

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

MIDLAND NATIONAL LIFE INSURANCE
COMPANY

VS

CASE NO. 3:09cv198-MCR-MD

CYNTHIA D FREDRICKSEN, et al.

REFERRAL AND ORDER

Referred to Magistrate Judge Davis on November 12, 2009

Type of Motion/Pleading: EMERGENCY MOTION FOR PROTECTIVE ORDER

Filed by: PLAINTIFF on 11/12/09 Document 44

() Stipulated/Consented/Joint Pleading

RESPONSES:

DEFENDANTS on 11/12/09 Doc.# 46, 47 & 48

_____ on _____ Doc.# _____

WILLIAM M. McCOOL, CLERK OF COURT

/s/Donna Bajzik

Deputy Clerk: Donna Bajzik

ORDER

Upon consideration of the foregoing, it is ORDERED this 12th day of November, 2009, that:

- (a) The requested relief is DENIED.
- (b) Defendant Justice has taken time off from work and purchased non-refundable airline tickets to fly here from California for the depositions. If her deposition was never noticed as counsel for Fredricksen contends, counsel does not deny that the depositions were agreed to. Moreover, it was Fredricksen's counsel who notified Midland of the deposition, so this is no surprise.
- (c) Midland contends that it has no interest in the dispute between the two defendants (docs. 40, 41), but now wants to delay the depositions so it can attend. Midland is correct that it is still a party, but given its interpleader herein, failure by the

defendants to notice it of cross-depositions is understandable. If Midland wants to attend the depositions it can retain local counsel.

- (d) Finally, the now scheduled depositions involve only the primary contention between the two defendants. Fredrickson's threatened counterclaim and third party complaints have not been filed. If they are, their actual filing does not argue against going forward with the now scheduled depositions because there is no indication that any issue raised in those pleadings will involve Defendant Justice.

/s/ Miles Davis

MILES DAVIS
UNITED STATES MAGISTRATE JUDGE