

19

20 **FEDERAL RULES**

21 Civil Procedures

22 Section 340.1. . . . . 1

23 Rule 12(b)(6)) . . . . . 8

24 Rule 12(e) . . . . . 8

1 **MEMORANDUM OF POINT AND AUTHORITES**

2  
3 **1. INTRODUCTION**

4 While the RCBO is now cloaking itself in the heroic cloth of asserting that it is seeking to  
5 “fairly compensate the victims bringing these sexual abuse claims” by turning to its insurers and  
6 CIGA, that assertion seems pale if not disingenuous given the reason such suits were allowed in the  
7 first place.<sup>1</sup> [Docket #202, page 6.]

8 CIGA brought the current motion because the TAC “alleges CIGA is now somehow  
9 implicated in 198 of the pending claims and now includes the blanket allegation that ‘RCBO  
10 submitted a timely proof of claim to CIGA regarding the applicable Suits’ [Docket no. 163, paragraph  
11 40], which is plainly inconsistent with its prior opposition to CIGA’s Motion to Dismiss the First  
12 Adversary Complaint [Docket no. 63] in which RCBO represented that there were only 27 Proof of  
13 Claims [Docket nos. 136-1 to 136-27] that had been timely submitted to the Commercial Union  
14 liquidator, which POC’s actually referred to only 24 case names and no other details of the supposedly  
15 timely submitted ‘Suits.’” [Docket #171, page 11.]

16 In other words, CIGA understood the TAC to be seeking Declaratory Relief and Damages  
17 against CIGA with respect to 198 claims of the 400+ claims listed in the TAC’s exhibit A, even  
18 though the RCBO admitted it had only filed timely POC’s for 24 claims. [Docket #163, page 5, ¶ 9.]

19 However, in its opposition, the RCBO states “While CIGA is responsive to the 198 claims  
20 identified in paragraph 9 of the TAC because those claims are covered by insolvent Commercial  
21 Union/Armour’s insurance policies (TAC ¶ 9), as stated in the TAC, RCBO seeks a declaratory  
22 judgment and breach of statutory duty damages *only as to the Suits relating to the 24 claims that*  
23 *RCBO timely submitted to CIGA prior to the Bevidere (sic) liquidation date* (see TAC ¶¶ 40, 60–  
24

25  
26 <sup>1</sup> The RCBO faces the multitude of sexual abuse claims because of the “expanding limitations period  
27 set out in [Cal. Code of Civil Procedure] section 340.1” enacted in the “...wake of public exposure  
28 of sexual abuse by priests against children that had been condoned and covered up by the Catholic  
Church,” “the salutary remedial purpose” of section 340.1 is “...to call to account those persons and  
entities [such as the RCBO] that committed or condoned such heinous offenses against children.” See  
*Quarry v. Doe I*, 53 Cal.4th 945, 972, 139 Cal.Rptr.3d 3, 22, 272 P.3d 977, 993 (2012).

61).”<sup>2</sup> [Emphasis added; Docket #202, page 12.] Obviously, from a fair reading of the TAC, CIGA did not understand the TAC to be so limited, as it was not so stated or alleged. The Proof of Claims (“POC”) for the 24 claims set forth and as noted in Docket Nos. 136-1 through 136-24 were not attached to the TAC or specifically referenced in the TAC.

Of course, CIGA’s current motion to dismiss does not, and cannot dispute, any factual allegations as to the submission of the 24 POC’s, or receipt of those POC’s by the liquidator or CIGA, though the TAC’s TAC does not specifically reference the 24 POC’s, Docket Nos. 136-1 through 136-24. Based on the above quoted statement in RCBO’s opposition at page 12, CIGA’s current motion is largely the result of misunderstanding as to the breadth of the TAC’s claims against CIGA.

As such, CIGA suggests that CIGA’s motion to dismiss or its motion for more definitive statement be granted to clarify that, as to Defendant CIGA only, RCBO seeks a declaratory judgment and breach of statutory duty damages only as to the Suits relating to the 24 claims that RCBO timely submitted to CIGA prior to the Bedivere liquidation date, Docket Nos. 136-1 through 136-24. Of course, CIGA reserves its rights to contest on the merits whether any one or all of those 24 claims otherwise qualify as “covered claims” under Article 14.2 of the California Insurance Code.

Nevertheless, as drafted the TAC clearly alleges there is other insurance is available to the RCBO for numerous of the “Suits” for which CIGA is alleged to be “responsive.” As such, the claims against CIGA in the TAC are premature and CIGA’s Motion to Dismiss could be granted on that basis as well.

