

Another Insurer Wants In On Ohio Hotel Sex Trafficking Suit

By **Joyce Hanson**

Law360 (May 20, 2021, 9:07 PM EDT) -- An insurer has asked an Ohio federal judge to let it intervene in a sex trafficking suit by an anonymous accuser against multiple hotel companies, saying it has a substantial legal interest in the case's outcome because it has an insurance contract with one of the accused businesses.

Cincinnati Insurance Co. told U.S. District Judge Algenon L. Marbley in its Wednesday motion to intervene that it has a contract with Ash Management Corp., doing business as Days Inn by Wyndham-Columbus North, which the alleged victim — identified by her initials, M.A. — has named as a co-defendant.

Ash asked Cincinnati to defend and indemnify the hotel for M.A.'s claims, and the insurance company said it was now defending Ash in the suit subject to a reservation of rights, meaning the insurer may assert its right to deny coverage at a later date.

"CIC seeks to intervene in this lawsuit for the purpose of seeking a declaratory judgment regarding its obligations, if any, to defend and/or indemnify Ash Management in relation to M.A.'s claims against them," Cincinnati said. "CIC also seeks the right to participate in all aspects of the lawsuit including but not limited to discovery and, if necessary, trial."

Cincinnati said it was aware that the judge had previously denied motions to intervene in the M.A. suit by insurers American Family, Nationwide Property & Casualty, Nationwide Mutual Fire Company and Erie Insurance Exchange. But under Ohio law, an insurance company's failure to lodge a motion to intervene may bind it under collateral estoppel and prevent the insurer from relitigating an issue that had been resolved in a previous lawsuit, Cincinnati said.

In refusing Erie's bid in April 2020, Judge Marbley **said he was not persuaded** by Erie's claim that it has a "substantial legal interest" in the action claiming a violation of the federal Trafficking Victims Protection Reauthorization Act.

The judge said he had already decided two similar motions by American Family and Nationwide in the M.A. suit and held then that the insurers' concerns about coverage under their policies were irrelevant to the plaintiff's claims under the act.

"This court relied on its precedent in J4 Promotions, in which an insurer brought a similar motion to intervene and the court found the coverage issue unrelated to the underlying copyright infringement and unfair competition claims in the case," Judge Marbley wrote. "The court noted various courts have routinely denied intervention on grounds that insurers contesting coverage have no more than a contingent interest in the underlying action."

In the case initiated by M.A. in March 2019, **Judge Marbley ruled in October 2019** that the operators of six hotel companies must face her claims that they should have known she was being victimized, saying she had shown enough to allege the hotels benefited financially from the trafficking.

Judge Marbley denied motions to dismiss from Buckeye Hospitality Inc., Choice Hotels International Inc., First Hotel Management LLC, Columbus Hospitality LLC, Krrish Lodging LLC and Wyndham Hotels & Resorts Inc. The judge rejected their arguments that M.A. had not shown that the hoteliers

knowingly benefited financially from the sex trafficking happening on their premises or that they should have known what was going on.

On Dec. 14, M.A. moved to amend the complaint, naming 14 hospitality entities as co-defendants, including Ash Management's Days Inn by Wyndham-Columbus North hotel, five other Days Inn by Wyndham hotels, a Comfort Inn hotel, a Super 8 hotel and an InterContinental Hotels Group-branded Crowne Plaza hotel. Judge Marbley granted the motion on Feb. 23.

M.A. claims she was trafficked for sex through force, fraud and coercion from spring 2014, when she was a minor, until she escaped in August 2015. She alleged that the trafficking happened at the Days Inn, Comfort Inn, Super 8 and Crowne Plaza locations in Columbus, Ohio.

M.A. said the hotels knew or should have known the trafficking was happening on their properties because her trafficker asked for rooms near exits and refused housekeeping, and the trash cans in her rooms contained an "extraordinary number of used condoms," according to the amended complaint.

"As a direct and proximate result of the Wyndham, IHG and Choice brand managers and their hotel brands' consistent refusals to prevent human trafficking on their hotel properties, M.A. was sex trafficked, sexually exploited, and victimized repeatedly at Wyndham, IHG and Choice brand hotels," the complaint said.

Counsel for the parties did not immediately respond to requests for comment Thursday.

Cincinnati Insurance Co. is represented by Jane M. Lynch and Erin Moore of Green & Green Lawyers.

Ash Management Corp., d/b/a Days Inn by Wyndham-Columbus North, is represented by Joseph A. Gerling and Claudia L. Spriggs of Lane Alton.

M.A. is represented by Steven C. Babin Jr. of Babin Law LLC; Kimberly L. Adams, Kathryn L. Avila and Chris V. Tisi of Levin Papantonio Thomas Mitchell Rafferty & Proctor PA; Gregory M. Zarzaur of the Zarzaur Law Firm; and Anil A. Mujumdar of Dagney Johnson Law Group.

The suit is M.A. v. Wyndham Hotels & Resorts Inc. et al., case number 2:19-cv-00849, in the U.S. District Court for the Southern District of Ohio.

--Editing by Peter Rozovsky.