

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mark Detwiler : CIVIL ACTION
 :
 v. :
 :
 Valero Marketing and Supply :
 Company, *et al.* : NO. 08-3495

ORDER

AND NOW, this 22nd day of October 2009, upon consideration of the Valero Defendants' Motion for Summary Judgment, Eves Trucking's Motion for Summary Judgment on the Third-Party Complaint, the Valero Defendants' Cross-Motion for Summary Judgment on the Third-Party Complaint, and the responses thereto, IT IS ORDERED:

1. That as to the Complaint:

- a. Counts II and III are DEEMED WITHDRAWN;
- b. Before the start of trial, the plaintiff shall either stipulate to the dismissal of Valero Energy Corporation and Valero Marketing and Supply Company or file a supplemental brief setting forth the specific reasons these defendants should not be dismissed;
- c. In all other respects, the motion is DENIED.

2. That as to the Third-Party Complaint:

- a. Summary Judgment is GRANTED in favor of Eves Trucking and against the Valero Defendants on the First Count (failure to provide insurance);

b. Summary Judgment is GRANTED in favor of Eves Trucking and against the Valero Defendants on the Second Count as to the duty to defend ONLY;

c. In all other respects, the motions are DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.