**2. THE TAC DOES NOT LIMIT THE CLAIMS AGAINST CIGA TO THE SUITS RELATING TO THE 24 CLAIMS THAT RCBO TIMELY SUBMITTED TO CIGA AS STATED IN ITS OPPOSITION**

Although Plaintiff’s Opposition now clearly states that RCBO’s claims against CIGA seeks a declaratory judgment and breach of statutory duty damages only as to the 24 suits timely submitted to CIGA prior to the Bevidere liquidation date [Docket #202, page 12], such limitation is not alleged

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<sup>2</sup> Paragraphs 40, 60 and 61 of the TAC do not state that the allegations as to CIGA in the TAC were limited to the 24 claims for which a timely POC was submitted. In fact, CIGA can find no reference in the TAC to such 24 claims at all. [Docket #163.]

1 in the TAC. On the contrary, the TAC alleges that CIGA is “responsive” to the 198 Claims as set  
2 forth in paragraph 9 of the TAC. [Docket #163, page 5.] The TAC does not make mention, refer to,  
3 or attach of any of the 24 POC’s to which the RCBO now refers to in its Opposition, Docket Nos.  
4 136-1 through 136-24. The current Opposition relies heavily on those POC’s and other exhibits to  
5 its prior Opposition to CIGA’s Motion to Dismiss the First Amended Adversarial Complaint, Docket  
6 Nos. 136-25, 136-26 and 136-27, none of which were made a part of, or even referred to in the TAC.  
7 Obviously, the RCBO could have, but did not. Ironically, here the plaintiff is relying on extrinsic  
8 items to save a pleading whereas most times it is the defense that is alleged to engage in that  
9 transgression.

10 At page 4 of the Opposition, starting at line 20 and continuing to page 5 line 12, Plaintiff sets  
11 forth various allegations upon which it contends that the TAC states a claim against CIGA without  
12 mentioning that the dispute is limited to the 24 claims referred to in the POC’s, Docket 136-1 through  
13 136-24, rather than the 198 claims listed in paragraph 9 of the TAC. Although the TAC alleges  
14 “RCBO submitted a timely proof of claim to CIGA regarding the applicable Suits...” [Docket #163,  
15 ¶ 40], the term “Suits” is defined as the 400+ complaints and proofs of claim filed in this bankruptcy  
16 proceeding [Docket #163, ¶ 25], not the 24 POC’s filed in the state liquidation proceeding of Bedivere  
17 [Docket Nos. 136-1 through 136-24]. The Opposition then refers to general allegations of the TAC  
18 in paragraphs 40, 56-62 conclusively alleging CIGA is in breach of its statutory obligations by failing  
19 to “...pay in full the expenditures made by RCBO to defend itself against the Suits [Docket #163, ¶  
20 36], “...to provide available sums in response to the Suits” [Docket #163, ¶ 40], “...to provide funds  
21 to RCBO in response to the claims made in the Suits to which it must respond (as reflected in Exhibit  
22 A)” [Docket #163, ¶ 46], most of which are simply wrong as a matter of law, especially in light of  
23 the TAC’s definition of “Suits” [Docket #163, ¶ 25]. (*Cal. Ins. Code* section 1062.12(a) strictly  
24 limiting CIGA’s obligations to “covered claims” as defined and limited in Article 14.2 of the  
25 Insurance Code.) The RCBO also states in its Opposition, page 5, lines 13-16, that it provided copies  
26 to CIGA of the timely proofs of claims, materials in its possession relating to the suits and copies of  
27 the at issue Commercial Union policies. With the exception of the POC’s and other exhibits to its  
28 prior Opposition to CIGA’s Motion to Dismiss the First Amended Adversarial Complaint, Docket

Nos. 136-1 through 136-27, there is no indication of when or how such documents were supposedly produced to CIGA and CIGA was never provided with such items.

Although not specifically referred to or incorporated into the TAC, the POC's and other exhibits to its prior Opposition to CIGA's Motion to Dismiss the First Amended Adversarial Complaint, Docket Nos. 136-1 through 136-27, appear to establish that 4 days prior to the last date for the submission of claims in the Bedivere liquidation proceeding, on December 27, 2021, RCBO's counsel caused to be executed 24 Proof of Claims, Docket Nos. 136-1 through 136-24. The 24 Proof of Claims are similar. For instance, Docket No. 136-3 contains a form entitled Proof of Claim as to the Bedivere insolvency. The claim submitted is for attorney fees only and only fees incurred by the Foley firm. The form does not list any information as to any pending litigation and affirmatively states that no litigation is pending. Various Foley invoices before and after March 11, 2021, and after December 31, 2021, are included referring to one matter. Each of the other "Proof of Claim" share these same "features" as to what information is included and not included.

