

United States District Court

For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 NATIONAL UNION FIRE INSURANCE
11 COMPANY OF PITTSBURGH, PA, et al.,

No. C 04-01593 WHA

12 Plaintiffs,

13 v.

14 SEAGATE TECHNOLOGY, INC.,

15 Defendant.

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17 **ORDER TO SHOW CAUSE
REGARDING NOTICE OF
APPEAL**

18 A January 25 order on the parties' cross-motions for summary judgment granted final
19 summary judgment in favor of National Union and against Seagate (Dkt. No. 379). On February
20 25, Seagate appealed that order (Dkt. No. 381). The following day, Seagate moved under Rule
21 60(a) and (b) to vacate the January 25 judgment on the ground that final judgment was
22 improvidently entered because there were still unresolved issues lurking in the case (Dkt.
23 No. 386).

24 A March 27 order (1) granted Seagate's Rule 60(b) motion to vacate the January 25 order
25 and denied the Rule 60(a) motion as moot, and (2) advised in the alternative that if jurisdiction to
26 rule on the Rule 60 motions were lacking, the Court would provide such relief following a
27 limited remand from the court of appeals (Dkt. No. 394). The same day, an amended order
28 issued on the parties' earlier cross-motions for summary judgment that granted partial summary
judgment in favor of National Union and certified the issues therein for interlocutory review
under Section 1292(b) (Dkt. No. 396).

1 Following a case management conference wherein the parties identified several lurking
2 disputes and contingent potential disputes, an April 5 order directed the parties to file all motions
3 for further relief of any sort by April 25; any issues not teed up for resolution would be deemed
4 waived (Dkt. No. 398). On April 25, Seagate timely filed a motion for partial summary
5 judgment and National Union timely filed a motion styled as a “motion to reinstate” the January
6 25 final judgment (Dkt. Nos. 401–02).

7 On April 26, National Union appealed the March 27 order on Seagate’s Rule 60 motions
8 — the order that paved the way for this action to move forward on issues not presently before the
9 court of appeals. The parties are **ORDERED TO SHOW CAUSE** why this action should not be
10 stayed in submissions not to exceed five pages by **MAY 6 AT NOON**. It is a mystery to the Court
11 why Seagate and/or National Union has not yet sought a remand as described in the March 27
12 order (and why Seagate has not has not filed for interlocutory review of the March 27 amended
13 order). Because of the parties’ maneuvering, the record in this action has become so convoluted
14 that the risk of a waste of judicial resources would be too great. The Court is inclined to stay the
15 action and await further direction from the court of appeals.

16 The parties are also **ORDERED** to provide copies of this order to the court of appeals by
17 **MAY 6 AT NOON.**

19 || IT IS SO ORDERED.

21 || Dated: May 1, 2013.

W^m Alsop