

United States District Court
Southern District of Texas

ENTERED

March 20, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ORION PROJECT SERVICES	§
(HOUSTON) LLC and ORION	§
ENGINEERING SERVICES LTD.,	§
	§
Plaintiffs,	§
	§
v.	§
	§
ACE AMERICAN INSURANCE	§
COMPANY and THE HAYS	§
GROUP, INC.,	§
	§
Defendants.	§

CIVIL ACTION NO. H-16-1401

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM, RECOMMENDATION, AND ORDER**

Having reviewed the Magistrate Judge's Memorandum, Recommendation, and Order (Docket Entry No. 88) dated February 21, 2018, and Plaintiffs' Objection to Portion of Memorandum, Recommendation, and Order Relating Solely to the War Coverage Endorsement (Docket Entry No. 89), the court concludes that the Memorandum, Recommendation, and Order should be adopted by this court.

The court **VERRULES** Plaintiffs' objection to a passage in the Magistrate Judge's Memorandum, Recommendation, and Order relating to the War Coverage Endorsement. Plaintiffs stated in their amended complaint that the underlying lawsuit did not "make any

allegations of 'war.'¹ Plaintiffs' response referred to the War Coverage Endorsement as irrelevant, stating:

Because Hays asks for summary judgment on all of Orion's claims, what matters here are the claims in Orion's Complaint. Orion alleged that Hays breached its duties to Orion if ACE was not required to defend and/or indemnify Orion in the Santiago Lawsuit for any reason. Doc. No. 17 ("Amended Complaint"), ¶¶ 7, 107-114. This Court held that the Policy's coverage territory encompassed areas that include Algeria, so that issue is now irrelevant. See Doc. No. 42 (the "Duty to Defend Order") at 2.²

The court therefore concludes that Plaintiffs have waived any reliance on the War Coverage Endorsement.

It is therefore **ORDERED** that the Memorandum and Recommendation is hereby **ADOPTED** by this court.

SIGNED at Houston, Texas, on this the 20th day of March, 2018.



SIM LAKE
UNITED STATES DISTRICT JUDGE

¹First Amended Complaint, Docket Entry No. 17, p. 12.

²Plaintiffs' Response to The Hays Group, Inc.'s Motion for Summary Judgment, Docket Entry No. 75, p. 18.