

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Craig B. Shaffer

Civil Action No. 08-cv-01236-CBS-BNB
Consolidated with Civil Action No. 09-cv-00346-CBS-BNB

ACE AMERICAN INSURANCE CORPORATION, a Pennsylvania corporation,
INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, a Pennsylvania
corporation,
NATIONAL SURETY CORPORATION, an Illinois corporation, and
THE AMERICAN INSURANCE COMPANY, an Ohio corporation,
Plaintiffs,

v.

AURORA DAIRY CORPORATION d/b/a AURORA ORGANIC DAIRY, a Delaware
corporation,
Defendant.

AURORA DAIRY CORPORATION d/b/a AURORA ORGANIC DAIRY, a Delaware
corporation,
Counterclaim Plaintiff and Third Party Plaintiff,

v.

ACE AMERICAN INSURANCE CORPORATION, a Pennsylvania corporation,
INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, a Pennsylvania
corporation,
NATIONAL SURETY CORPORATION, an Illinois corporation, and
THE AMERICAN INSURANCE COMPANY, an Ohio corporation,
Counterclaim Defendants,
and

GENERAL FIRE & CASUALTY COMPANY n/k/a AMERICAN FARMERS &
RANCHERS MUTUAL INSURANCE COMPANY, an Oklahoma corporation,
Third-Party Defendants.

GENERAL FIRE & CASUALTY COMPANY n/k/a AMERICAN FARMERS &
RANCHERS MUTUAL INSURANCE COMPANY, an Oklahoma corporation,
Third-Party Counterclaim Plaintiff,

v.

AURORA DAIRY CORPORATION d/b/a AURORA ORGANIC DAIRY, a Delaware

corporation,
Third-Party Counterclaim Defendant.

Civil Action No. 09-cv-00346-CBS-BNB

AURORA DAIRY CORPORATION d/b/a AURORA ORGANIC DAIRY, a Delaware corporation,
Plaintiff,

v.

NATIONWIDE AGRIBUSINESS INSURANCE COMPANY, an Iowa corporation,
Defendant.

ORDER ADMINISTRATIVELY CLOSING CASE

This civil action comes before the court on the Status Reports filed by the parties on October 27, 2009 (docs. # 96, # 97, # 98, # 99, and # 101). The court has reviewed all of the Status Reports and notes that all parties except National Surety Corporation and The American Insurance Company agree that this case may properly be administratively closed subject to being reopened upon a showing of good cause.

Plaintiffs have provided commercial general liability insurance to Aurora Dairy under various insurance policies. Aurora Dairy was named as a defendant in numerous consumer class actions, including *Mothershead v. Aurora Dairy Corp. d/b/a Aurora Organic Dairy*, Case No. 4:07-cv-01701, in the Eastern District of Missouri. Plaintiffs here seek declaratory relief that they have no obligation to defend or indemnify Aurora Dairy in the underlying class actions. On June 3, 2009, Judge Richard E. Webber dismissed the claims brought against Aurora Dairy in *Mothershead*, 2009 WL 1576928. The Plaintiffs in *Mothershead* have appealed Judge Webber's decision to the U.S. Court of Appeals for the Eighth Circuit, where the briefing will be completed in December of

2009. If the Eighth Circuit affirms Judge Webber's decision in *Mothershead*, this action may be rendered moot. If the Eighth Circuit reverses Judge Webber's decision in *Mothershead*, such a decision may constitute good cause to reopen this action. Discovery in this action is currently stayed and no further proceedings are currently set. The court having reviewed the Status Reports and the entire case file and being sufficiently advised in the premises,

IT IS ORDERED that this civil action is administratively closed subject to reopening for good cause.

DATED at Denver, Colorado, this 17th day of November, 2009.

BY THE COURT:

s/Craig B. Shaffer
United States Magistrate Judge