

EXHIBIT 1

AUG 9 '13 AM 9:46

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
OFFICE 11
CIVIL
CENTRAL DIVISION
2013 AUG -9 P 1:10
SUPERIOR COURT
SAN DIEGO COUNTY, CA

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

ACE AMERICAN INSURANCE COMPANY; and DOES 1 through 50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
SAN DIEGO UNIFIED PORT DISTRICT

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.**

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA
330 W. BROADWAY
SAN DIEGO, CA 92101
CENTRAL DISTRICT

CASE NUMBER:
(Número) 07-2013-00062180-CU-IC-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

William D. Brown; Scott E. Patterson; Benjamin P. Syz
BROWN & WINTERS
120 Birmingham Drive, Suite 110
Cardiff By the Sea, CA 92007
760-633-4485

DATE: 8.12.13
(Fecha)

Clerk, by M. Jussila, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

(SEAL)
COPY

W FAX

4

FILED
CIVIL BUSINESS OFFICE 11
CENTRAL DIVISION

2013 AUG -9 P 1:10
Exempt from fees (GC §6103)

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

1 WILLIAM D. BROWN, ESQ., SBN 125468
2 SCOTT E. PATTERSON, ESQ., SBN 174979
3 BENJAMIN P. SYZ, ESQ., SBN 240768
4 bbrown@brownandwinters.com
5 spatterson@brownandwinters.com
6 bsyz@brownandwinters.com
7 BROWN & WINTERS
8 120 Birmingham Drive, Suite 110
9 Cardiff-by-the-Sea, CA 92007
10 Telephone: (760) 633-4485
11 Fax: (760) 633-4427

AUG 9 9:13 AM '13

8 THOMAS A. RUSSELL, ESQ., SBN 108607
9 DAVID CATALINO, ESQ., SBN 144552
10 SAN DIEGO UNIFIED PORT DISTRICT
11 3165 Pacific Highway
12 P.O. Box 120488
13 San Diego, CA 92112
14 Telephone: (619) 686-6219
15 Fax: (619) 686-6444
16 Attorneys for Plaintiff San Diego Unified Port District

VIA FAX

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 IN AND FOR THE COUNTY OF COUNTY OF SAN DIEGO

18
19 SAN DIEGO UNIFIED PORT DISTRICT,) Case No.: 37-2013-00062180-CU-IC-CTL
20 Plaintiff,)
21 vs.) COMPLAINT FOR DECLARATORY
22 ACE AMERICAN INSURANCE) RELIEF, BREACH OF CONTRACT,
23 COMPANY;) AND BREACH OF THE IMPLIED
24 and DOES 1 through 50, inclusive,) COVENANT OF GOOD FAITH AND
25 Defendants.) FAIR DEALING

26
27 Plaintiff SAN DIEGO UNIFIED PORT DISTRICT hereby complains and alleges
28 against Defendant ACE AMERICAN INSURANCE COMPANY as follows:

1 1. Plaintiff SAN DIEGO UNIFIED PORT DISTRICT (hereinafter, Port) was
2 and is a public corporation organized and existing under the laws of the State of California.

3 2. Defendant ACE AMERICAN INSURANCE COMPANY (hereinafter, ACE)
4 is and at all times mentioned herein has been a corporation doing and transacting business in
5 San Diego County, State of California. ACE is and at all times mentioned herein has been
6 licensed and authorized by various states, including California, to issue insurance policies,
7 including comprehensive general liability policies.

8 3. The Port is ignorant of the true names and capacities of Defendants sued
9 herein as DOES 1 through 50, inclusive, and therefore sues the Defendants by such fictitious
10 names. The Port will amend this Complaint to allege their true names and capacities when
11 ascertained. The Port is informed and believes and thereon alleges that each of said
12 fictitiously named Defendants is in some manner responsible for the injury and damage to
13 the Port alleged herein.

14 4. For the policy period of July 1, 2011 to July 1, 2012, ACE issued Policy No.
15 EON G2570499A 001 (hereinafter, Policy) to the Port. Pursuant to the Policy, ACE agreed
16 to provide Public Officials Liability (POL) coverage to the Port.

17 5. Under the Policy, ACE agreed to “to pay on behalf of the [Port] all Damages
18 and Claims Expenses for which the [Port] becomes legally obligated to pay by reason of a
19 Claim first made against the [Port] and reported to the Insurer during the Policy Period . . .
20 for any Wrongful Act taking place prior to the end of the Policy Period.” Pursuant to the
21 Policy, ACE had a “duty to defend any covered Claim made against the [Port] and reported
22 to the Insurer during the Policy Period . . . for any Wrongful Act taking place prior to the
23 end of the Policy Period.” The Policy included a self-insured retention (SIR) limit of
24 \$250,000.

25 6. In or about August 2011, the Port provided ACE with written notice
26 regarding the potential for claims against the Port that may arise based on the application of
27 the California prevailing wage law (PWL) to a particular project on Port property
28 (hereinafter, the Project).

1 7. In December 2012, Hensel Phelps Construction Co. and Phelps Portman San
2 Diego LLC (hereinafter, Claimants) submitted a claim (hereinafter, the Claim) to the Port
3 demanding indemnity and damages relating to their potential liability to the California
4 Division of Labor Standards Enforcement associated with the application of the PWL to the
5 Project. Claimants asserted that they had relied on an earlier alleged Port representation that
6 the PWL was not applicable to the Project.

7 8. Shortly thereafter, the Port tendered the Claim to ACE as related to the
8 potential for claims noticed in August 2011. The Port asked ACE to provide the Port with a
9 defense and indemnity against the Claim. The Port also asked that an ACE representative
10 attend, on the Port's behalf, a mediation regarding the Claim.

11 9. On or about April 5, 2013, ACE advised the Port that it was denying
12 coverage for the Claim against the Port.

13 10. On or about April 26, 2013, the Port asked ACE to reconsider its coverage
14 determination and asked ACE once again to attend the mediation regarding the Claim (set
15 for May 10, 2013) on the Port's behalf.

16 11. On or about May 7, 2013, ACE again denied the Port coverage for the Claim
17 and refused to participate in the May 10, 2013 mediation between the Port and Claimants.

18 12. On or about May 31, 2013, the Port asked ACE once again in writing to
19 provide the Port with coverage for the Claim and to attend a follow-up mediation regarding
20 the Claim on June 5, 2013. In that request, the Port also informed ACE that the Port had
21 exhausted the SIR.

22 13. Once again, ACE ignored the Port's request as it failed and refused to
23 participate in the June 5, 2013 mediation. Had ACE participated appropriately, the Port
24 believes the Claim could have been resolved. However, because ACE refused to participate,
25 the Claim was not resolved.

26 14. As a result, on or about June 14, 2013, Claimants filed a lawsuit against the
27 Port in San Diego County Superior Court (hereinafter, Lawsuit). The complaint in the
28 Lawsuit alleges causes of action for indemnity and negligence and seeks alleged damages

1 from the Port based on the Port's alleged representation that the PWL did not apply to the
2 Project.

3 15. On or about June 20, 2013, the Port provided ACE with written notice of the
4 Lawsuit and demanded that ACE provide the Port with a defense and indemnity in
5 connection with the Lawsuit. The Port also notified ACE once again that the Port had
6 exhausted the applicable \$250,000 SIR.

7 16. On or about July 8, 2013, ACE denied coverage for the Lawsuit and stated
8 that ACE would not defend nor indemnify the Port with regards to the Lawsuit.

9 17. As of the date of the filing of this action, ACE has failed and refused to
10 provide the Port with a defense or indemnity of the Claim and the Lawsuit (hereinafter,
11 collectively, the Phelps Claims).

12 18. ACE's failure and refusal to provide the Port with a defense has caused the
13 Port to incur significant expenses in defending against the Phelps Claims, including but not
14 limited to defense fees and costs.

15 19. The Port has fully performed all of the terms and conditions to be performed
16 by it under the Policy, which has been in full force and effect at all times relevant herein.

17 **FIRST CAUSE OF ACTION**

18 **(For Declaratory Relief/Duty to Defend)**

19 20. The Port hereby incorporates each of the allegations set forth in paragraphs 1
20 through 19, inclusive, as set forth fully herein.

21 21. Despite the Port's requests that ACE defend the Port against the Phelps
22 Claims pursuant to the Policy, ACE has failed and/or refused to do so. There is no
23 reasonable basis for ACE to fail and/or refuse to defend the Port.

24 22. An actual controversy has arisen and now exists between the Port and ACE,
25 concerning their respective rights and obligations under the Policy in that the Port has
26 requested that ACE defend the Port against the Phelps Claims pursuant to the Policy, but
27 ACE has unreasonably failed and refused to do so.

28 23. The Port desires a judicial determination and declaration of the Port's and

1 ACE's respective rights and duties under the Policy; and specifically, that ACE is obligated
2 to defend the Port against the Phelps Claims.

3 24. A judicial declaration is necessary and appropriate at this time under the
4 circumstances in order that the Port may ascertain its rights and duties under the Policy
5 issued by ACE with regard to its defense obligation. Because of ACE's refusal to defend
6 the Port against the Phelps Claims, the Port has incurred damages, and faces uncertainty as
7 to its coverage positions for claims asserted under the Policy.

