

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ESSEX INSURANCE COMPANY,

Plaintiff,

v.

BLACKHAWK ENGINEERING, INC.,
MARIA GARZA, individually, as
Administratrix of the Estate of Armando
Garza, and as next friend of YESENIA
GARZA, and LIZETTE GARZA,

Defendants.

Case No. 11-cv-884-JPG-SCW

BLACKHAWK ENGINEERING, INC.,

Plaintiff,

v.

ESSEX INSURANCE COMPANY and
WESTCHESTER FIRE INSURANCE
COMPANY,

Defendants.

Case No. 11-cv-1054-JPG-SCW

MEMORANDUM AND ORDER

This matter comes before the Court on Essex Insurance Company's unopposed motions to consolidate *Essex Insurance Company v. Blackhawk Engineering, Inc.*, No. 11-cv-884-JPG-SCW, with *Blackhawk Engineering, Inc. v. Essex Insurance Company*, No. 11-cv-1054-JPG-SCW (No. 11-cv-884-JPG-SCW, Doc. 26; No. 11-cv-1054-JPG-SCW, Doc. 17), pursuant to Federal Rule of Civil Procedure 42(a). Rule 42(a) allows the Court discretion to consolidate cases that involve a common question of law or fact.

It appears that these two actions seek opposing declarations of coverage or non-coverage

by the same insurance policy. Accordingly, they clearly involve common questions of law and fact, and the Court believes they are appropriate for consolidation. The Court therefore **GRANTS** the motions (No. 11-cv-884-JPG-SCW, Doc. 26; No. 11-cv-1054-JPG-SCW, Doc. 17) and **CONSOLIDATES** *Essex Insurance Company v. Blackhawk Engineering, Inc.*, No. 11-cv-884-JPG-SCW, with *Blackhawk Engineering, Inc. v. Essex Insurance Company*, No. 11-cv-1054-JPG-SCW, for all further proceedings. The Court further **ORDERS** the parties to make all future filings in *Essex Insurance Company v. Blackhawk Engineering, Inc.*, No. 11-cv-884-JPG-SCW, using the consolidated caption; nothing further shall be filed in *Blackhawk Engineering, Inc. v. Essex Insurance Company*, No. 11-cv-1054-JPG-SCW.

This consolidation further moots Blackhawk's motion to stay or dismiss these proceedings under *Brillhart v. Excess Insurance Company*, 316 U.S. 491 (1942) (Doc. 10). *Brillhart* held that a federal court may decline to exercise jurisdiction over a declaratory judgment claim when another proceeding in state court would fully adjudicate all the matters in controversy in that claim. *Brillhart*, 316 U.S. at 494-95. The state proceeding to which Blackhawk refers in its motion is the case that was removed to federal court as *Blackhawk Engineering, Inc. v. Essex Insurance Company*, No. 11-cv-1054-JPG-SCW, and that is now consolidated with lead case *Essex Insurance Company v. Blackhawk Engineering, Inc.*, No. 11-cv-884-JPG-SCW. Thus, there is no longer any state proceeding upon which to base abstention under *Brillhart*. Accordingly, the Court **DENIES as moot** Blackhawk's motion to stay or dismiss (Doc. 10) and motion for a hearing on that motion (Doc. 12).

IT IS SO ORDERED.

DATED: February 2, 2012

s./ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE