

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

EUNICE LAMB,

Plaintiff,

v.

PRALEX CORPORATION, ZENITH
GOLDLINE PHARMACEUTICALS and
IVAX CORPORATION d/b/a IVX
BIOSCIENCES,

Defendants

CIVIL NO. 2000/145

TO: Natalie Nelson Tang How, Esq./Lee J. Rohn, Esq.
Kevin Rames, Esq.

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL (PRALEX)

THIS MATTER came for consideration on Plaintiff's Motion to Compel Pralex Corporation ("Pralex") to provide Plaintiff with all documents related to Lexington Insurance Company's ("Lexington") reservation of rights. Pralex filed no opposition to the motion.

Plaintiff's motion is premised on her right to such disclosure pursuant to LRCi 26.2(c)(1)(A)(iii). Fed. R. Civ. P. 26(a)(1)(D) requires that each party must provide "...any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or indemnify or reimburse for payments made to satisfy the judgment." LRCi

26.2(c)(1)(A)(iii) adds, "...reports or documents bearing on reservation of rights or denial of coverage."

As particularly stated in the Advisory Committee Notes, the 2000 Amendments to Rule 26(a)(1) remove the authority **to alter** or opt out of the national disclosure requirements by local rule. The provisions of Fed. R. Civ. P. 26(a)(1)(D) do not include production of reservation of rights documents.¹ *Native America Arts, Inc. v. Bundy-Howard, Inc., etc. et al.*, 2003 WL 1524649 (N.D. Ill.).

In any event, Pralex has not opposed this motion and Plaintiff could otherwise request such information pursuant to Fed. R. Civ. P. 33 and 34. The language of the formerly applicable local rule suggests that production of information concerning reservation of rights by Pralex's insurer would be consistent with local policy considerations.

Accordingly, it is hereby;

ORDERED that Plaintiff's motion is GRANTED and within ten (10) days of the date of this Order, Pralex shall provide Plaintiff with copies of all documents related to Lexington's reservation of rights.

1. To the extent the cited January 27, 2003 Order in *Gonzalez v. AMR, STX*, Civ. 1998/218 provided otherwise, such order was in error.

Lamb v. Pralex Corp. et al.
Civil No. 2000/145
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ENTER:

Dated: July 31, 2003

_____/s/_____
JEFFREY L. RESNICK
U.S. MAGISTRATE JUDGE

ATTEST:
WILFREDO MORALES
Clerk of Court

By: _____
Deputy Clerk