

08-10084.no5

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 08-10084-CIV-MARTINEZ-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.

ORDER AND NOTICE OF HEARING - D.E. 887 and 918

This matter is before this Court on defendant...’s Motion for Protective Order...(D.E. 887), and plaintiffs Motion for Sanctions...(D.E. 918) (hereinafter referred to as the “footsie motions”).¹ The Court has considered the motions, the responses, the reply, and all pertinent materials in the file.

The Court finds the allegations made to be quite significant (emphasis added), but the burden is on the party making same to support such claims with more than allegations, speculations, and allegedly damning pictures. The Court finds that on this record there is insufficient support for the claims made (emphasis added). However, there also are no sworn statements of any kind supporting the position of either side in this odious squabble...and the tenor of the Court’s Order and Notice

¹See D.E. 916 at page 3.

should not be misconstrued to equate with some predisposition as to the merits of this claim.

Therefore, and the Court being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** that a hearing has been set on these motions for **Thursday, October 7, 2010, at 10:00 A.M., at the United States District Court, 301 North Miami Ave., Miami, Florida, Tenth Floor.** At least 24 hours prior to said hearing the parties are required to meet and confer in a good faith effort to resolve the issues illustrated in this Notice.

(a) Two (2) hours (and no more) have been scheduled for this hearing. The only matter that will be taken up at this time is the factual offerings of the parties.

(b) No discovery will be permitted - though the parties can agree to whatever discovery they wish - at their own peril.

(c) Connie Dennis is requested to appear and testify, under oath, regarding the "footsie" incident(s). She may have counsel representing her if she wishes.

(d) Kenneth Engerrand is requested to appear and testify, under oath, regarding the "footsie" incident(s). He may have counsel representing him if he wishes.

(e) The Court notes that it has "requested", not ordered the appearances and testimony noted, supra. There are two reasons for this: (1) the Court questions whether it has the authority to order Ms. Dennis to appear; and (2) since testimony, if it happens, will be under oath and subject any witness to possible claims of perjury, they will not be forced to testify.

(f) Any other witness may be presented for testimony by any party - however, questioning will be done only by the Court - though the Court will allow questions to be submitted to it for consideration (emphasis added).

(g) The appearance or lack of same of any participant in the footsie incident will

be germane, but not necessarily conclusive, in the Court's consideration of this matter.

DONE AND ORDERED in Chambers at Miami, Florida, this 2nd day of September, 2010.



STEPHEN T. BROWN
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Counsel of record