

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION

J. O. HOUSE	*	
and HEATH & HOUSE	*	
CONSTRUCTION CO., INC.,	*	
	*	
Plaintiffs,	*	
vs.	*	No. 3:09cv0095 SWW
	*	
	*	
CONSECO INSURANCE GROUP,	*	
	*	
Defendant.	*	

ORDER

This action concerns the termination of an insurance policy issued by Conseco Insurance Group (“Conseco”) to Heath & House Construction, Inc., of which J.O. House is president (collectively “plaintiffs”). The matter is before the Court on motion of Conseco to dismiss, or in the alternative, for summary judgment [doc.#17]. Plaintiffs have responded in opposition to Conseco’s motion and Conseco has filed a reply to plaintiffs’ response. A telephone conference on Conseco’s motion to dismiss/summary judgment was held on the afternoon of September 22, 2009. For the reasons stated during the telephone conference, the Court finds that there remain genuine issues of material fact for trial and that Consesco’s motion to dismiss, or in the alternative, motion for summary judgment should be and hereby is denied.<sup>1</sup>

IT IS SO ORDERED this 24<sup>th</sup> day of September 2009.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Because this action is a refiling of an earlier action, No. 3:06cv0067 SWW, and because full discovery was conducted in that earlier action, the Court, with no objection from the parties, will not issue dates for conducting discovery but will simply proceed to trial. The Court will rule on any matters that Conseco claims it had to duplicate as a result of plaintiffs’ refiling of this action immediately prior to or at trial.