The other extraneous documents, Docket Nos. 136-26 and 136-27. Docket no. 136-26 is a letter dated "1/3/23" presumably January 3, 2023, from the Liquidators office acknowledging "one or more" proofs of claim. No listing of such claims is noted and there are also no indications of what triggered the creation of the document. Docket No. 136-27 is a letter dated "1/5/2023" from CIGA to the Plaintiff again acknowledging that the author is the new adjuster on "various" unidentified claims. Again, none of these documents are incorporated or even referred to in the TAC.

It is from the foregoing that RCBO extrapolates a supposed factual basis for the assertions noted above in the Opposition at page 4, line 17 to page 5, line 16 that it "...followed the Court's directives to a tee in the TAC." Those allegations are not supported by the facts alleged in the TAC.

At the present time, and notwithstanding the clear statement in Plaintiff's Opposition, the allegations of the TAC appear to allege claims involving CIGA in a coverage dispute over 198 claims, not just 24. Moreover, given the limited information set forth in Exhibit A of the TAC as to the "Suits", CIGA cannot even determine which of the 198 "Suits" set forth in paragraph 9 of the TAC correspond to the 24 claims referred to in the POC's, Docket Nos. 136-1 and 136-24.

While RCBO has provided information from outside the TAC as to 24 timely claims, the TAC



1 itself alleges CIGA must respond to the 198 claims listed in paragraph 9 of the TAC. As such, the  
2 current motion to dismiss should be granted with leave to amend to allow the RCBO to clearly limit  
3 its claims to the allegedly 24 timely claims as stated in its opposition or the alternative motion for  
4 more definitive statement be granted to reach the same result. [Docket #202, page 12.]

5 **3. THE TAC MUST BE AMENDED TO CLARIFY THAT THE RCBO'S**  
6 **CLAIMS AGAINST CIGA ARE LIMITED TO THE SUITS RELATING TO**  
7 **THE 24 CLAIMS THAT RCBO ALLEGEDLY TIMELY SUBMITTED TO**  
8 **CIGA AS STATED IN ITS OPPOSITION**

9 While the RCBO uses the extrinsic facts set forth in the Opposition to effectively “amend”  
10 the allegations of the TAC to alleged a dispute as to CIGA over 24 claims where the POC’s were  
11 submitted before December 31, 2021, the TAC does not actually include such extrinsic facts and thus,  
12 the first and third causes of action of the TAC must be further amended as to CIGA to reflect those  
13 facts.

14 **4. THE TAC ALLEGES THAT OTHER INSURANCE IS AVAILABLE TO**  
15 **RCBO**

16 In its Opposition, RCBO claims that it “has sufficiently pled the absence of other available  
17 insurance...” [Docket #202, page 17.] However, the TAC does quite the opposite. The TAC  
18 specifically alleges the existence of other insurance with respect to a multitude of the claims which  
19 the RCBO alleges CIGA is “responsive.” [Docket #163, ¶9.] As CIGA is the fund of “last resort”  
20 [Citation needed], there cannot be a “covered claim” to the extent there is any other insurance  
21 available. Cal. Ins. Code 1063.1(c)(9). A review of the allegations of the TAC shows the following:

22 As to the three “primary insurers” (TAC, Docket No.163, p.10, p.4, lines 10-11), Pacific  
23 Indemnity, Travelers and CIGA, and using the claim numbers set forth in the respective charging  
24 allegations, the TAC specifically alleges that Pacific Indemnity and Travelers also provide insurance  
25 coverage for many of the same claims to which CIGA is alleged to be “responsive”, six (6) as to  
26 Pacific Indemnity,<sup>3</sup> and eighty-three (83) as to Travelers.<sup>4</sup>

27  
28 <sup>3</sup> Claims nos. 42, 45, 185, 187, 217, and 234.

<sup>4</sup> Claims nos. 2, 7, 10, 13, 16, 17, 19, 22, 25, 26, 29, 31, 33, 40, 41, 42, 42, 45, 54, 58, 59, 80, 82, 88,

1 As to the so-called “Excess Insurers,” Insurance Company of North America (“INA”), United  
2 State Fire Insurance (US Fire”), Westport Insurance Company (“Westport”) Continental Insurance  
3 Company (“Continental”), Westchester Fire Insurance Company (“Westchester”), and Certain  
4 Underwriters as noted in TAC paragraph 16 (Lloyd’s”) again, using the claims numbers listed in the  
5 respective charging allegations against the “Excess Carriers”, the TAC specifically alleges that some  
6 of these Excess Insurers also provide insurance coverage for many of the same claims to which CIGA  
7 is alleged to be “responsive”, forty nine (49) claims as to INA<sup>5</sup>, sixty eight (68) as to US Fire<sup>6</sup>, one  
8 hundred seventy (170) claims as to Westport<sup>7</sup>, and one hundred forty (140) claims as to Continental<sup>8</sup>  
9 nine (9) as to Lloyd’s<sup>9</sup>.

