

Judge to interpret insurance policy in State Police spying lawsuit - WV MetroNews

Daniel Woods

CHARLESTON, W.Va – Kanawha County Circuit Judge Kenneth Ballard is called on to interpret the state of West Virginia's insurance policy in relation to the ongoing lawsuit involving more than 80 women who say they were recorded using a hidden camera inside the women's locker room at the State Police Academy.

A hearing was held Tuesday for arguments over specific language within the policy relating to limits on insurance coverage.

Attorney Don Parker, representing National Union Fire Insurance, which is contracted by the state Board of Risk and Insurance Management, stated that attempts at mediation in the case stalled due to differing understandings of the policy and the limits placed on liability payouts.

"We got here because we did have mediation, and without getting into the specifics of that mediation, it's clear that the parties have a pretty wide gulf between what the plaintiffs thought in terms of insurance coverage and what the defendants thought of insurance coverage," he said.

Attorney Brent Kesner spoke on behalf of the plaintiffs and argued for a motion that would allow the judge to define the language within the policy.

"We're asking the court to grant the plaintiff's motion for partial summary judgment on the limits of coverage. As set forth, we submitted a proposed order to the court for consideration, as earlier directed by the court," he said.

Parker argued that the state's policy imposes "grouping language," which is designed to shield from massive payouts by combining related events into a single occurrence. That would limit payouts under a set cap of \$1 million per occurrence.

"It's meant to keep the costs down if there is a claim that could otherwise be seen as worth hundreds of millions of dollars. If the incidents are grouped together properly, it only counts for one," he said.

Kesner presented a different reading of the language, particularly focusing on the definition of "related events." He argued because the hidden camera was in place over a period of time and numerous women were recorded; each individual woman constitutes a new occurrence.

In response, Parker stated that because each of the occurrences in the suit comes forth from the original recording of the woman identified as "Jane Doe 1," then all of the occurrences are related and should be grouped as one.

Arguments also included which section of the insurance policy claims involved in the case applied to, as the language surrounding the limits differs between them.

As part of his statements, Kesner expressed disgust with what he perceived to be an attempt by the State Police to avoid significant payments.

“The very people responsible for doing that are now in here saying to the insurance company, ‘We didn’t really mean it. We don’t want to be responsible for a million dollars per offense or a million dollars per wrongful act,’ he said.

Judge Ballard stated that he would probably render a ruling early next week.