

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

U.S. SPECIALTY INSURANCE COMPANY,

Plaintiff,

v.

PENINSULA TOWNSHIP OF, et al.,

Defendants.

Case No. 1:25-cv-00913-PLM-RSK

Hon. Paul L. Maloney

JOINT STATUS REPORT

A Rule 16 Scheduling Conference is scheduled for February 9, 2026, at 1:30 p.m., before the Honorable Paul L. Maloney, 174 Federal Building, Kalamazoo, Michigan.

Appearing for the parties as counsel will be:

Alexander W. Ross for Plaintiff U.S. Speciality Insurance Company.

D. Andrew Portinga or **Stephen J. van Stempvoort** will appear on behalf of Defendant, the Township.

Attorney **Joseph M. Infante** will appear on behalf of the Winery Defendants.

Tracy Jane (TJ) Andrews will appear on behalf of Defendant Protect the Peninsula (PTP).

1. Jurisdiction

The basis for the Court's jurisdiction is:

Plaintiff filed this case in the United States District Court for the Western District of Michigan as jurisdiction is proper under 28 U.S.C. § 1332 because complete diversity exists between the parties as Plaintiff is a citizen of Texas, and all Defendants are citizens of Michigan. The matter in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs, because the combined damages sought in the underlying action and the amount of insurance at issue exceed this sum.

2. Jury or Non-Jury

This case is to be tried before a jury.

The Township states that this matter is subject to mandatory arbitration, and it plans to file a motion to compel arbitration.

3. Judicial Availability

The parties do not agree to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and to order the entry of final judgment.

4. Statement of the Case

Plaintiff USSIC seeks a declaration of the parties' rights and obligations pursuant to Federal Rule of Civil Procedure 57 and 28 U.S.C. §§ 2201-2202 in relation to an insurance policy that USSIC issued to Peninsula Township. This dispute stems from an October 21, 2020 Complaint ("Underlying Lawsuit") that was filed by Defendants, Wineries of the Old Mission Peninsula ("WOMP"), Bowers Harbor, Brys, Grand Traverse, Chateau Operations, Grape Harbor, Montague, OV the Farm, Tabone, Two Lads, Villa Mari, and Black Star (the "Wineries") against Defendant Peninsula Township ("the Township") in relation to the Township's ordinances that were in place that governed the Wineries.

It is USSIC's position that the Township is not entitled to coverage for the damages awarded in the Court's July 7, 2025 Judgment because all wrongful acts occurred outside of the policy period for the Township's Policy. In addition, and in the alternative, USSIC seeks the following declarations from the Court:

- USSIC has no obligation to provide coverage for the Township's loss in relation to the Court's judgment or the Underlying Lawsuit because such loss is excluded by Exclusion 10 in the Township's Policy;
- USSIC has no obligation to indemnify the Township for any of the damages awarded in the Court's Judgment or the Underlying Lawsuit;

- The \$100,000.00 limit of liability for a Regulatory Taking of Private Property as set forth in the Township's Policy applies if it is determined that the Township is entitled to coverage under the Policy;
- USSIC has no obligation to appeal the Court's Judgment in the Underlying Lawsuit;
- USSIC has no obligation to pay for or reimburse any costs or fees associated with an appeal;
- In the event that it is determined that there should be coverage under the Township's Policy, USSIC must pay, at most, the cost of the premium of an appeal bond up to \$100,000.00; and
- USSIC has no obligation to furnish any appeal bond.

The Township's position is that USSIC is obligated to defend and indemnify the Township with respect to the Underlying Lawsuit. The Township also believes that USSIC's claims are subject to mandatory arbitration, as provided in the underlying Policy and as articulated in the demand for arbitration that the Township timely submitted to USSIC. The Township plans to move to compel arbitration.

The factual and legal issues in this matter requiring judicial resolution include determining whether USSIC's claims are subject to mandatory arbitration, whether the allegations of the Underlying Lawsuit triggered USSIC's duty to defend the Township, and whether USSIC has a duty to indemnify the Township for any part of a Judgment entered against the Township in the Underlying Lawsuit.

As alleged in their Answer and Affirmative Defenses, the Winery Defendants are not parties to the subject insurance policies, nor are they parties to any of the communications between USSIC and the Township. Accordingly, the Winery Defendants have not been able to fully evaluate their coverage position. Discovery may reveal the existence of defense, whether affirmative or otherwise, that may disadvantage USSIC or advance the Winery Defendants or the Township, including but not limited to the doctrines of waiver or estoppel.

