

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

AMA DISCOUNT, INC., *ET AL.*

CIVIL ACTION

VERSUS

NO. 15-2845

SENECA SPECIALTY INSURANCE COMPANY

SECTION "N" (2)

ORDER

Considering the reasons set forth in the "Consent Judgment Concerning Joint Request for Certification of Judgments (R. Doc. Nos. 15, 84, and 90) as Immediately Appealable Pursuant to 28 U.S.C. §1292(b) and for Stay of Proceedings Pending Appeal" (Rec. Doc. 89) that was filed by Plaintiffs AMA Discount, Inc., d/b/a Chef Discount Market ("AMA"), Ali M. Allan, and Mohammed Allan (collectively, "AMA"), and Defendant Seneca Specialty Insurance Company ("Seneca"), the Court is of the opinion that its prior Orders and Reasons herein involve controlling questions of law as to which there is substantial ground for difference of opinion, and that an immediate appeal of the Orders and Reasons may materially advance the ultimate termination of the instant litigation. The Court particularly notes the pending appeal¹ of the district court's decision regarding duty to defend in *Awards Depot, LLC v. Scottsdale Insurance Company*,² and is of the opinion that appellate consideration of the two matters together would provide helpful guidance to

¹ See Appeal No. 16-20246.

² See Civil Action No. 15-3201 (S.D. Tex. 3/21/16) (Rec. Docs. 31-32), avail. at 2016 U.S. Dist. LEXIS 35889, 2016 WL 1090110).

lower courts regarding the duty to defend under Texas and Louisiana insurance laws, conserve the resources of the Court and the parties, and avoid duplicative trials. Accordingly, **IT IS ORDERED**, pursuant to 28 U.S.C. §1292(b), that the following Orders and Reasons be and hereby are certified to the United States Court of Appeals for the Fifth Circuit for interlocutory appeal:

(1) the Court's January 12, 2016 Order and Reasons (Rec. Doc. 15) granting AMA's "Motion for Partial Summary Judgment"³ relative to Seneca's duty to defend AMA in the related "KKF Litigation";⁴

(2) the Court's September 21, 2016 Order and Reasons (Rec. Doc. 84) denying Seneca's "Motion for New Trial"⁵ regarding the January 12, 2016 Order and Reasons;⁶ and

(3) the Court's October 4, 2016 Order and Reasons (Rec. Doc. 90) denying AMA's "Motion for Partial Summary Judgment"⁷ regarding Seneca's alleged violations of La. R.S. 22:1892 and/or La. R.S. 22:1973 in handling the claims asserted against AMA in the related "KKF Litigation."

³ See Rec. Doc. 9.

⁴ See *Krispy Krunchy Foods, L.L.C. v. AMA Discount, Inc., et al.*, Civil Action Number 15-0590. The January 12, 2016 Order and Reasons (Rec. Doc. 15) granted in part and denied in part AMA's motion. The motion was granted relative to duty to defend but denied relative to duty to indemnify.

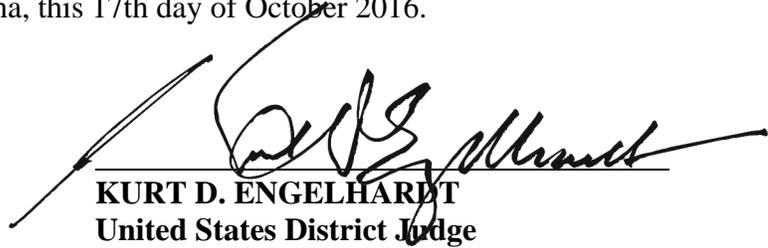
⁵ See Rec. Doc. 23.

⁶ See Rec. Doc. 15.

⁷ See Rec. Doc. 45.

Given the foregoing, **IT IS FURTHER ORDERED** that this matter be and hereby is **STAYED and ADMINISTRATIVELY CLOSED** pending the Court of Appeals' consideration of this Order and the Orders and Reasons referenced herein.

New Orleans, Louisiana, this 17th day of October 2016.



KURT D. ENGELHART
United States District Judge

Clerk to Copy:

U.S. Magistrate Judge Joseph C. Wilkinson, Jr.