

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>LYMAN MORSE BOATBUILDING,</b>	)	
<b>INC., ET AL.,</b>	)	
	)	
<b>PLAINTIFFS</b>	)	
	)	
<b>v.</b>	)	<b>No. 2:12-cv-313-DBH</b>
	)	
<b>THE NORTHERN ASSURANCE</b>	)	
<b>COMPANY OF AMERICA,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**REPORT OF PRE-FILING CONFERENCE UNDER RULE 56**

A pre-filing conference was held on May 15, 2013.

Both parties agree that the issue on Count I (breach of contract) and Count II (declaratory judgment) of the plaintiffs’ complaint is solely legal. The sole issue on both counts is whether the defendant, an insurance company, had a duty to defend the plaintiffs from an arbitration complaint filed against them in 2011. The parties agreed to file a stipulated record for these two counts consisting of the insurance policy, the underlying amended complaint for arbitration (it may also contain the original complaint), and an arbitration document determining who were the proper parties. There are no disputed facts for these two counts. I agreed that with that stipulated record and Maine law on duty to defend, no statement of facts is required. Essentially Counts I and II call for judgment on a stipulated record, not summary judgment. We

concluded collectively that a conference of counsel should be scheduled soon after the court's ruling, to determine further proceedings in the case if any.

The defendant may move for summary judgment on Count III of the plaintiffs' complaint, an unfair claims settlement practices claim under 24-A M.R.S.A. § 2436-A. If it does, that will require a statement of material facts and response thereto.

The following deadlines were established by agreement:

May 31, 2013, for the stipulated record and the plaintiffs' motion for (summary) judgment on Counts I and II;

June 21, 2013, for the defendant's response seeking judgment in its favor on Counts I and II and any defendant's motion for summary judgment on Count III;

July 5, 2013, for the plaintiffs' reply;

July 12, 2013, for the plaintiffs' response to the defendant's motion (if any) on Count III;

July 26, 2013, for the defendant's reply on Count III.

After the court's ruling on the motion, the Clerk's Office shall schedule a prompt conference of counsel to determine further proceedings.

**SO ORDERED.**

**DATED THIS 15<sup>TH</sup> DAY OF MAY, 2013**

/s/D. BROCK HORNBY  
**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**