

Daniel P. Costello & Associates, LLC



October 11, 2013
INTENTIONAL ACT

Attn: Sherry LMI, Inc., d/b/a Claims College Bar 52 W. 115 th St Drunkstown, USA	Jason Bouncer LMI, Inc., d/b/a Claims College Bar 52 W. 115 th St Drunkstown, USA
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Re: Larry Beemer *v. LMI, Inc., d/b/a Claims College Bar*
Claim No.: JD6655667
Case No.: 12 L 9126
D/L: May 4, 2011

Sherry/Jason

Please be advised allow this correspondence to memorialize our conversation today in regards to this matter. The company and Jason both have requested that I memorialize your waivers together in one correspondence. As we discussed CLM Mutual Insurance has agreed to provide a defense and representation of LMI Inc. d/b/a Claims College Bar and its employee Jason for an alleged accident on May 4, 2011.

However, your insurance carrier has also indicated that there is a reservation of rights on this defense and indemnification, as the policy does not provide coverage for intentional acts of employees wherein an injury was caused. In this case there are both allegations of negligence which would be covered by the policy of insurance and intentional acts which are **not** covered by the policy of insurance, and as such would relieve your carrier of **any** duty to pay for these damages. Thus, there is a potential conflict of interest between the insurance carrier and the insured.

In situations such as this LMI Inc. d/b/a Claims College Bar and Jason have the option of hiring counsel of their own choosing pursuant Maryland Casualty Co. v. Peppers (64 Ill.2d 187). This counsel would be paid for **exclusively** by your insurance carrier. By selecting counsel of your own choosing in this case you would be able to effectively eliminate any concerns as to a potential conflict of interest due to the uncovered counts of this case for intentional acts of your employee. We discussed this fact and whether both LMI and Jason would indeed proceed with counsel of its own choosing based upon the intentional allegations in the plaintiff's complaint.

However, in this situation based upon the facts and circumstances of the case, specifically the fact that there is a video showing that these injuries did not arise out an intentional act and you wish for me to act as your counsel, both LMI and Jason, have waived any potential conflict of interest presented by the allegations of an intentional act by your employee, and

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Jason that you committed these acts. By making this waiver you understand that my firm will continue to move forward with your representation on this matter and will be paid directly by CLM Mutual Insurance Company.

You understand that despite the fact that our firm has been selected by the CLM Mutual Insurance Company, that **we have a duty to hold your interests paramount and to resolve any conflicts in your favor.** We will also hold all information as confidential except as to inform your insurance carrier as to the progress of the case and any necessary information to resolve this matter.

If at any time you wish to retain counsel of your own choosing, please notify my office immediately so that we can effectuate a substitution. Please execute the conflict waiver below by signing this correspondence and emailing it back to my email address.

Please contact the undersigned at (312) 850-2651 once you have had an opportunity to review this correspondence so we can discuss this matter further. We look forward to working with you and appreciate your cooperation.

Sincerely,



Daniel P. Costello,
Managing Partner

I AFFIRM, that I have read the letter , have been advised, and understand that there is a conflict of interest in the case based on allegations of intentional acts. After being fully advised, I understand that I have the right to personal counsel, but waive the conflict of interest and will allow your office to represent me in this matter.

X _____ - Sherry JO, LMI d/b/a Claim College Bar

Date- _____

X _____ - Jason Bouncer Individually

Date- _____