

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PACIFIC EMPLOYERS INSURANCE)
COMPANY, et al,)
)
Plaintiffs,)
)
v.)
)
CLEAN HARBORS ENVIRONMENTAL)
SERVICES, INC., et al,)
)
Defendants)

No. 08 CV 2180

Judge John J. Darrah

CLEAN HARBORS ENVIRONMENTAL)
SERVICES, INC., et al,)
)
Counterclaim and Third-Party)
Plaintiffs,)
)
v.)
)
PACIFIC EMPLOYERS INSURANCE)
COMPANY, a Pennsylvania corporation,)
)
Counterclaim Defendant,)
And)
)
NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH,)
)
PENNSYLVANIA, a Delaware corporation,)
)
Third Party Defendant.)

**CLEAN HARBORS' MOTION TO ENTER JUDGMENT
IN THE AMOUNT OF \$9.4 MILLION PLUS COSTS**

Defendants/Third-Party Plaintiffs, Clean Harbors Environmental Services, Inc. and Clean Harbors, Inc. (collectively, "Clean Harbors"), by its undersigned attorneys and for its Motion to Enter Judgment in the Amount of \$9.4 Million, state as follows:

1. On February 24, 2011, following a bench trial in this case, this Court entered a judgment in favor of Clean Harbors on Count I of Clean Harbors' Third-Party Complaint, and ordered National Union to indemnify Clean Harbors from and against the claims asserted by Lopez against Clean Harbors in the *Lopez* lawsuit. (Document Nos. 344 and 345.) The Court at that time, however, did not enter a judgment amount.

2. Pursuant to the Court's Order entered on February 24, 2011, Clean Harbors submitted its proposed judgment amount, which included an indemnity amount of \$9,400,000 as well as a claim for pre-judgment interest. While reserving its rights, National Union disputed the claim for pre-judgment interest, but did not dispute the principal judgment amount of \$9,400,000. *See* Report of Proceedings; 2/24/11, p. 3, lines 16-21.

3. On April 19, 2011, this Court denied without prejudice Clean Harbors' submission for pre-judgment interest. (Document No. 361.) Clean Harbors will pursue no further relief on the issue of pre-judgment interest in these proceedings.

4. On September 21, 2011, this Court denied National Union's Rule 59(e) motion to alter or amend the Court's February 24, 2011 Order. (Document No 370.) The Court also set a briefing schedule relative to the Court's rule to show cause as to why National Union's conduct does not violate Rule 11(b), and set a status date for January 19, 2012. (Document No 368.)

5. Clean Harbors seeks to enforce this Court's judgment without delay and without prejudice to the pending sanctions issues, and accordingly pursuant to the Federal Rules of Civil Procedure, including Rule 58, requests this Court enter judgment in favor of Clean Harbors and against National Union in the undisputed amount of \$9,400,000, *instanter* plus costs. This Court has the authority to enter the judgment now because the remaining matters under Rule 11 are collateral to the substantive matters relating to the judgment. *See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 395, 110 S. Ct. 2447, 2455 (1990)(Imposition of a Rule 11 sanction is not a judgment on the merits of an action; rather it is a collateral issue which a federal court may consider after the principal suit has terminated and the action is no longer pending.)

6. Pursuant to Local Rule 54.1 and Rule 54, Clean Harbors will hereafter timely submit its Bill of Costs.

WHEREFORE, Clean Harbors Environmental Services, Inc. and Clean Harbors, Inc. respectfully request this Court enter judgment in their favor and against National Union Fire Insurance Company of Pittsburgh, Pennsylvania in the amount of \$9,400,000, plus costs, instanter and for any further relief as this Court deems just.

Dated: October 10, 2011

Respectfully Submitted,

**CLEAN HARBORS ENVIRONMENTAL
SERVICES, INC. and CLEAN HARBORS, INC.**

s/ John F. Kennedy

One of Its Attorneys

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