

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

NAVIGATORS INSURANCE COMPANY,  
NAVIGATORS MANAGEMENT (UK) LTD, and  
CERTAIN INTERESTED UNDERWRITERS AT  
LLOYD'S OF LONDON,

*Plaintiffs,*

*v.*

DEPARTMENT OF JUSTICE,

*Defendant.*

Civil No. 3:15cv329 (JBA)

January 28, 2016

**NOTICE OF *SUA SPONTE* CONSIDERATION OF SUMMARY JUDGMENT  
AND SCHEDULING ORDER**

On November 13, 2015, the Court contacted counsel, noting that while only Plaintiffs had filed a motion for summary judgment, “under Federal Rule of Civil Procedure 56(f)(1), a court may ‘[a]fter giving notice and a reasonable time to respond . . . grant summary judgment for a nonmovant.’” *See Hayes v. Cnty. of Nassau*, 557 F. App’x 49, 51 (2d Cir. 2014) (“District courts have the power to enter summary judgment *sua sponte* only if the losing party was on notice that it had to come forward with all of its evidence.” (quoting *Pugh v. Goord*, 345 F.3d 121, 124 (2d Cir. 2003))). The Court invited “Navigators to ‘come forward with’ any additional briefing and/or evidence it [wished] the Court to review in conjunction with the briefing already filed in this case.”

In response, on November 23, 2015 Plaintiffs filed a supplemental reply [Doc. # 27] to Defendant’s opposition to their motion for summary judgment. Thereafter, on January 5, 2016, the Court denied [Doc. # 32] Plaintiffs’ motion for summary judgment, and granted, *sua sponte*, summary judgment in favor of Defendant on Count One. With respect to Count Two, which charged that Defendant had failed to make reasonable