8 **SECOND CAUSE OF ACTION**

9 **(Breach of Contract/Duty to Defend)**

10 25. The Port hereby incorporates each of the allegations set forth in paragraphs 1
11 through 24, inclusive, as set forth fully herein.

12 26. The Port has performed all conditions, covenants, and promises required to
13 be performed by it in accordance with the terms and conditions of the Policy, except for
14 those which have been waived, excused, or prevented through ACE's acts.

15 27. ACE, and DOES 1 through 50 have breached each of the above-referenced
16 contracts of insurance by unreasonably failing and/or refusing to defend the Port against the
17 Phelps Claims, as described above.

18 28. As a direct and proximate result of ACE's, and DOES 1 through 50's actions
19 alleged herein, the Port has been deprived of its rights to a defense under the Policy and has
20 been monetarily damaged and incurred foreseeable economic losses in amounts to be
21 established at trial.

22 **THIRD CAUSE OF ACTION**

23 **(For Bad Faith and Breach of the Implied Covenant of Good Faith and Fair Dealing)**

24 29. The Port hereby incorporates each of the allegations set forth in paragraphs 1
25 through 28, inclusive, as set forth fully herein.

26 30. Implied in the Policy issued by ACE is a covenant that ACE would act in
27 good faith and deal fairly with the Port in discharging its contractual responsibilities, that it
28 would do nothing to interfere with the rights of the Port to receive the benefits that the Port

1 is entitled to under the Policy, and that it would place the interest of the Port before its own
2 interests.

3 31. In breach of these covenants, ACE, and DOES 1 through 50 did the things
4 and committed the following acts for the purpose of consciously withholding from the Port
5 the rights and benefits which the Port is entitled to under the Policy:

6 (A) ACE has failed and/or refused to defend the Port against the Phelps Claims
7 under the Policy after having been requested to by the Port;

8 (B) ACE has failed and/or refused to provide a reasonable explanation of the
9 basis for its failure and/or refusal to defend the Port against the Phelps Claims under the
10 Policy after having been requested to by the Port;

11 (C) ACE has placed its own interests ahead of those of the Port; and

12 (D) ACE has forced the Port to institute litigation to enforce its rights and
13 benefits under the Policy, and ACE has forced the Port to incur substantial expenses,
14 including attorneys' fees, in connection therewith.

15 32. The Port is informed and believes, and thereon alleges, that ACE, and DOES
16 1 through 50 has breached its duty of good faith and fair dealing owed to the Port by other
17 acts or omissions of which the Port is presently unaware. The Port will seek leave of court
18 to amend this Complaint at such time as it discovers the other acts or omissions of
19 defendants constituting such breach.

20 33. As a proximate result of the aforementioned wrongful conduct of ACE, and
21 DOES 1 through 50, the Port has suffered actual and consequential damages and out-of-
22 pocket expenses, including attorneys' fees and costs, and other foreseeable economic losses
23 all to the Port's damage, in total amount to be shown at proof at time of trial.

24 34. In committing these acts, ACE, and DOES 1 through 50 acted intentionally,
25 oppressively, maliciously, and fraudulently, with a conscious disregard of the Port's rights,
26 with the intention of benefitting themselves financially and with the intention of causing, or
27 recklessly disregarding the possibility of, damages and foreseeable economic loss to the
28 Port. ACE, and DOES 1 through 50 intended to and did vex, annoy, injure, and harass the

1 Port. As a result of such conduct, the Port is entitled to exemplary and punitive damages.

2 35. The Port is entitled to recover any and all attorneys' fees and costs that it
3 reasonably incurs in its efforts to obtain policy benefits, that have been wrongfully and in
4 bad faith withheld by ACE, and DOES 1 through 50.

5 P R A Y E R

6 WHEREFORE, the Port, prays for judgment against ACE, and DOES 1 through 50,
7 as follows:

- 8 1. For a declaration that ACE had and continues to have a duty to defend the Port
- 9 against the Phelps Claims.
- 10 2. For compensatory damages against ACE according to proof at the time of trial, plus
- 11 interest;
- 12 3. For consequential damages against ACE according to proof at time of trial, plus
- 13 interest;
- 14 4. For exemplary and punitive damages in an amount appropriate to punish ACE and to
- 15 set an example for others;
- 16 5. For attorneys' fees and expenses incurred herein;
- 17 6. For costs of suit incurred herein;
- 18 7. For pre-judgment and post-judgment interest;
- 19 8. For the ongoing costs incurred for compliance with the Port's legal obligations
- 20 according to proof at the time of trial; and
- 21 9. For such other and further relief as the Court deems appropriate.

