

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-000972

07/07/2010

HONORABLE LINDA H. MILES

CLERK OF THE COURT  
L. Crawford  
Deputy

CAREFREE TRADING INC, et al.

DANIEL B TREON

v.

EMPLOYERS MUTUAL CASUALTY  
INSURANCE COMPANY

JAMES T ACUFF JR.

RICHARD T TREON

MINUTE ENTRY

The Court has received and considered (1) Plaintiff's Motion in Limine No. 2 re: Preclusion of Collateral Attack on Appraisal Award, and Defendant's Response thereto; and (2) Plaintiff's Motion in Limine No. 3 re: Preclusion of Testimony and Argument Claiming Fraud, and Defendant's Response thereto. Defendant having no objection,

IT IS ORDERED granting Plaintiff's Motion in Limine No. 2 re: Preclusion of Collateral Attack on Appraisal Award, and Plaintiff's Motion in Limine No. 3 re: Preclusion of Testimony and Argument Claiming Fraud.

The Court has received Plaintiff's Renewed Motion for Partial Summary Judgment re: EMC's "Policy" Defense of Insured's Alleged Violation of "Concealment, Misrepresentation or Fraud" Clause, filed March 16, 2010, and the Response and Reply thereto. On July 7, 2010, Defendant's counsel, John G. Ryan, advised this Division's Bailiff that Defendant has withdrawn its policy defense regarding violation of the concealment, misrepresentation or fraud clause. The policy defense having been withdrawn, Plaintiff's Renewed Motion for Partial Summary Judgment is moot and no action is taken thereon by the Court.

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The Court also has received Defendant's Request for Oral Argument on its Motions for Partial Summary Judgment re: Bad Faith and Punitive Damages, and Plaintiff's Motion to Exceed Page Limit in its Response to EMC's Motion for Partial Summary Judgment re: Punitive Damages.

IT IS ORDERED granting Plaintiff's Motion to Exceed Page Limit in its Response to EMC's Motion for Partial Summary Judgment re: Punitive Damages.

IT IS FURTHER ORDERED granting Defendant's Request for Oral Argument on its Motions for Partial Summary Judgment re: Bad Faith and Punitive Damages. The Court also will set oral argument on the three pending Motions in Limine.

**IT IS ORDERED** setting Oral Argument re: (1) Defendant's Motion for Partial Summary Judgment re: Bad Faith; (2) Defendant's Motion for Summary Judgment re: Punitive Damages; (3) Plaintiff's Motion in Limine No. 1 re: Exclusion of Collateral Matters, Documents and Witnesses; (4) Defendant's Motion in Limine re: Insurer's Post-Filing Litigation Conduct; and (5) Defendant's Motion in Limine re: Adjustment of Unrelated Insurance Claims and Lawsuits on **July 28, 2010 at 9:00 a.m.** (time allotted: one hour), in this Division.

Judge Linda H. Miles  
Maricopa County Superior Court  
Northeast Regional Court Center  
18380 N. 40<sup>th</sup> Street, Courtroom 106  
Phoenix, Arizona 85032  
(602) 506-6452

Unless otherwise advised by the Court at oral argument, the parties should assume that the Court has reviewed the parties' memoranda. Accordingly, the parties should be prepared to focus on the key issues in dispute and to answer questions from the Court.

**NOTE:** All court proceedings are recorded by audio and video method and not by a court reporter. Any party may request the presence of a court reporter by contacting this Division (602-506-6452) three (3) court days before the scheduled hearing.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>