

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-004534

04/06/2005

HONORABLE ROBERT L. GOTTSFIELD

CLERK OF THE COURT
T. Melius
Deputy

FILED: 04/14/2005

P S M / MAGNA CARTA INSURANCE
COMPANIES, et al.

WILLIAM H WESTOVER

v.

ARIZONA STATE DEPARTMENT OF
INSURANCE, et al.

MARY E KOSINSKI

BARTON J FEARS
BRUCE E MEYERSON
STEPHEN E SILVERMAN
RICHARD T TREON
JOHN ROLLIE WIGHTMAN

MINUTE ENTRY

9:35 a.m. Time of Hearing set on February 28, 2005 on O'Tool and Pettingills' Request (dated January 6, 2005) for a Status Conference and Supplement to Their Motion for Summary Judgment (which the Court regards as a new motion and not a motion to reconsider Court's Order of December 10, 2005; on that date Court denied PSM's Motion for Summary and O'Tool and Pettingills' Cross Motion for Summary Judgment). The supplement requests that the Court dismiss PSM's lawsuit based on a January 3, 2005 disclosure of SOS Restoration documents in that said documents allegedly show PSM initiated a criminal investigation on false pretenses and did not do a reasonable investigation of the insurance claim as a matter of law.

Present on conference telephone are William H. Westover, Mary E. Kosinski, Barton J. Fears, Stephen E. Silverman and John R. Wightman.

Court reporter, Traci Webster, is present

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After argument it is ordered as follows:

1. Denying O'Tool and Pettingills' Request Supplement to Cross Motion for Summary Judgment which the Court regards as a new motion on the basis that the Court believes there are sufficient fact issues to require, in the Court's discretion, an advisory jury to advise the Court on this request for injunction relief in CV 2004-004534. Consequently the jury trial on September 29, 2005 will be on Pettingill's lawsuit against PSM (CV 2004-015617) and will be an advisory jury on the issues presented in CV 2004-004534.
2. Setting a hearing on **May 19, 2005 at 9:00 a.m.** (30 minutes) before this Judge on PSM's Motion to Dismiss; Motion to Stay Litigation for Appraisal which was filed in CV 2004-015617 when Judge Yarnell had that calendar. Pleadings will be hand delivered or faxed to the Court, the Court understanding that there is in addition to the motion a response by Pettingills and an appendix and a reply by PSM and that DOI did not respond to that motion.
3. The Court now understands that discovery master, Bruce Meyerson, will consider the privilege log and memorandum filed by PSM.

9:55 a.m. Conference concludes.

Beginning Monday, April 18, 2005, due to judicial rotation, this calendar will be heard by:

**HONORABLE PETER B. SWANN
MARICOPA COUNTY SUPERIOR COURT
OLD COURT HOUSE
125 W. WASHINGTON
2nd FLOOR, COURTROOM 202
PHOENIX, AZ 85003
602-506-7959 TEL**