

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

OPIOID MASTER DISBURSEMENT)	
TRUST II, a/k/a OPIOID MDT II,)	
)	Case No.: 22SL-CC02974
Plaintiff,)	
)	Div. No. 2
v.)	
)	
ACE AMERICAN INSURANCE)	
COMPANY, et al.,)	
)	
Defendants.)	

STIPULATED ORDER TO EXTEND THE PRELIMINARY INJUNCTION

This matter comes before the Court on the Stipulation of Plaintiff Opioid Master Disbursement Trust II, a/k/a Opioid MDT II’s (the “Trust” or “Plaintiff”) and Defendants Allianz Global Corporate & Specialty SE (“Allianz”), HDI Global SE (“HDI”), Lloyd’s of London Syndicate #1218 a/k/a Newline Syndicate 1218 (“Newline”) and SJ Catlin Syndicate SJC 2003 (“Catlin”), (collectively, “Certain UK Insurers”) to extend the Preliminary Injunction previously entered in this action on May 18, 2023 for the duration of Opioid MDT II’s appeal of this Court’s previous Order dismissing Certain UK Insurers. This limited injunction shall be in force until 30 days after any decision by the Missouri Supreme Court on Plaintiff’s appeal of this Court’s decisions granting Certain UK Insurers’ Motion to Dismiss, but will expire if no decision has been made by October 1, 2024. For the avoidance of doubt, “any decision” means a denial of the transfer by the Missouri Supreme Court or a decision on the merits of such appeal and parties agree that the Trust has the right to seek an extension of the injunction beyond October 1, 2024 if it chooses to do so.

IT IS HEREBY ORDERED THAT

1. The above referenced parties' stipulation to extend the Preliminary Injunction previously entered in this action on May 18, 2023 for the duration of Opioid MDT II's appeal of this Court's previous Order dismissing Certain UK Insurers from this action is Approved as reflected below, for the following reasons:

2. Plaintiff commenced this insurance coverage action for underlying opioid claims against numerous insurers with its Petition for Declaratory Judgment filed on June 16, 2022, which it subsequently amended on July 28, 2022.

3. On October 11, 2022, Certain UK Insurers filed their Motion to Dismiss premised upon forum selection clauses in each of their respective insurance policies providing for disputes regarding their respective policies to be decided by courts within England and Wales.

4. On October 31, 2022, Allianz, HDI, and Newline filed an anti-suit injunction proceeding in England seeking to enjoin Plaintiff from continuing or proceeding with this action in Missouri.

5. Catlin filed its own anti-suit injunction proceeding in England on November 21, 2022 seeking the same relief.

6. In response, on January 5, 2023, Plaintiff sought and received an *ex parte* temporary restraining order from this Court.

7. On January 8, 2023, Plaintiff filed a Motion for Preliminary Injunction. Both Plaintiff's Motion for TRO and for Preliminary Injunction sought to enjoin Certain UK Insurers from pursuing their anti-suit injunctions until the Court ruled on Certain UK Insurers' then- pending Motion to Dismiss.

8. On January 27, 2023, this Court heard arguments on Certain UK Insurers' Motion to Dismiss.

9. At the hearing on Certain UK Insurers' Motion to Dismiss, the parties stipulated to extend the TRO and stay the hearing on Plaintiff's Motion for Preliminary Injunction until 30 days after this Court ruled on the Motion to Dismiss, which was memorialized in a February 2, 2023 Joint Stipulated Order.

10. On March 22, 2023, the Court issued its order granting Certain UK Insurers' Motion to Dismiss finding that Plaintiff had not met its necessary heavy burden of showing that the forum selection clause in the policies is unfair or unreasonable.

11. On April 18, 2023, Certain UK Insurers filed a Motion to Modify the TRO requesting that the TRO be modified to allow service of their anti-suit injunction and/or to allow Certain UK Insurers to seek an extension of the validity of their claim in England.

12. Plaintiff filed an Amended Motion for Preliminary Injunction on April 20, 2023.

13. On April 21, 2023, after considering the parties' submissions and argument of counsel, the Court granted, in part, Certain UK Insurers' Motion to Modify the TRO to allow Certain UK Insurers to extend the validity of their claim in England.

14. On May 18, 2023, the Court granted the Trust's motion for certification which was unopposed. The Court also granted, in part, a limited Preliminary Injunction that "prohibited [Certain UK Insurers] from taking any action to pursue their anti-suit injunction in England, or from taking any other action to frustrate or preclude Plaintiff's appeal of this Court's March 22, 2023 order granting Certain UK Insurers' Motion to Dismiss." The Preliminary Injunction "until 30 days after any decision by the Missouri Appellate Court on

Plaintiff's appeal of this Court's decisions granting Certain UK Insurers' Motion to Dismiss. By "any decision," this Court means whether the Missouri Appellate Court denies Plaintiff's request to appeal and/or any decision on the merits of such appeal."

15. On March 5, 2024, the Missouri Appellate Court issued a decision affirming this Court's order granting Certain UK Insurers' Motion to Dismiss.

16. On March 20, 2024, the Trust filed an application for transfer of the appeal to the Missouri Supreme Court. If that application is denied, the Trust intends to request review of this Court's order granting Certain UK Insurers' Motion to Dismiss by the Missouri Supreme Court.

17. The Trust and Certain UK Insurers have consulted and agree to preserve the status quo and extend the Preliminary Injunction until (i) 30 days after any decision by the Missouri Supreme Court on Plaintiff's appeal of this Court's decisions granting Certain UK Insurers' Motion to Dismiss, or (ii) October 1, 2024, whichever is first. They further agree that if no decision is entered by October 1, 2024, the Trust and UK Insurers will use best efforts to reach a further agreement extending the injunction. Failing such agreement, the Trust will be free to seek an extension of the Injunction over the UK Insurers' objection.

Therefore, the Court extends the Preliminary Injunction and ORDERS, ADJUDGES, and DECREES as follows:

- a. Certain UK Insurers are prohibited from taking any action to pursue their anti-suit injunction in England, or from taking any other action to frustrate or preclude Plaintiff's appeal of this Court's March 22, 2023 order granting Certain UK Insurers' Motion to Dismiss to the Missouri Supreme Court.

- b. Certain UK Insurers may seek extensions of the validity of the anti-suit injunction claims in England during the pendency of any appeal in Missouri of this Court’s decision on Certain UK Insurers’ Motion to Dismiss;
- c. This limited injunction shall be in force until 30 days after any decision by the Missouri Supreme Court on Plaintiff’s appeal of this Court’s decisions granting Certain UK Insurers’ Motion to Dismiss. By “any decision,” this Court means whether the Missouri Supreme Court denies Plaintiff’s request to transfer the application and appeal and/or any decision on the merits of such appeal. If the Trust’s appeal of this Court’s dismissal Order is not decided by October 1, 2024, then Trust and UK Insurers will either attempt to agree to seek an additional extension of the injunction or the Trust will be free to seek an extension of the Injunction over the UK Insurers’ objection.
- d. This limited injunction does not in any way prohibit, restrain, or impair Certain UK Insurers’ ability to bring a declaratory judgment action in England to litigate the coverage dispute at issue in this action or impair Plaintiff’s rights to challenge or defend against such coverage dispute.
- e. This Court holds that the \$10,000.00 bond posted by the Trust on January 5, 2023, which is still held in escrow by the Court, constitutes sufficient surety for the imposition of this Preliminary Injunction.

SO ORDERED:


Judge Division 2

March 28, 2024

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