

ORDER ON MOTION  
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	SUPERIOR COURT OF NEW JERSEY
	APPELLATE DIVISION
	DOCKET NO. AM-458-15T4
TRUMP ENTERTAINMENT RESORTS, INC.	MOTION NO. M-6001-15
V.	BEFORE PART D
LEXINGTON INSURANCE COMPANY	JUDGE(S): MITCHEL E. OSTRER
	MICHAEL J. HAAS

MOTION FILED:	04/11/2016	BY:	LEXINGTON INSURANCE COMPANY
ANSWER(S) FILED:	04/18/2016	BY:	TRUMP ENTERTAINMENT RESORTS, INC.

SUBMITTED TO COURT: May 02, 2016

ORDER  
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THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS 3rd day of May, 2016, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT

MOTION FOR LEAVE TO APPEAL FROM FEBRUARY 5, 2016 ORDER	GRANTED IN PART / DENIED IN PART
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SUPPLEMENTAL:

We deny the motion for leave to appeal from that aspect of the trial court's February 5, 2016 order denying defendants' motion to dismiss counts II and IV of the amended complaint, which alleged bad faith.

However, we grant the motion for leave to appeal from that aspect of the February 5, 2016 order denying defendants' motion to sever and stay discovery regarding plaintiffs' bad faith claims, as well as from the March 21, 2016 order denying reconsideration; and, pursuant to Rule 2:11-2, we summarily dispose of the appeal.

We have held that severing coverage claims from bad faith claims and deferring discovery on the latter promotes judicial economy and efficiency, by avoiding "expensive, time-consuming, and potentially wasteful discovery on a bad faith claim that may be rendered moot by a favorable ruling" on the coverage issues. Procopio v. Gov't Employees Ins. Co., 433 N.J. Super. 377, 381 (App. Div. 2013). We also observed that bad faith and coverage claims are "separate and distinct," and the evidence to establish each is very different. Id. at 383; see also Wacker-Ciocco v. Gov't Employees Ins. Co., 439 N.J. Super. 603, 614 (App. Div. 2015).

We review a trial court's decision regarding severance, and a stay of discovery under an abuse of discretion standard. Procopio, supra, 433 N.J. Super. at 380. However, the trial court here has identified no justification, based on the facts and circumstances of this case, for departing from the reasoning set forth in Procopio. See Flagg v. Essex Cty. Prosecutor, 171 N.J. 561, 571 (2002). We therefore reverse the trial court's orders as set forth above and remand for an order severing the bad faith claims and staying discovery related thereto.

Reversed and remanded. We do not retain jurisdiction.

FOR THE COURT:



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MITCHEL E. OSTRER, J.A.D.