

PUBLIC VERSION
IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

MINE SAFETY APPLIANCES)	
COMPANY,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. N10C-07-241 MMJ
)	
AIU INSURANCE COMPANY, et al.,)	
)	
Defendants.)	

Submitted: April 8, 2014
Decided: May 20, 2014

Upon Defendant Travelers' Exceptions to the March 18, 2014 Ruling of the
Special Discovery Master

DENIED

ORDER

On September 25, 2013, the Special Discovery Master issued an Order granting Defendants Travelers Casualty and Surety Company and The Travelers Indemnity Company's ("Travelers") Motion to Compel Plaintiff Mine Safety Appliances Company ("MSA") to Produce Discovery Concerning its Post-1986 Insurance Program.

On January 22, 2014, Travelers filed a Motion to Compel Plaintiff MSA to Comply with the Court's September 25, 2013 Order. In the January 22, 2014

Motion, Travelers sought an order requiring additional document production, or to the extent MSA should claim that it does not have any additional responsive documents, that the Court compel MSA to certify as such. In its reply brief, Travelers requested that the Court compel MSA to produce a Rule 30(b)(6) designee to testify regarding MSA's document retention policy and its search for responsive documents. Additionally, Travelers requested that the Court order MSA to produce its document retention policies and manuals.

Following briefing, the Special Discovery Master denied Travelers' Motion to Compel on March 18, 2014. The Master concluded: (1) Travelers failed to show that MSA has not complied with the September 25, 2013 Order; and (2) MSA is not required to produce a Rule 30(b)(6) deponent.

On March 25, 2014, Travelers filed Exceptions to the Special Discovery Master's March 18, 2014 Ruling. In its Exceptions, Travelers asserts: (1) the discovery authorized by the Court's September 25, 2013 Order is necessary for adjudication of this dispute; (2) a more robust meet and confer process would not have resulted in additional compliance with the Order; (3) MSA has refused to make reasonable and complete searches for responsive documents; (4) MSA is not in compliance with the September 25, 2013 Order because of its refusal to search for documents in the possession of entities within its control; (5) Travelers cannot be prejudiced because MSA may have destroyed documents; and (6) the relief

sought is narrowly tailored and will not prejudice MSA. Travelers requests oral argument.

In response to Travelers' Exceptions, MSA contends that it has fully complied with the September 25, 2013 Order. MSA asserts that Travelers has no valid justification to obtain additional deposition testimony from a Rule 30(b)(6) designee.

On the issue of whether MSA must produce documents from its claim handlers at Reed Smith LLP ("Reed Smith") and from its broker Marsh, Inc. ("Marsh"), both Reed Smith and Marsh have represented that they have no responsive documents in their possession.

The Order of Reference to Special Master dated December 5, 2012 establishes the Court's proceedings when a party files an exception to a decision of the Special Master during the course of this litigation. The Court reviews *de novo* the Special Discovery Master's Ruling.¹ Any party may request oral argument.² Oral argument may be held at the discretion of the Court.³

The Court finds that the Special Discovery Master carefully considered all issues raised by the parties. The March 18, 2014 Ruling is consistent with applicable legal precedent and the Delaware Superior Court Civil Rules. This

¹ Trans. ID 48202156.

² *Id.*

³ *Id.*

Court is not persuaded by any exceptions to the ruling. Upon *de novo* review, the Court finds the Special Discovery Master's March 18, 2014 Ruling to be well-reasoned. The Court finds that oral argument is not necessary.

THEREFORE, the Special Discovery Master's Ruling issued March 18, 2014 is hereby **APPROVED**. All exceptions are hereby **DENIED**.

IT IS SO ORDERED.

/s/ Mary M. Johnston

The Honorable Mary M. Johnston