

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
WESTERN DIVISION

RISEN SON CHRISTIAN VILLAGE,
Plaintiff,

vs.

THE CINCINNATI INSURANCE COMPANY,
Defendant.

1:20-cv-00007-SMR-HCA

ORDER GRANTING MOTION FOR
APPOINTMENT OF UMPIRE AND
APPOINTING UMPIRE

On December 11, 2020, Plaintiff Risen Son Christian Village (“Risen Son”) filed a Motion For Appointment of Umpire. ECF No. 33. Defendant Cincinnati Insurance Company (“Cincinnati”) responded on January 6, 2021. ECF No. 37. Risen Son filed a reply on January 13, 2021. ECF No. 38. Cincinnati then filed a sur-reply on January 22, 2021. ECF No. 41. The briefing finally ended when Risen Sun filed a sur-sur-reply on January 25, 2021. ECF No. 44.

This lawsuit arose as the result of property damage and loss to Risen Son’s buildings caused by a hailstorm. Risen Sun and Cincinnati reached a partial settlement of the claims asserted in the Complaint that, among other things, resulted in dismissal of the bad faith claim and an agreement that other issues would be resolved through the appraisal process set forth in the applicable insurance policy. ECF No. 33. Pursuant to the appraisal process, each side selects a “competent and impartial appraiser.” The two appraisers then select an umpire. If the appraisers cannot agree on an umpire, then the selection would be made by a judge of a court having jurisdiction. If the two appraisers cannot agree on a number of key factors including the

amount of “loss,” the appraisers submit their differences to the umpire. A decision agreed to by any two of the appraisers and umpire will be binding. ECF No. 1-1 p. 52.

Risen Sun and Cincinnati agree that their respective appraisers, David Phalen and Mike Brueggemann, are unable to agree on an umpire and request that the Court select an umpire from six proposed candidates. They disagree solely on which candidate should be selected as the umpire. Through the extensive briefing on the issue, the parties essentially have narrowed their proposed candidates as follows: Risen Sun proposes that the Court appoint former Justice Mike Streit as the umpire [ECF No. 38], and Cincinnati proposes that the Court appoint Bradley Stephens as the umpire [ECF No. 41]. The respective backgrounds and qualifications of Justice Streit and Mr. Stephens are set forth in the parties’ briefing.

Based on the record before it, the Court finds that both Justice Streit and Mr. Stephens would make appropriate umpires with respect to this case. There is nothing in the record that suggests either Justice Streit or Mr. Stephens would be unable or unwilling to perform the responsibilities of umpire in a fair and impartial manner. The Court gives the edge to Mr. Stephens based on his professional experience as an adjuster, appraiser, and umpire dealing with complex property loss issues in the insurance industry. The only actual objection leveled against Mr. Stephens by Risen Sun is that he may be biased given that he earns his principal source of income from working and handling claims on behalf of insurance companies. The Court is not willing to stereotype Mr. Stephens based on that single factor, especially when Cincinnati has indicated that Mr. Stephens has been appointed and/or accepted as an umpire for both insureds and insurers. **For these reasons, the Court grants Risen Son’s Motion for Appointment of Umpire. ECF No. 33. The Court further appoints Bradley Stephens to serve as the umpire in this case.**

The Court also extends the parties deadline to file closing documents in this case to and including December 20, 2021.

IT IS SO ORDERED.

Dated August 3, 2021.



Helen C. Adams
Helen C. Adams
Chief U.S. Magistrate Judge