

## Insurer Can't Intervene In Ohio Hotel Sex Trafficking Suits

By **Joyce Hanson**

Law360 (April 13, 2020, 8:23 PM EDT) -- An Ohio federal judge on Monday denied Erie Insurance Exchange's bid to intervene in two suits claiming the operators of hotels should have known that sex trafficking took place on their premises, ruling it doesn't have the right to intervene to protect its interests.

U.S. District Judge Algenon L. Marbley was not persuaded by Erie's claim that it has a "substantial legal interest" in the actions brought by the alleged victims — known by their initials M.A. and H.H. — under the Trafficking Victims Protection Reauthorization Act because it issued a liability insurance policy to defendants Buckeye Hospitality Inc., Choice Hotels International Inc. and Shahil LLC.

Judge Marbley said he recently decided two similar motions by insurers 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 brought by M.A. in March 2019, **Judge Marbley ruled Oct. 7** that the operators of six hotels 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.

The judge denied motions to dismiss from Buckeye Hospitality, Choice Hotels, First Hotel Management LLC, Columbus Hospitality LLC, Krrish Lodging LLC and Wyndham Hotels & Resorts Inc., rejecting their arguments that M.A. hadn't shown the hotels knowingly benefited financially from the sex trafficking happening on their premises or that they should have known what was going on.

M.A. was trafficked for sex from spring 2014 until she escaped in August 2015, according to Judge Marbley's order. She alleged the trafficking happened at several Days Inn by Wyndham, Comfort Inn and Crowne Plaza locations in Columbus, Ohio, the judge said.

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

"Plaintiff alleges that, while she was at each hotel property, 'the hotel staff would have or should have observed visible physical changes, such as bruising,' and that 'despite her desperate pleas and screams for help, after being beaten or choked at the defendants' hotel properties, the hotel staff ignored her and did nothing to prevent the ongoing and obvious torture she endured,'" the order stated.

H.H.'s suit, also filed in March 2019, alleges similar claims under the Trafficking Victims Protection Reauthorization Act. H.H. names G6 Hospitality LLC, Wyndham and Shahil, among others, as co-defendants.

The suits join multiple sex-trafficking cases that have been filed against hotel companies around the country over the past year. On Feb. 5, however, the Judicial Panel on Multidistrict Litigation **said it would not combine 21 suits** brought by alleged sex trafficking victims around the country accusing hotels of failing to train staff on how to spot and stop traffickers, saying the suits aren't similar enough for consolidation to make sense.

The JPML's order, which denied transfer of the cases to a centralized action in the Southern District of Ohio, said the plaintiffs in six actions who moved to consolidate the suit alleged similar failures of corporate responsibility by hotels to prevent sex trafficking. But the "vast majority" of actions involve different hotels and different circumstances, the panel said, concluding that centralization would not serve the convenience of the parties and witnesses or make the 21 suits pending in 12 districts any more efficient to litigate.

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

Erie Insurance Exchange is represented by Gordon D. Arnold and Bartholomew T. Freeze of Freund Freeze & Arnold.

M.A. and H.H. are represented by Steven C. Babin Jr. of Babin Law LLC, Gregory M. Zarzaur and Anil A. Mujumdar of Zarzaur, and Kimberly L. Adams of Levin Papantonio Thomas Mitchell Rafferty & Proctor PA.

Choice Hotels is represented by Jennifer Snyder Heis and Alyson Terrell of Ulmer & Berne LLP, and Sara M. Turner of Baker Donelson Bearman Caldwell & Berkowitz PC.

Buckeye Hospitality is represented by Charles R. Griffith and Joshua J. Fravel of Griffith Law Offices.

Counsel information for Shahil LLC was unavailable.

The suits are M.A. et al. v. Wyndham Hotels & Resorts Inc. et al., case number 2:19-cv-00849, and H.H. v. G6 Hospitality LLC et al., case number 2:19-cv-00755, in the U.S. District Court for the Southern District of Ohio.

--Additional reporting by Lauren Berg. Editing by Kelly Duncan.