

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ALLIED PROPERTY AND CASUALTY)
INSURANCE COMPANY,)
)
Plaintiff / Counterclaim Defendant,)
)
v.)
)
HENRY GRICH,)
)
Defendant / Counterclaim Plaintiff.)

No. 4:16-cv-00933-AGF

MEMORANDUM AND ORDER

This matter is before the Court upon review of the record. The primary issue in this declaratory judgment action is whether Defendant / Counter-Plaintiff Henry Grich is entitled to underinsured motorist (“UIM”) coverage under the insurance policy issued by Plaintiff / Counter-Defendant Allied Property and Casualty Insurance Company (“Allied”). By Order dated September 16, 2016, the Court stayed the case pending a ruling of the Missouri Supreme Court in *Jeffrey Swadley, et al. v. Shelter Mutual Insurance Company* (“*Swadley*”), No. SC95844, which Grich asserted was likely to impact the determinative legal issue in this case. Grich had acknowledged in his motion to stay that if the Missouri Supreme Court ruled in the favor of the insurer in *Swadley*, Allied would be entitled to judgment in this case, pursuant to Allied’s motion for summary judgment then pending. The Court directed Grich to file an appropriate motion as to lifting of the stay within seven days of a ruling in *Swadley*. The Court also denied

all pending motions, including Allied's motion for summary judgment, without prejudice to refiling, as appropriate, upon lifting of the stay.


On March 14, 2017, the Missouri Supreme Court issued its ruling in *Swadley*, in favor of the insurer. More than seven days have passed, and neither Grich nor Allied has sought to have the stay in this case lifted or filed anything further with the Court.

Accordingly,

IT IS HEREBY ORDERED that the stay previously entered by the Court is **LIFTED**.

IT IS FURTHER ORDERED that Plaintiff / Counter-Defendant Allied Property and Casualty Insurance Company ("Allied") shall have **seven days** after the date of this Order to refile its motion for summary judgment. Failure to comply with this Order may result in the dismissal of this action without prejudice for failure to prosecute and failure to comply with a court order.

IT IS FURTHER ORDERED that the Court will set a case management conference, if appropriate, after ruling on Allied's motion for summary judgment.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of April, 2017.