

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
DEPARTMENT OF THE TRIAL COURT

MARCIA RHODES, HAROLD RHODES,  
Individually and on Behalf of His Minor Child  
and Next Friend, REBECCA RHODES,

Plaintiffs,

v.

AIG DOMESTIC CLAIMS, INC. f/k/a AIG  
TECHNICAL SERVICES, INC., NATIONAL  
UNION FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA, and ZURICH AMERICAN  
INSURANCE COMPANY,

Defendants.

CIVIL ACTION NO. 05-1360-BLS2  
(Judge Gants)

**AIG DOMESTIC CLAIMS, INC. F/K/A AIG TECHNICAL SERVICES, INC.'S AND  
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA'S  
OPPOSITION TO PLAINTIFFS' MOTION FOR CLARIFICATION**

AIG Domestic Claims, Inc. and National Union Fire Insurance Company of Pittsburgh, PA ("Defendants") respectfully submit this opposition to Plaintiffs' motion for clarification of this Court's Order dated February 2, 2006 ("Order"), a copy of which is attached as Exhibit 1. The Order sets forth a revised discovery schedule in contemplation of the Defendants' intention to pursue an appeal before the Single Justice of an earlier discovery order dated January 23, 2006.<sup>1</sup> Acknowledging that Defendants' legitimate exercise of its right to pursue such appeal would necessarily entail time, and thus could implicate the parties' ability to complete discovery on a timely basis, this Court advised:

<sup>1</sup> Defendants have since filed and served a Petition for Interlocutory Review on February 22, 2006.

Although the discovery deadline remains set for close of business on July 24, 2006, in view of this postponement, this Court will extend it to September 8, 2006 if counsel so requests.

Order, Paragraph 5.

The Court's unambiguous Order requires no clarification, and there is simply no basis for Plaintiffs' crabbed interpretation of it—*i.e.*, that the Court intended for them, alone, to have the opportunity to seek an extension of the discovery deadline to September 8, 2006, if such should become necessary. The Court took time craft an explicit Order. Had it desired to implement the baseless limitation that Plaintiffs espouse, certainly it would have done so in terms that (like the present Order) require no creative interpretation. It did not do so because such would amount to punishing Defendants for exercising their legitimate right of appeal as provided by the Rules of Civil Procedure.

Plaintiffs continue to imply that Defendants are somehow engaging in improper delay tactics. If delay is truly Plaintiffs' concern, perhaps they should refrain from burdening the parties and the Court with the time and expense of responding to frivolous motion practice such as this (and their pending motion for sanctions).

**WHEREFORE**, Defendants respectfully request that this Court deny the “clarification” sought by Plaintiffs’ motion.

Respectfully submitted,

Defendants,

**AIG Domestic Claims, Inc. f/k/a AIG  
Technical Services, Inc. and National Union  
Fire Insurance Company of  
Pittsburgh, PA,**

By their counsel,

*Mark E. Cohen (APM)*

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Dated: February 27, 2006

**CERTIFICATE OF SERVICE**

I, Brian P. McDonough, certify that on this 27<sup>th</sup> day of February, 2006, I caused a copy of the foregoing to be served by first class mail upon the following:

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Brian P. McDonough