

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2011-017694

03/23/2012

HON. JOHN REA

CLERK OF THE COURT  
L. Gilbert  
Deputy

WILLIAM GIBBONS, et al.

KEVIN B. WEIN

v.

CINCINNATI INSURANCE COMPANY, et al.

MARK BAINBRIDGE

MINUTE ENTRY

Defendant Cincinnati Insurance filed a Motion to Compel Arbitration and Stay Litigation. Plaintiffs responded and Cincinnati filed a reply. The parties requested oral argument. The matter is fully presented in the briefs and the Court does not find oral argument necessary.

Plaintiffs argue that Cincinnati has waived the optional appraisal clause in the policy. The Court agrees. This case is like *Meineke* in many respects. The loss occurred on October 5, 2010. The Motion recites that after some exchanges of information, on June 14, 2011 Cincinnati advised that no further payments would be forthcoming. Cincinnati did not invoke the appraisal clause. The Plaintiffs filed their Complaint nearly one year after the loss. Cincinnati filed an Answer that alleged the appraisal clause but did not invoke for another two months.

The Court finds that under the standards of *Meineke* Defendant Cincinnati has waived the appraisal clause.

IT IS ORDERED Defendant's Motion to Compel Arbitration and Stay Litigation is denied.

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ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.