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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Impact Financial Services LLC,

No. CV 10-0070-PHX-FJM

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Plaintiff,

**ORDER**

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vs.

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Six400 Check Solutions LLC et al,

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Defendant.

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The court has before it defense counsels' Motion to Withdraw Without Consent (doc. 89), and plaintiff's Response. Also before the court is Defendants' Motion to Extend All Case Deadlines for 90 Days (doc. 90).

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Defense counsel state that the insurance carrier that retained them to represent the insureds has now declined coverage, and because of that they would like to withdraw. They do not have the consent of the clients. In addition, they want an amendment to the Rule 16 Order to give the clients time to acquire new counsel.

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When a carrier retains counsel to represent an insured, the lawyer's duty is to the insured, not the insurer. The discovery deadline in this case has already passed. The dispositive motion deadline is next week. A lawyer can't leave a case in the face of those firm deadlines. LRCiv 83.3(b)(3) expressly states that once a case is set for trial, a lawyer is not permitted to withdraw unless another lawyer certifies that he will be ready for trial, or the client certifies that he has made suitable arrangements to be prepared for trial. No such

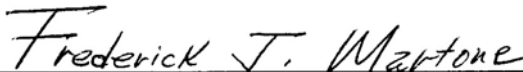
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1 certifications are made in the motion to withdraw.

2 Decisions made by insurance carriers do not control the pace of federal litigation. Nor  
3 do they control the duty of a lawyer to his client. It would be an act of bad faith for an  
4 insurer to abandon an insured represented under a reservation of rights at this stage of the  
5 litigation. The insurer has an obligation to pay the lawyer, and the lawyer has an obligation  
6 to represent the insured. See ER 1.16(c), as adopted by LRCiv 83.2(e). The presence or  
7 absence of coverage is an issue between the insured and the insurer—not this court or counsel.

8 Because no good cause has been shown to amend the Rule 16 Order, it is ORDERED  
9 DENYING the Motion to Extend all Case Deadlines. (Doc. 90). And, because there has  
10 been no compliance with LRCiv 83.3(b)(3), it is ORDERED DENYING the Motion to  
11 Withdraw. (Doc. 89).

12 DATED this 1<sup>st</sup> day of April, 2011.

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16 Frederick J. Martone  
17 United States District Judge  
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