

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION**

JOHN O'BANNON, et al.)	
)	
Plaintiffs,)	Civil Action
)	
v.)	No. AW-03-623
)	
FRIEDMAN'S, INC., et al.)	
)	
Defendants.)	

**FEDERAL INSURANCE COMPANY'S
MOTION TO DISMISS**

COMES NOW Defendant Federal Insurance Company ("Federal"), and through its undersigned counsel, hereby moves to dismiss all claims against it in Plaintiffs' "Amended Class Action Complaint With Jury Demand," pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiffs lack standing to pursue a claim against Friedman's insurers and have failed to identify a justiciable controversy. In addition, a declaration as to coverage is unnecessary and inappropriate because (1) the class of plaintiffs and their claims are only hypothetical at this time and no dispute exists between the parties to the contract, and (2) no determination of liability has been made against Friedman's on any claim, real or hypothetical, so no basis exists for a determination of the issues plaintiffs purport to present.

A memorandum of law, request for a hearing and oral argument, and proposed order are submitted contemporaneously in support of this motion for the Court's consideration.

Respectfully submitted, this 11th of September 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed **FEDERAL INSURANCE COMPANY'S MOTION TO DISMISS** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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This 11th day of September 2006.

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