

FOR IMMEDIATE RELEASE

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CHILDHOOD SEXUAL ABUSE SURVIVOR FIGHTS TO STOP NEW YORK CHILD VICTIMS ACT PLAINTIFFS FROM BEING REVICTIMIZED BY MAJOR INSURANCE COMPANIES WHO UNREASONABLY REFUSE TO SETTLE SEXUAL ABUSE CLAIMS

Sexual abuse survivor files motion for leave to file a federal lawsuit against Chubb Insurance for its bad faith refusal to pay out on policies that covered his Child Victims Act claims against his high school.

New York, NY, September 30, 2024 – A victim of childhood sexual abuse identified as “Jonah Doe” (“Jonah”) filed a motion today in The United States District Court for the Eastern District of New York for leave to file a lawsuit against Aetna Insurance Company (“Aetna”) and Federal Insurance Company (“Federal”), two subsidiaries of insurance giant Chubb INA Holdings, Inc. (collectively, “Chubb”) for Chubb’s alleged bad faith refusal to settle his New York Child Victims Act (“CVA”) case.

In the action, Jonah alleges that he was sexually assaulted multiple times from 1981 to 1985 by a coach, and he sued his former school for negligence and other claims related to the alleged abuse; he now seeks to join its Chubb insurers for their refusal to meet their coverage obligations to him and the school.

The motion includes a proposed Third-Party Complaint against Chubb in which Jonah alleges that, contrary to the New York Department of Financial Services’ 2019 mandate to all New York Insurance Companies, which explicitly states that the Department “expect[s] [insurers] to cooperate fully with the intent of the Child Victims Act,” Chubb has consistently and frequently refused to settle CVA cases fairly, in good faith, and expeditiously. Jonah seeks punitive and compensatory damages against Chubb for violation of New York General Business Law Section 349 (deceptive business practices), breach of contract, and breach of implied covenant of good faith and fair dealing/bad faith refusal to settle. Jonah’s motion also includes a memorandum of law which sets forth the legal bases for the relief Jonah seeks.

Plaintiff Jonah is represented by Kevin T. Mulhearn, Esq. of Kevin T. Mulhearn, P.C., in Orangeburg, New York, a long-time advocate for sexual abuse survivors, and Timothy Burns, Esq. of Burns Bair LLP, in Madison, Wisconsin, an insurance law expert who specializes in complex insurance issues which arise in sexual abuse litigations throughout the country.

Plaintiff’s attorney, Kevin T. Mulhearn, Esq., stated:

“Since the passage of the CVA on February 14, 2019, more than 10,000 men and women have filed claims in New York state and federal courts seeking redress against various allegedly culpable parties for their childhood sexual abuse. To date, more than ninety percent of these cases remain unresolved with no trial dates in sight.

Although the CVA was designed to remedy a gross injustice—the previously draconian statutes of limitation which foreclosed legal redress for the claims of many childhood sexual abuse survivors—the prosecution of CVA claims has proceeded at a pace and in a manner which has provided little justice or accountability for the overwhelming majority of these abuse survivors. I know first-hand that the stilted practical implementation of CVA claims has caused many victims, including many of my clients, to feel revictimized, and has been an impediment, rather than a conduit, to justice.

A critical factor in this state of affairs has been the grossly deficient and outrageous insurance coverage positions taken by many insurance companies, notably Chubb, which issues liability policies to various institutions charged with the education and/or care of children. Chubb and other like-minded insurance companies, by taking patently unreasonable and bad faith insurance coverage positions, have foreclosed any possibility of a fair and reasonable settlement of numerous CVA cases in which—as in this case—liability is reasonably clear. Our client’s settlement with his school, which demands that Chubb meet its contractual obligations, was a reasonable response to Chubb’s grossly unreasonable settlement position.”

Plaintiff’s attorney, Timothy Burns, Esq., stated:

“Despite the Department of Financial Services’ admonition that insurers live up to their obligations in CVA cases, very few insurers have done so. We expect that a ruling in Jonah’s favor by The Eastern District of New York Court will serve to put Chubb and other like-acting insurers on notice that bad faith, dilatory, and deceptive insurance practices in New York will no longer be tolerated by the courts—and that aggrieved CVA plaintiffs like Jonah are entitled to fair and expedited legal redress.”

Stephen Jimenez, a Board Member of The Coalition for Just and Compassionate Compensation (“CJCC”), stated:

“This motion filed on behalf of a CVA plaintiff in the New York federal court is the most urgent and important potential ‘window’ for justice for child sex abuse survivors since the CVA became law five years ago. The current system for compensating survivors of horrific sex crimes that we suffered as children is essentially broken, and we need to fix that system immediately—in courtrooms, board rooms, government offices, and within the multitude of institutions that bear responsibility for enabling these crimes and then covering them up. We, survivors, also intend to seek justice in the court of public opinion where Americans are firmly committed to protecting children from sexual abuse.”

Kathryn Robb, National Director of Children’s Justice Campaign and a Board Member of CJCC, stated:

“The principal culprit in refusing to comply with the CVA is the insurance industry and especially billion-dollar insurer Chubb. Survivors not only continue to suffer unimaginable trauma, but these egregious actions of insurers in refusing to pay claims are a brutal form of revictimization. The immoral, legalistic maneuvering of Chubb and other insurers is an old corporate ploy, driven by the worst kind of greed and cynical attempts to ‘pass the buck.’ Remember when the tobacco industry pretended to know nothing about the deadly effects of smoking? How many human beings died while profiteers kept lining their pockets? Insurers will soon be inducted into the same Hall of Shame for their callous treatment of child sex abuse survivors. They must be held accountable now.”

The status quo in the CVA landscape is no longer acceptable to any right-thinking person who truly cares about justice for sexual abuse survivors. Jonah and his attorneys, Kevin T. Mulhearn, Esq., and Timothy Burns, Esq., hope that the prudent settlement approach adopted by Jonah and the school will provide a roadmap for many other CVA plaintiffs, institutional defendants, insurance companies, and judges alike to break the existing suffocating and justice-denying logjam for CVA cases by compelling liability insurance companies, like Chubb, to at long last honor their insurance contracts with insured institutions and act as they should have acted from the start.

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To review relevant publicly filed documents (partially redacted and filed under partial seal) related to this action, *see, Montague, et al. v. Williams, et al.*, Case No. 1:21-cv-04054 (MKB) (LKE) (EDNY), at Docket Nos. 114(3) (Proposed Third-Party Complaint) and 114(10) (Proposed Supporting Memorandum of Law).