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February 18, 2016

VIA ECF

Honorable Marilyn D. Go, U.S.M.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: S.W., et al. v. City of New York, et al.
Docket No.: 09-cv-1777
Our File No.: 3009099-0038

Honorable Madam:

As the Court knows, our motion to stay the federal court action in deference to the state court action remains pending. In the state court suit, the City of New York sought to amend its answer to assert cross claims and counterclaims. The insurer did not oppose the counterclaims, but the agencies and the Diocese opposed the joinder into the state court action of the claims for breach of the contractual obligation to procure insurance.

Oral argument was held last week before the Honorable Cynthia Kern of the Supreme Court of the State of New York, New York County. Justice Kern stated that because she was concerned about conflicting opinions in the federal and State actions, she would not permit a cross claim against the agency defendants for breach of its obligation to procure insurance unless the federal action was stayed or dismissed. The motion was resolved such that the cross claim can be re-filed in the event that the federal action is stayed or dismissed. A copy of the state court order is attached. The City would like to resolve all of the claims among the parties in the two actions as expeditiously as possible. That can be achieved by decisions in both the federal and State actions or by the resolution of all of the insurance claims in the State action. We write in order to advise the Court of this development.

Respectfully submitted,



Bruce M. Strikowsky (BS-8791)
For SCHNADER HARRISON SEGAL & LEWIS LLP

BMS:sh
Enclosure

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

INDIVIDUAL ASSIGNMENT PART 52

National Union Fire Ins. Co.,
et. al.,

STIPULATION

INDEX NO. 653575/14

MOTION CALENDAR NO. 3

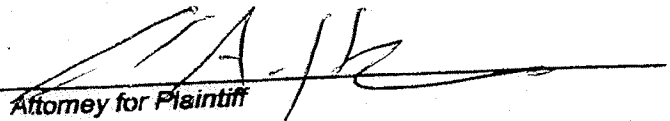
DATE 2/9/16

The Roman Catholic Diocese of
Brooklyn, The City of New York, et al.

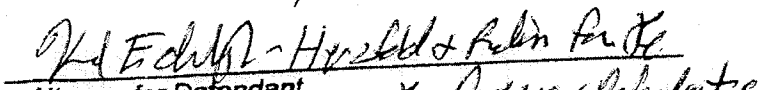
IT IS HEREBY STIPULATED AND AGREED by and between the below-named attorney(s) as follows:

After hearing oral argument of The City of
New York's motion to amend its Answer, the parties
stipulate and agree as follows:


1. The City hereby withdraws without prejudice its application for leave to amend with respect to asserting cross-claims against the Diocese and the Agency Defendants.
2. The City will serve a proposed amended answer with affirmative defenses and counterclaims. If the parties do not promptly agree to the proposed pleading, the City
(continued on next page)


Attorney for Plaintiff

Date: 2/9/16


Attorney for Defendant
Diocese & the Agency Defendants

So Ordered.


Attorney for Defendant
Alan H. Kleiman

ENTER: PK
CYNTHIA S. KERN
J.S.C.
J.S.C.

SC-BG (rev 2/06)

National Union v. RCD Index 653575/14

PRELIMINARY CONFERENCE ORDER STIPULATION

X. ADDITIONAL DIRECTIVES:

may reserve the motion *nunc pro tunc*

3. The parties agree that the statute of limitations applicable to any future interposed breach of contract / failure to procure insurance against the Diocese and the Agency Defendants are tolled as of the date of this stipulation.

X. ADDITIONAL DIRECTIVES

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