10 Thus, without even addressing the “umbrella carriers,” it can be seen that RCBO has itself  
11 alleged the existence of other insurance and which thus defeats one required condition precedent to a  
12 “covered claim” under Article 14.2 of the California Insurance Code.

13  
14 95, 96, 97, 99, 101, 102, 103, 104, 105, 106, 110, 115, 117, 126, 131, 140, 141, 158, 163, 180, 181,  
15 182, 189, 190, 192, 200, 206, 209, 211, 213, 215, 223, 229, 249, 259, 273, 295, 297, 298, 304, 306,  
310, 321, 324, 329, 333, 335, 343, 344, 353, 367, 368, 373, 377, 382, 384, and 388.

16 <sup>5</sup> Claims Nos. 15, 19, 23, 39, 42, 43, 66, 77, 81, 87, 88, 99, 101, 102, 103, 104, 105, 106, 110, 129,  
17 145, 159, 160, 175, 185, 186, 187, 188, 190, 195, 205, 206, 107, 211, 214, 215, 218, 220, 235, 270,  
279, 303, 325, 342, 348, 369, 378 and 385.

18 <sup>6</sup> Claims Nos. 14, 15, 23, 27, 39, 42, 43, 66, 77, 81, 87, 99, 100, 101, 102, 103, 104, 105, 106, 110,  
19 112, 123, 129, 145, 146, 153, 159, 175, 185, 186, 187, 188, 190, 195, 196, 206, 207, 211, 213, 214,  
215, 217, 218, 220, 221, 234, 235, 236, 246, 251, 265, 270, 271, 279, 293, 303, 304, 315, 326, 334,  
342, 348, 365, 369, 374, 378 and 385.

20 <sup>7</sup> Claims Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 19, 21, 22, 23, 25, 26, 29, 30, 31, 33,  
21 35, 36, 37, 40, 41, 42, 43, 44, 45, 47, 49, 54, 58, 59, 60, 66, 67, 72, 76, 77, 80, 81, 82, 85, 87, 94,  
22 95, 96, 97, 99, 100, 101, 102, 103, 104, 105, 106, 110, 112, 113, 115, 117, 123, 126, 129, 131, 135,  
23 136, 143, 145, 146, 151, 153, 158, 159, 160, 162, 163, 164, 165, 167, 173, 175, 178, 180, 181, 182,  
24 184, 185, 186, 187, 188, 190, 192, 196, 199, 200, 201, 205, 206, 207, 209, 211, 213, 215, 217, 218,  
219, 221, 222, 223, 229, 235, 236, 243, 246, 251, 259, 260, 262, 265, 269, 270, 271, 273, 294, 295,  
296, 297, 298, 302, 303, 304, 305, 315, 318, 320, 321, 324, 325, 326, 327, 329, 330, 332, 333, 334,  
335, 343, 344, 346, 347, 348, 351, 353, 356, 361, 362, 367, 368, 369, 374, 375, 377, 382, 384, 385,  
392, 394, 399 and 401.

25 <sup>8</sup> Claims Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 20, 21, 22, 25, 26, 31, 33, 35, 40, 41,  
26 42, 43, 44, 47, 49, 54, 58, 59, 76, 80, 82, 85, 88, 95, 96, 97, 99, 101, 102, 103, 104, 105, 106, 110,  
27 113, 115, 117, 126, 131, 140, 143, 144, 158, 160, 162, 163, 164, 165, 173, 178, 180, 181, 182, 189,  
28 190, 200, 201, 206, 207, 209, 211, 213, 215, 217, 223, 229, 237, 243, 249, 251, 259, 260, 269, 273,  
295, 296, 297, 298, 302, 304, 305, 306, 310, 315, 318, 321, 324, 325, 329, 333, 335, 344, 347, 353,  
367, 368, 377, 382, 384, 388, 392, 399.

<sup>9</sup> Claims Nos. 15, 30, 31, 42, 45, 185, 187, 214 and 234.

