

08-10084.o31

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

Case Number: 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL  
YACHTING CHARTERS, INC., and HIGH  
PLAINS CAPITAL,

Plaintiffs,

vs.

INSURANCE COMPANY OF NORTH  
AMERICA and STRICKLAND MARINE  
INSURANCE, INC., (f/k/a STRICKLAND  
MARINE AGENCY, INC.),

Defendants.

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**ORDER RE: PLAINTIFFS' MOTION ...TO  
STRIKE ANTHONY L. KNOWLES EXPERT REPORT**

**This matter** is before this Court on Plaintiffs' Motion ... to Strike Anthony L. Knowles Expert Report (D.E. 864). The Court has considered the motion, the response, the reply, and all pertinent materials in the file.

There are flaws in plaintiffs' motion. In the first place, there appears to be uncontradicted evidence that this expert's reports were timely produced. That they were not produced in a pretty package with a bow on it is not a basis for striking same. Secondly, plaintiffs completely avoid the issue surrounding the last minute cancellation of the May 4, 2010 deposition. The purported reason for same, to be kind, leaves much to be desired.

Admittedly, defendant has no right to set one date for said deposition - even with seventeen

days advanced notice, and claim, in effect ... “this is it - take it or leave it”. Among other things, this helped supply ammunition for plaintiffs to attempt to “snooker” defendant and have the expert stricken. Neither side is before the Court on this motion with completely “clean hands”.<sup>1</sup>

The Court being otherwise fully advised in the premises it is hereby **ORDERED AND ADJUDGED** as follows:

1. The motion, because of the unique facts surrounding same is hereby **DENIED**, without prejudice.

2. Defendant shall make said expert available for deposition, in Miami-Dade County on a mutually convenient date and time within the next fourteen (14) days. If defendant is unable to do so, the expert report will be stricken. If plaintiffs are unavailable during that time, no deposition will be taken. If the parties can agree on the taking of said deposition at any time within the next thirty (30) days, that will be permitted - however such an agreement shall neither extend any other deadlines nor be the grounds for seeking such an extension.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 25rd day of August, 2010.

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s/ Stephen T. Brown  
STEPHEN T. BROWN  
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Counsel of record

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<sup>1</sup>An example of plaintiffs’ games is the footnote that, if this relief is not granted, they reserve the right to challenge said report on other grounds. Just how many “bites at the apple” do plaintiffs feel entitled to?