

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2010-091813

05/04/2012

JUDGE PRO TEM COLLEEN L. FRENCH

CLERK OF THE COURT  
J. Eaton  
Deputy

VINCENT QUIROZ, et al.

STEVEN C DAWSON

v.

ARCH INSURANCE GROUP INC, et al.

JEREMY E BEAL  
CHARLES M CALLAHAN  
THOMAS L HUDSON  
JOHN W SHAMBLIN

**UNDER ADVISEMENT RULING**

**East Court Building – Courtroom 612**

11:02 a.m. This is the time set for oral argument regarding Defendant Highway Technologies, Inc. and HTS Holding, Inc.'s Motion to Dismiss Counts II and III of Plaintiffs' First Amended Complaint ("Bad Faith"). Plaintiffs are represented by counsel, Steven C. Dawson and Anita Rosenthal. Defendant, Arch Insurance Company, Inc., is represented by counsel, Jeremy E. Beal. Defendant, Jones Skelton & Hochuli, PLC, is represented by counsel, Charles M. Callahan. Defendants, Highway Technologies, Inc. and HTS Holding, Inc., are represented by counsel, John W. Shamblin and Daniel G. Dowd.

Court Reporter, Kim McAndrews, is present.

Argument is heard.

**IT IS ORDERED** taking this matter under advisement.

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Counsel informs the Court that the current deadline to file a Joint Pretrial Memorandum and proposed Order do not comport with the oral argument regarding the Motions to Consolidate and Motion to Compel currently scheduled for May 25, 2012.

**IT IS ORDERED** as follows:

Counsel are to meet personally to discuss all of the matters set forth in Rule 16(b), Ariz. R. Civ. P. Counsel shall prepare and file with the Court, no later than **5:00 p.m. July 6, 2012**, a Joint Pretrial Memorandum, and a proposed Order, for discovery, motion and disclosure deadlines.

**IT IS FURTHER ORDERED** suspending deadlines on both cases until a decision is made regarding case consolidation.

11:35 a.m. Matter concludes.

**LATER:**

The Court has considered the pleadings, arguments of counsel, and the pertinent statutes, rules and case law.

In considering Defendants Highway Technologies, Inc. and HTS Holding, Inc.'s Motion to Dismiss Counts II and III of Plaintiffs' First Amended Complaint for failure to state a claim under Rule 12(b)(6) ARCP, this Court must consider all material allegations contained in the complaint to be true, and must read them in a light most favorable to Plaintiffs. *Logan v. Forever Living Products International, Inc.*, 203 Ariz. 191, ¶ 2, 52 P.3d 760, ¶2 (2002). Motions to dismiss under Rule 12(b)(6) can only be granted if it is clear, as a matter of law, that the plaintiff would not be entitled to relief on any interpretation of those facts. *Doe ex rel. Doe v. State*, 200 Ariz. 174, ¶ 2, 24 P.3d 1269, ¶ 2 (2001).

Applying this standard to Counts II and III of Plaintiffs' First-Amended Complaint, the Court finds that, even taking those allegations to be true, it is clear, as a matter of law, that Plaintiffs would not be entitled to relief against Defendants Highway Technologies, Inc. and/or HTS Holding, Inc. for the tort of insurance bad faith, or, by extension, for resulting loss of consortium, under any interpretation of the facts alleged. Therefore,

**IT IS ORDERED** granting Defendants Highway Technologies, Inc. and HTS Holding, Inc.'s Motion to Dismiss Counts II and III of Plaintiffs' First Amended Complaint ("Bad Faith").

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ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.