1 Despite this, RCBO claims that it “has sufficiently pled the absence of other available  
2 insurance...” [Docket #202, page 17.] As noted by the court in *Stonelight Tile, Inc. v. California Ins.*  
3 *Guarantee Assn.*, 150 Cal. App. 4th 19, 33, 58 Cal. Rptr. 3d 74, 84–85 (2007):

4 Subdivision (c)(9) of section 1063.1, the subdivision at issue in this case, provides: “  
5 ‘Covered claims’ does not include (i) any claim to the extent it is covered by any other  
6 insurance of a class covered by this article available to the claimant or insured....”

7 Cases interpreting section 1063.1, subdivision (c)(9) “have established that where an  
8 insured has overlapping insurance policies and one insurer becomes insolvent, the other  
9 insurer, even if only a secondary or excess insurer, is responsible for paying the claim.

10 In other words, CIGA is an insurer of last resort and does not assume responsibility  
11 for claims where there is any other insurance available.” (*R.J. Reynolds, supra*, 235  
12 Cal.App.3d at p. 600, 1 Cal.Rptr.2d 405.) “ ‘The legislative intent was to create a  
13 protection for the public against insolvent insurers *when no secondary insurer is*  
14 *available.*’ [Citation.] ‘The secondary insurer has received a premium for the risk and  
15 thus the secondary insurer, and not CIGA, should be responsible for the coverage of  
16 the loss.’ ” (*Id.* at pp. 600–601, 1 Cal.Rptr.2d 405.)

17 Here, the TAC clearly alleges other insurance is available to the RCBO for numerous of the  
18 “Suits” for which CIGA is alleged to be “responsive.”<sup>10</sup> There are no allegations that RCBO has  
19 exhausted or even attempted to exhaust any of its potentially available other insurance. *Stonelight*  
20 *Tile, Inc. v. California Ins. Guarantee Assn.*, 150 Cal. App. 4th at 37, 58 Cal. Rptr. 3d at 88 (2007)  
21 finding no “covered claim” where insured settled with other insurers, but settlements did not exhaust  
22 such policies; *Parkwoods Cmty. Assn. v. California Ins. Guarantee Assn.*, 141 Cal. App. 4th 1362,  
23 1368, 46 Cal. Rptr. 3d 921, 925 (2006) finding “[insured] cannot bootstrap its claim against CIGA by  
24 releasing its right to recover under an available policy and claiming that as a result there is no other  
25 coverage.” As such, the claims against CIGA in the TAC are premature.

26 \_\_\_\_\_  
27 <sup>10</sup> Obviously, in light of Plaintiff’s Opposition that clearly states that RCBO’s claims against CIGA  
28 seek a declaratory judgment and breach of statutory duty damages only as to the 24 suits timely  
submitted to CIGA prior to the Bevidere liquidation date [Docket #202, page 12], the issue of CIGA’s  
obligation for many of the 198 suits for which CIGA was allegedly “responsive” in the TAC should  
be moot once the TAC is amended.

1           **5.       CONCLUSION**

2           Plaintiff RCBO's Opposition clearly states that RCBO's claims against CIGA seek a  
3   declaratory judgment and breach of statutory duty damages only as to the 24 suits timely submitted  
4   to CIGA prior to the Bedivere liquidation date [Docket #202, page 12], but the TAC does not allege  
5   this, nor does it reference the 24 claims referred to in the Opposition. Instead, the TAC alleges CIGA  
6   must respond to the 198 claims listed in paragraph 9 of the TAC. As such, the RCBO has created  
7   confusion as to the scope of its claims against CIGA in the TAC and CIGA's Motion must be granted  
8   with leave to amend to clarify that the RCBO's claims against CIGA apply only to the 24 suits  
9   allegedly timely submitted to CIGA prior to the Bedivere liquidation date as stated in its Opposition.  
10   Alternatively, CIGA requests that the Court at least grant CIGA's alternative motion under FRCP,  
11   Rule 12 (e) ordering a more definitive statement as to those claims RCBO seeks declaratory relief  
12   and breach of statutory duty damages against CIGA.

13           Nevertheless, as drafted, the TAC clearly alleges there is other insurance is available to the  
14   RCBO for numerous of the "Suits" for which CIGA is alleged to be "responsive." As such, the claims  
15   against CIGA in the TAC are premature and CIGA's FRCP, Rule 12 (b) (6) Motion to Dismiss could  
16   be granted on that basis as well.

17  
18   Dated: March 12, 2024

BLACK, COMPEAN & HALL, L.L.P.

19  
20   By: \_\_\_\_\_



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Frederick G. Hall

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