

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JEFFERY WALSTON, et al.,

Case No.: 3:09-CV-122-AC

Plaintiffs,

ORDER

v.

CONSOLIDATED CASES

NATIONAL UNION FIRE INSURANCE,
COMPANY OF PITTSBURGH, PA,

3:10-CV-579-AC
3:10-CV-6126-AC

Defendant.

ACOSTA, Magistrate Judge:

Defendant National Union Fire Insurance Company of Pittsburgh, PA (“National Union”), moves to stay three related civil actions pending resolution of criminal charges currently filed against Angela McCoy and her brother, Joseph LaCoste. McCoy and LaCoste have been indicted in federal court on charges of securities fraud, mail fraud, wire fraud, and bank fraud with regard to investments made by the plaintiffs involving Willamette Development Services, LLC (“Willamette”). National Union contends that the results of the criminal charges are directly relevant to the issue of whether McCoy’s conduct falls within the exceptions in the


insurance policy issued by National Union to McCoy for “fraud, dishonesty, criminal or malicious acts or omissions” and for knowing wrongful acts. National Union also argues that McCoy and LaCoste’s refusal to answer, or indication that they will refuse to answer, questions about Willamette and McCoy’s relationship with, and actions on behalf of, Willamette until the conclusion of the criminal proceedings prevents it from meaningfully defending this action, and results in a deprivation of its due process rights.

After filing the motion for stay, National Union filed a motion for summary judgment asserting various coverage issues and supported by evidence which does not include testimony from McCoy or LaCoste. A ruling in favor of National Union on this summary judgment motion would likely be dispositive of this action and would moot the motion for stay.

The court defers ruling on the motion to stay pending a ruling on the motion for summary judgment, which National Union has filed and implicitly represents it can support, even in the absence of evidence from McCoy and LaCoste on McCoy’s involvement with Willamette, and irrespective of the outcome of the criminal proceedings. If the ruling on summary judgment motion does not resolve this matter, the motion to stay will be considered by the court at the request of National Union.

IT IS SO ORDERED.

DATED this 14th day of October, 2011.



JOHN V. ACOSTA
United States Magistrate Judge