

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AT&T WIRELESS SERVICES, INC.,	§	
	§	No. 54, 2008
Plaintiff-Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
v.	§	in and for
	§	New Castle County
NATIONAL UNION FIRE INSURANCE	§	
COMPANY OF PITTSBURGH, PA., and	§	C.A. No. 03C-12-232
ST. PAUL MERCURY INSURANCE	§	
COMPANY,	§	
	§	
Defendants-Below,	§	
Appellees.	§	

Submitted: July 23, 2008

Decided: August 12, 2008

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 12<sup>th</sup> day of August, 2008, on consideration of the parties' briefs and arguments, it appears to the Court that:

1. AT&T Wireless Services, Inc. ("AWS") appeals the Superior Court's decisions granting motions to dismiss brought by National Union Fire Insurance Company of Pittsburgh, PA. and St. Paul Mercury Insurance Company. AWS argues, among other things, that the trial court erred in its analysis of: (1) whether AWS suffered a "Loss" within the meaning of the applicable insurance policies; and (2)

whether an exclusion for “Claims” arising out of the service of AWS directors or officers for another entity precludes coverage.

2. After the trial court granted the motions to dismiss, this Court addressed both of those questions, in *AT&T v. Clarendon*, 931 A.2d 409 (Del. 2007) and *AT&T v. Faraday Capital Ltd.*, 918 A.2d 1104 (Del. 2007). Before briefing on this appeal began, the Insurers moved to remand to allow the trial court to consider the *Clarendon* decision. AWS opposed the motion, and this Court denied it.

3. Having heard and considered the parties’ briefs and arguments, we now conclude that the trial court should reconsider the two issues identified above in light of the *Clarendon* and *Faraday* decisions. Accordingly, we are remanding this matter to the Superior Court. This Court is not retaining jurisdiction. The trial court may proceed on remand as it deems appropriate, without limitation on its reconsideration of any other issues or its conduct of this litigation in any respect.

NOW, THEREFORE, IT IS HEREBY ORDERED that the above-captioned matter be, and the same hereby is, REMANDED for further action in accordance with this ORDER.

BY THE COURT:

/s/ Carolyn Berger  
Justice