

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09cv331**

UNITED STATES OF AMERICA)
FOR THE USE AND BENEFIT OF)
COOK & BOARDMAN, INC.,)

Plaintiff,)

Vs.)

ORDER

THE BROADBAND COMPANIES,)
LLC; FRED ANTHONY; and NORTH)
AMERICAN SPECIALTY INSURANCE)
COMPANY,)

Defendants.)

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THIS MATTER is before the court on

- (1) defendant North American Specialty Insurance Company’s Motion for Extension of Time to Answer or Otherwise Plead (#9);
- (2) defendant The Broadband Companies, LLC’s Motion to Dismiss or to Stay Pending Arbitration and Brief in Support of Same (#10);
- (3) defendant The Broadband Companies, LLC’s Motion for Extension of Time to Answer or Otherwise Respond to the Complaint (#12);
- (4) plaintiff’s Motion for Entry of Default and Default Judgment (#7) and
- (5) plaintiff’s Response to Motions (#15).

In its response, plaintiff states that it does not oppose defendant North American Specialty Insurance Company's Motion for Extension of Time to Answer or Otherwise Plead (#9); that as to defendant The Broadband Companies, LLC's Motion to Dismiss or to Stay Pending Arbitration and Brief in Support of Same (#10), it does not oppose a stay of its claims against such defendant pending arbitration; and that it withdraws its Motion for Entry of Default and Default Judgment (#7).

The court greatly appreciates the brevity and clarity expressed in the above motions and plaintiff's response. All counsel are to be commended on their excellent handling of these matters.

ORDER

IT IS, THEREFORE, ORDERED that:

- (1) defendant North American Specialty Insurance Company's Motion for Extension of Time to Answer or Otherwise Plead (#9) is **ALLOWED** and any such Answer or other responsive pleading filed on or before November 6, 2009, is deemed timely filed *nunc pro tunc*;
- (2) defendant The Broadband Companies, LLC's Motion to Dismiss (#10) is **DEEMED** to be **MOOT** at this time and is administratively terminated without prejudice, Arbitration is, by agreement of the parties, **COMPELLED**, and the Motion to Stay Pending Arbitration (#10) is

ALLOWED. This action is, hereby, **STAYED**, as to plaintiff's claims asserted against such defendant and the parties shall file with the court a notice within 60 days concerning the status of arbitration. The action is **NOT STAYED** as to plaintiff's claims against the remaining defendants;

(3) defendant The Broadband Companies, LLC's Motion for Extension of Time to Answer or Otherwise Respond to the Complaint (#12) is **ALLOWED**, and such defendant is **GRANTED** seven days from the lifting of the stay to so Answer or otherwise respond to the Complaint; and

(4) plaintiff's Motion for Entry of Default and Default Judgment (#7) is **WITHDRAWN**, and the Clerk of this court is respectfully directed to terminate such motion.

Signed: November 3, 2009

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Dennis L. Howell
United States Magistrate Judge

