

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION

CASE NO. 08-10084-CIV-MARTINEZ/BROWN

PETER HALMOS, et al.,
Plaintiffs,

vs.

INSURANCE COMPANY OF NORTH
AMERICA, et al.,
Defendants.

**PLAINTIFFS' MOTION FOR CLARIFICATION OR IN THE ALTERNATIVE FOR
EXTENSION OF TIME**

On December 21, 2010, catching the troops over here in holiday somnambulance, this Court entered its *Preliminary Order RE: Motion To Exclude Testimony . . . And Setting Filing Deadline* (the "Order") in response to Plaintiffs' Motion To Exclude Testimony [D.E. 1202].

In a section of that Order that dealt with other than the motion's disposition itself, the Court stated that "any motion that could have been filed on or before December 15, 2010, shall be filed on or before Wednesday, January 5, 2011." Plaintiffs are unsure as to whether or not that deadline applies to any and all case motions, excluding "trial motions" such as motions *in limine*, which Plaintiffs had otherwise intended to file if the need arises, once the parties have discussed the exhibits, witnesses and filed the pretrial stipulation pursuant to Local Rule 16.1 of the Southern District of Florida. For this reason, Plaintiffs request a clarification of this Court's Order, and, if in fact, the

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Court intended the ruling to effect all motions, including ones *in limine*, Plaintiffs would ask for an extension of time to file such motions to two weeks from the date that the parties file the pretrial stipulation. In support thereof, Plaintiffs state the following:

1. The Order was issued in response to Plaintiffs' Motion To Exclude Testimony of Mr. Uhl (D.E. 1184), but appears to touch on broader issues.
2. As a result, Plaintiffs are unsure if the Order applies to all motions or all motions other than pre-trial and trial motions, such as motions *in limine*, which relate to the conduct of the trial.
3. If the Court intended on limiting the filing of all motions then Plaintiffs request that the deadline for filing *in limine* motions be continued until two weeks after the pretrial stipulation is filed.
4. This request is not meant to delay any matters before this Court. The Order was issued in the middle of the holiday season, and as Plaintiffs' counsel clearly were not working as hard as the Court, were not addressed until after New Year's. Moreover, if the extension of mercy is not sufficient cause, then Plaintiffs would suggest that waiting until after the pretrial stipulation is filed may erase the need to file motions as the pretrial stipulation may narrow the issues that the parties intend to try and the evidence which they intend to offer.
5. Counsel for the Plaintiffs, JC Antorcha emailed and called counsel for INA, Robert Browning, in a good faith attempt to confer as to whether or not INA would oppose such relief. Undersigned counsel has not heard back from Mr. Browning, who may or may not still be celebrating the holidays.

WHEREFORE, Plaintiffs request a clarification of this Court's Order indicating whether or not the Wednesday, January 5, 2011 deadline applies to motions *in limine*,

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and if so, Plaintiffs request an extension of time to file their motions *in limine* should the need arise.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,

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