22 Dated: August 7, 2013

BROWN & WINTERS

23
24 By: _____

25 WILLIAM D. BROWN
 26 SCOTT E. PATTERSON
 27 BENJAMIN P. SYZ
 Attorneys for Plaintiff San Diego
 28 Unified Port District

AUG 9 13 AM 946

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William D. Brown (125468); Scott E. Patterson (174979); Benjamin P. Syz (240768) BROWN & WINTERS 120 Birmingham Drive, Suite 110 Cardiff By the Sea, CA 92007		FOR COURT USE ONLY FILED CIVIL BUSINESS OFFICE 11 CENTRAL DIVISION 2013 AUG -9 P 1:10	
TELEPHONE NO.: 760-633-4485 ATTORNEY FOR (Name): Plaintiff, San Diego Unified Port District	FAX NO.: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W. BROADWAY MAILING ADDRESS: SAN DIEGO, CA 92101 CITY AND ZIP CODE: BRANCH NAME: CENTRAL	DEPT: SUPERIOR COURT SAN DIEGO COUNTY, CA	
CASE NAME: SAN DIEGO UNIFIED PORT DISTRICT V. ACE AMERICAN INSURANCE COMPANY; and DOES 1 through 50, inclusive		CASE NUMBER: 37-2013-00062180-CU-IC-CTL	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
JUDGE: DEPT:		JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<input type="checkbox"/> Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <input type="checkbox"/> Other P/DPD/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DPD/W (23) <input type="checkbox"/> Non-P/DPD/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DPD/W tort (35) <input type="checkbox"/> Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<input type="checkbox"/> Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input checked="" type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <input type="checkbox"/> Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <input type="checkbox"/> Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<input type="checkbox"/> Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) <input type="checkbox"/> Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <input type="checkbox"/> Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	--

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses

b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court

c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 3 (Declaratory Relief, Breach of Contract, Breach of Implied Covenant of Good Faith)

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 7, 2013
 Scott E. Patterson (TYPE OR PRINT NAME) [Signature] (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 at seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

VIA FAX

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7085	
PLAINTIFF(S) / PETITIONER(S):	San Diego Unified Port District
DEFENDANT(S) / RESPONDENT(S):	Ace American Insurance Company
SAN DIEGO UNIFIED PORT DISTRICT VS. ACE AMERICAN INSURANCE COMPANY	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE	CASE NUMBER: 37-2013-00062180-CU-IC-CTL

CASE ASSIGNMENT

Judge: Joan M. Lewis

Department: C-65

COMPLAINT/PETITION FILED: 08/09/2013

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	01/31/2014	11:15 am	C-65	Joan M. Lewis

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants, and a Certificate of Service (SDSC form #CIV-345) filed within 60 days of filing.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, each party demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) for each party on or before the date scheduled for the initial case management conference in the action.

MANDATORY eFILE: Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at www.onelegal.com. Refer to General Order 010313 at www.sdcourt.ca.gov for guidelines and procedures.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

13

Notice to Filer

Pursuant to California Rules of Court ("CRC"), rules 2.250 et seq., Code of Civil Procedure section 1010.6, and San Diego Superior Court General Order: *In re Procedures Regarding Electronically Imaged Court Records, Electronic Filing, and Access to Electronic Court Records*, this case has been designated as a Mandatory eFile case.

All future documents submitted to the court on this case must be filed electronically. **The clerk will not accept or file any documents in paper form that are required to be filed electronically, absent a court order allowing the filing.**

A party may request to be excused from mandatory electronic filing requirements. This request must be in writing and may be made by ex parte application to the judge or department to whom the case is assigned.

Documents for cases ordered to mandatory eFiling can only be filed through the court's electronic service provider (the "Provider"). See www.onelegal.com, for information on how to file electronically.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central	FOR COURT USE ONLY
PLAINTIFF(S): San Diego Unified Port District	
DEFENDANT(S): Ace American Insurance Company	
SHORT TITLE: SAN DIEGO UNIFIED PORT DISTRICT VS. ACE AMERICAN INSURANCE COMPANY	
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)	CASE NUMBER: 37-2013-00062180-CU-IC-CTL

Judge: Joan M. Lewis

Department: C-65

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- | | |
|---|--|
| <input type="checkbox"/> Mediation (court-connected) | <input type="checkbox"/> Non-binding private arbitration |
| <input type="checkbox"/> Mediation (private) | <input type="checkbox"/> Binding private arbitration |
| <input type="checkbox"/> Voluntary settlement conference (private) | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial) |
| <input type="checkbox"/> Neutral evaluation (private) | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
| <input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

 Name of Plaintiff

 Name of Defendant

 Signature

 Signature

 Name of Plaintiff's Attorney

 Name of Defendant's Attorney

 Signature

 Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 08/12/2013

 JUDGE OF THE SUPERIOR COURT

15

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

16



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2013-00062180-CU-IC-CTL CASE TITLE: San Diego Unified Port District vs. Ace American Insurance Company

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), *and*
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.