

Plaintiff's Subpoena of Insurance Applications from Non-Party Insurers Quashed

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A federal district court, applying Illinois law, recently granted several insurers' motions to quash subpoenas for depositions and accompanying requests for documents concerning insurance applications in a securities fraud suit. *In re Anicom Inc. Sec. Litig.*, No. 00C 4391, 2002 WL 31496212 (N.D. Ill. Nov. 8, 2002).

The State of Wisconsin Investment Board (SWIB) brought a class action against the insureds alleging securities fraud and issued subpoenas for depositions and accompanying requests for documents to various insurers who had issued D&O policies to the insureds. The subpoenas and document requests concerned applications for insurance and correspondence between the insureds and their insurers. The insurers moved to quash the subpoenas. While the insurers did not dispute that they were required to supply the insurance policies, they argued that the other materials requested were not relevant to SWIB's securities claims. The court agreed and quashed the discovery requests.

The court also rejected SWIB's argument that the information was discoverable because the insurers have asserted that \$10 million of the \$25 million dollar insurance program was not available due to misrepresentations in the insurance applications and that this assertion had impacted settlement discussions between the parties. The court reasoned that "while SWIB may want the additional \$10 million dollars to be available and may want to know the specifics of why such amount was not available, this material was not relevant to its claims against [the insureds] for securities fraud."

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