**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

SCOTTSDALE INSURANCE COMPANY,

      Plaintiff,

v.   Case No. 14-cv-2636

THE ALARM COMPANY, LLC, *et al.*,

      Defendants.

                                                                 /

ORDER DIRECTING FURTHER BRIEFING

On January 30, 2015, Plaintiff filed a motion for summary judgment. (Dkt. # 33.)
Defendants oppose the motion, and filed a cross-motion for partial summary judgment
on February 27, 2015. (Dkt. # 46.)   Plaintiff seeks a declaratory judgment regarding
whether it owes Defendants a duty to defend and indemnify in connection with the
claims asserted in *ADT Services AG and ADT Security Services, Inc. v. Thomas Brady,
Susan Brady, Lance Woods, and The Alarm Company, LLC*, No. 10-cv-02197. (Dkt. #
33, Pg. ID 688.) In Plaintiff's Amended Complaint for Declaratory Judgment, Count VI
alleges that Defendants failed to give proper notice of an "occurrence or offense" or
"error or omission" that could result in a claim, thereby forfeiting the duty to defend and
indemnify owed to them. (Dkt. # 56, Pg. ID 1483.) This threshold issue is not
discussed in either party's briefing. The court therefore requests that the parties
simultaneously file supplemental briefs directed at timeliness issue. The briefs, which
shall be no longer than ten pages in length, should discuss whether Defendants were
timely in notifying Plaintiff of a claim under the insurance policies, and, if not, whether

the presumption of prejudice due to the delay can be rebutted. *See American Justice*

Ins. Reciprocal v. Huchison, 15 S.W.3d 811, 818 (Tenn. 2000).

IT IS ORDERED that parties shall file supplemental briefs by **September 11, 2015** addressing the question of timeliness.

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 s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

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Dated: August 27, 2015

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 27, 2015, by electronic and/or ordinary mail.

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 s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

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