

JAMES J. DONELON, COMMISSIONER :	SUIT NO.: 651,069 SECTION: 22
OF INSURANCE FOR THE STATE OF :	
LOUISIANA, IN HIS CAPACITY AS :	
REHABILITATOR OF LOUISIANA :	
HEALTH COOPERATIVE, INC. :	19 TH JUDICIAL DISTRICT COURT
versus :	
GROUP RESOURCES INCORPORATED, :	PARISH OF EAST BATON ROUGE
MILLIMAN, INC., BUCK GLOBAL, :	
LLC. AND IRONSHORE SPECIALTY :	
COMPANY :	STATE OF LOUISIANA

ORDER

A hearing, conducted via Zoom, at 10:00 a.m. on June 17, 2021, was held to consider Plaintiff’s Motion for Partial Summary Judgment Regarding Officer / Director / Employee / Etc. Defenses or, in the Alternative, Motion to Strike Defenses Precluded as a Matter of Law (“Motion”). Participating in this Zoom hearing were:

J. Cullens and S. Layne Lee for Plaintiff, the Receiver of LAHC (“Plaintiff” or “Receiver”)

Brett Mason for Defendant, Group Resources, Inc. (“GRI”)

James Brown, Sheri Corales, and David Godofsky for Defendant, Buck Global, LLC (“Buck”)

Harry Rosenberg, Justin Kattan, and Justine Margolis for Defendant, Milliman, Inc. (“Milliman”)

Adam Whitworth for Defendant, Ironshore Specialty Insurance Company (“Ironshore”).

Considering the briefs and pleadings filed by the parties, the exhibits attached thereto which were all admitted into evidence, applicable law, and the argument of counsel, for the reasons stated in open court following this hearing and for those reasons set forth in Plaintiff’s original memorandum in support and reply memorandum in support of this Motion, which are incorporated by reference:

IT IS HEREBY ORDERED that Plaintiff’s Motion For Partial Summary Judgment, to the extent directed to “Director & Officer” Defenses, is **GRANTED**; specifically, the Court finds that La. R.S. 22:2043.1(A) does not allow defendants to plead defenses predicated upon prior wrongful or negligent actions of any officer, manager, director, trustee, employee, or agent of Louisiana Health Cooperative, Inc. (“LAHC”), and that there are no genuine issues of material fact bearing upon the application of La. R.S. 22:2043.1(A) to bar such defenses.

IT IS FURTHER ORDERED that Plaintiff’s Motion to Strike, to the extent directed to defenses predicated upon prior wrongful or negligent actions of any officer, manager, director,

trustee, employee, or agent of LAHC is **GRANTED**, as, pursuant to La. R.S. 22:2043.1(A), those defenses are insufficient as a matter of law and should be stricken pursuant to La. C. C. P. art. 964.

IT IS THEREFORE ORDERED that the following affirmative defenses, to the extent predicated upon prior wrongful or negligent actions of any officer, manager, director, trustee, employee, or agent of LAHC, be stricken:

1. Milliman's Fifth, Sixth, Eighth, Eleventh, Twelfth, Thirteenth and Fourteenth Affirmative Defenses set forth its Answer to Plaintiff's Second Supplemental, Amending and Restated Petition (and as renumbered in its Answer to Plaintiff's Fifth Supplemental, Amending and Restated Petition);
2. Buck's Fifth, Eighth, and Ninth Affirmative Defenses set forth in its Answer to Plaintiff's Second Supplemental, Amending and Restated Petition (and as renumbered in its Answer to Plaintiff's Fifth Supplemental, Amending and Restated Petition);
3. GRI's Third, Fourth, Eighth, and Ninth Affirmative Defenses set forth in its Answer to Plaintiff's Second Supplemental, Amending and Restated Petition (and as renumbered in its Answer to Plaintiff's Fifth Supplemental, Amending and Restated Petition).

The court reserves ruling on whether La. R.S. 22:2043.1(A) applies to bar defenses predicated upon prior wrongful or negligent actions of CGI Technology and Solutions, Inc. and/or Beam Partners, LLC, due to the existence of genuine issues of material fact as to their relationship to LAHC.

The arguments raised by Defendants that La. R.S. 22:2043.1(A) is unconstitutional as applied were deferred and will be considered at the August 20, 2021 hearing on defendants' Motion for Partial Summary Judgment on Unconstitutionality of La. R.S. 22:2043.1(A) as Applied. If the Court subsequently holds that the application of this statute in this context is unconstitutional, the defendants will be permitted to replead the defenses that have been stricken by this Order.

IT IS FURTHER ORDERED that Defendants, GRI, Buck, and Milliman, shall equally bear the costs associated with Plaintiff's Motion.

SO ORDERED this ____ day of _____, 2021, at Baton Rouge, Louisiana.

HONORABLE JUDGE TIMOTHY KELLEY

Donelon v. Shilling, et al., No. 651,069
Sec. 22, 19th JDC of Louisiana

Respectfully submitted,



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RULE 9.5(b) CERTIFICATE

I hereby certify that I first circulated a proposed ORDER to counsel for all parties by email on June 18, 2021, and that after edits and revisions suggested by defense counsel were made, counsel for Milliman and Buck agreed to the form of this proposed ORDER and counsel for GRI neither objected nor suggested any proposed changes to the same prior to filing.

Certified this 20th day of July, 2021.



J. E. Cullens, Jr.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been furnished via e-mail to all counsel of record as follows, this 20th day of July, 2021, in Baton Rouge, Louisiana.

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