

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-004534

05/19/2005

HONORABLE ROBERT L. GOTTSFIELD

CLERK OF THE COURT
L. Muhammad
Deputy

FILED: 05/20/2005

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

WILLIAM H WESTOVER
JULIE CHAVEZ

v.

ARIZONA STATE DEPARTMENT OF
INSURANCE, et al.

MOIRA MCCARTHY

BARTON J FEARS

BRUCE E MEYERSON
DISCOVERY MASTER

STEPHEN E SILVERMAN
RICHARD T TREON

JOHN ROLLIE WIGHTMAN

JUDGE SWANN

MINUTE ENTRY

9:12 a.m. This is the time hearing set on April 6, 2005 on PSM's motion to dismiss and PSM's motion to stay litigation for appraisal.

PSM/Magna Carta Insurance Companies is represented by counsel Julie Chavez for William H. Westover. Clifford and Karen Pettingill in CV2004-015617 are represented by counsel Steven Silverman and Richard T. Treon.

Court reporter: Mike Haley 602-793-2179 and 602-506-4330.

After argument,

IT IS ORDERED as follows:

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1. Denying PSM's motion to dismiss the contract, bad faith, and intentional infliction of emotional distress claims, as fact issues are presented such as whether PSM acted reasonably when it adjusted the Pettingills' claims and whether statements of PSM to DOI were based in fact.

2. Denying PSM's motion to stay litigation and appraisal on the basis that PSM has waived its right to seek appraisal for the reasons as stated by the Pettingills, inter alia, by the passage of time after knowing there was a dispute over the value of the alleged loss; the sale of the Pettingills' property; and not accepting the Pettingills' prior request for an appraisal.

3. This matter will now be sent back to Judge Swann to set a hearing on PSM's objection to discovery master Bruce E. Meyerson's report dated April 25, 2005.

4. Confirming that a comprehensive pretrial conference is set on **September 23, 2005 at 9:00 a.m.** and a **10-day jury trial set on September 29, 2005**, both of which will be handled by Judge Swann.

9:30 a.m. Hearing concludes.

**HONORABLE PETER B. SWANN
MARICOPA COUNTY SUPERIOR COURT
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