

~~time here as to coverage for my client's insurance claim - was "ruined" - Here's that excerpt~~

Q Isn't it true that you undertook the request for information to Bristol Heights to determine whether there were defenses that Chicago Title could avail itself to coverage?

A No.

Q Ms. Levy, didn't you testify at your deposition [in response to being asked] what would the relevance to your investigations be [of the information requests]? . . . Let's say as a hypothetical that . . . Lew Volpicella owed the taxes as the seller[;] because he's also an owner of Bristol Heights, it is possible that that would implicate certain defenses because there are defenses in the policy to claims that the [insured] knew or should have known [of].

ATTY.: I would object on the grounds that . . . he hasn't established any inconsistency between the testimony here today and the testimony at deposition.

THE COURT: Yes, that's what I'm looking for, Mr. Matzkin. Was the purpose of the quotation to impeach her prior answer?

ATTY. MATZKIN: [I]t does, Your Honor. I asked her whether or not the purpose of request for information of Bristol Heights was to determine whether Chicago Title had defenses to their claim for insurance coverage. And she said, I believe, no, and therefore I'd like to impeach her with her deposition testimony. . . . [I]t's important . . . to establish that she was seeking defenses to coverage.

THE COURT: All right. I'll sustain the objection because I don't think it's - what was presented is really the nature of impeaching her testimony. There may have been some nuances in terms of her responses to even to that prior question or previous questions but I don't think that's a prior inconsistent statement. So I'll sustain the objection.

On this issue, Judge Shaban's Memo of Decision stated, "[F]rom [the insured's] perspective, it was wary of some of the requests for examination and the production of documents in that it felt that they were designed more to maximize the ability of [the insurer] to find an exclusion applicable to the claim than to determine its validity."

Copy excerpt and provide to JUD COM.

Atty Matzkin's descriptor/context



Issue at trial was whether insurer was seeking defenses to coverage - witness said "No" - judge said her deposition testimony was not inconsistent with her trial response.