

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 08-CV-10085-KING

AMICA MUTUAL INSURANCE CO,

Petitioner,

vs.

DAVID G. MOROWITZ and
JOSE H. GUTIERREZ,

Respondents.

_____/

DAVID G. MOROWITZ,

vs.

AMICA MUTUAL INSURANCE CO.

ORDER DENYING PETITIONER'S MOTION FOR SUMMARY JUDGMENT

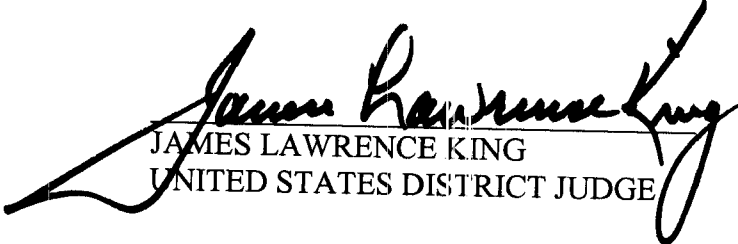
THIS CAUSE comes before the Court upon Amica's Motion for Summary Judgment (DE #51) and Morowitz's Motion for Leave to File Motion for Summary Judgment (DE #66). Amica is seeking summary judgment on Morowitz's counterclaim. However, before the counterclaim can be resolved, the underlying declaratory judgment action, which will declare the parties' respective rights and obligations with respect the insurance contract, must be resolved. It appears that Amica has filed a Motion for Summary Judgment with respect to the underlying declaratory judgment action (DE #42), and Morowitz has responded thereto (DE #65). Accordingly, it is **ORDERED, ADJUDGED, and DECREED** as follows:

1. Amica's Motion for Summary Judgment (DE #51) is **DENIED without**

prejudice to re-assert those arguments after the resolution of the declaratory judgment action.

2. Morowitz's Motion for Leave to File Motion for Summary Judgment (DE #66) is **DENIED as MOOT.**
3. The parties shall comply with all deadlines set forth in the December 30, 2008 Scheduling Order (DE #11), and shall come to the Pretrial Conference prepared to argue the merits of the underlying declaratory judgment action.

DONE AND ORDERED in Chambers, at Miami, Miami-Dade County, Florida, this 28th day of August, 2009.


JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

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