PTP, as a party to the Underlying Lawsuit, has knowledge of those proceedings but lacks actual knowledge of the USSIC Policy or the relationship between USSIC and Peninsula Township beyond Plaintiff's allegations in its Complaint.

5. Prospects of Settlement

The parties have not engaged in settlement negotiations to date.

6. Pending State Claims

This case does not include pendent state claims.

7. Joinder of Parties and Amendment of Pleadings

The parties expect to file all motions for joinder of parties to this action and to file all motions to amend the pleadings by **March 2, 2026**.

8. Disclosures and Exchanges

(a) FED. R. CIV. P. 26(a)(1) requires initial disclosures unless the Court orders otherwise. The parties propose the following schedule for Rule 26(a)(1) disclosures. The parties will make their Fed. R. Civ. P. 26(a)(1) disclosures by **March 16, 2026**.

(b) The plaintiff expects to be able to furnish the names of plaintiff's expert witness(es) by **November 30, 2026**. Defendant expects to be able to furnish the names of defendant's expert witness(es) by **December 31, 2026**.

(c) It would be advisable in this case to exchange written expert witness reports as contemplated by FED. R. CIV. P. 26(a)(2). Reports, if required, should be exchanged according to the following schedule:

The parties will make their Fed. R. Civ. P. 26(a)(2) disclosures by **December 31, 2026**.

(d) The parties have agreed to make available the following documents without the need of a formal request for production:

From plaintiff to defendant by **April 1, 2026**; documents identified in Plaintiff's initial disclosures.

From defendants to plaintiff by **April 1, 2026**; documents identified in Defendants' initial disclosures.

9. Discovery

The parties believe that all discovery proceedings can be completed by **February 26, 2027**. The parties agree that the standard rules set forth in the Federal Rules of Civil Procedure regarding the number of interrogatories and depositions shall apply.

10. Disclosure or Discovery of Electronically Stored Information

The parties have discussed the production of electronically stored information and suggest that such information be handled as follows:

Plaintiffs and/or Defendants might possess electronically stored information that may be subject to disclosure or discovery. Such information, if any, will be produced in .PDF format and bates labelled where appropriate.

11. Assertion of Claims of Privilege or Work-Product Immunity After Production

The parties have discussed issues relating to claims of privilege and work product immunity for items inadvertently produced during discovery and have agreed to unilaterally delete any and all inadvertently produced privilege documents upon receipt of such documents.

12. Motions

The parties acknowledge that W.D. Mich. LCivR 7.1(d) requires the moving party to ascertain whether the motion will be opposed, and in the case of all non-dispositive motions, counsel or pro se parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. In addition, all non-dispositive motions shall be accompanied by a separately filed certificate.

The following dispositive motions are contemplated by each party:

- Plaintiff anticipates filing a Motion for Summary Judgment on all coverage issues.

- Defendant Township anticipates filing a motion to compel arbitration and a motion for summary judgment following conclusion of discovery.
- The Winery Defendants are unable to evaluate whether they anticipate filing a dispositive motion at this time as they have not had access to discovery to evaluate their coverage position. The Winery Defendants reserve the right to file a dispositive motion and to respond to any such motion filed by any other party.
- Defendant PTP may file a Motion for Summary Judgment following the close of discovery.

The parties agree that all dispositive motions will be filed by **April 30, 2027**.

13. Alternative Dispute Resolution

In the interest of conserving judicial resources, the parties acknowledge that the Court will require the parties to participate in some form of Alternative Dispute Resolution.

The parties agree to consider facilitative mediation over the course of this case.

14. Length of Trial

Counsel estimate the trial will last approximately 4 days total, allocated as follows: 2 days for Plaintiff's case, 2 days for Defendants' case.

15. Electronic Document Filing System

Counsel understands that Local Civil Rule 5.7(a) requires that attorneys file and serve all documents electronically by means of the Court's CM/ECF system, unless the attorney has been specifically exempted by the Court for cause or a particular document is not eligible for electronic filing under the rule. The parties acknowledge that the Court expects all counsel to abide by the requirements of this rule.

16. Other

N/A

Jointly submitted:

Dated: February 3, 2026

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a true and correct copy of the foregoing was filed electronically on this 3rd of February, 2025, which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

/s/ Alexander W. Ross