

**Mutual Marine Office, Inc. v Joy Constr.
Corp.**

2008 NY Slip Op 32882(U)

October 16, 2008

Supreme Court, New York County

Docket Number: 602094/04

Judge: Richard B. Lowe

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

HON. RICHARD B. LOWE, III

PRESENT: _____

PART 54

Index Number : 602094/2004

MUTUAL MARINE OFFICE

VS.

JOY CONSTRUCTION

SEQUENCE NUMBER : 008

SUMMARY JUDGMENT

INDEX NO. _____

MOTION DATE 5/13/08

MOTION SEQ. NO. _____

MOTION CAL. NO. _____

this motion to/for _____

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

FILED

OCT 21 2008

COUNTY CLERK'S OFFICE
NEW YORK

MOTION IS DECIDED IN ACCORDANCE
WITH ACCOMPANYING MEMORANDUM DECISION

HON. RICHARD B. LOWE, III

Dated: 10/16/08

J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 56

-----X
MUTUAL MARINE OFFICE, INC. and NEW YORK
MARINE AND GENERAL INSURANCE COMPANY,

Plaintiffs,

Index No. 602094/04

- against -

JOY CONSTRUCTION CORPORATION,

Defendant.

-----X
Hon. Richard B. Lowe, III:

Plaintiffs moves for an award of summary judgment in the amount of \$691,358.08.

Background

Plaintiff insurance companies seek to collect a premium adjustment due under two policies of commercial general liability insurance which they issued to defendant, a general contractor. Defendant maintains that it should not pay the premium adjustment because: 1) the provision in each insurance policy calling for an adjustment of the premium amount is not enforceable as it does not reflect the parties' intentions; and 2) an insurance binder issued in connection with the second policy provides for a flat premium, not a premium adjustment, and the binder controls over the insurance policy.

The premium adjustment is based on a percentage of defendant's gross receipts. In the event that the court determines that the premium must be adjusted, defendant maintains that plaintiffs should not be awarded the sum sought here, as it is based on an incorrect definition of gross receipts. According to defendant's calculations, the correct premium adjustment is \$471,849.

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NEW YORK

The insurance policies cover the periods December 28, 2001 to December 28, 2002 (first policy) and December 28, 2002 to December 28, 2003 (second policy). Each policy provides that defendant will pay a deposit premium at the inception of the policy period and an earned premium adjustment after the end of the policy period. The deposit premium is a specified percentage of defendant's estimated gross receipts for the policy year. The earned premium is the specified percentage of defendant's actual gross receipts for the policy year. The policy provides that if the earned premium exceeds the deposit premium, defendant will pay plaintiffs the difference, that is, the adjustment. If the deposit premium exceeds the earned premium, plaintiffs will refund defendant the difference.

In 1998, defendant retained broker Floyd Arthur and his company (Andrew & Arthur, Ltd., subsequently renamed the Carmoon Group, Ltd.) to procure commercial general liability insurance. Arthur, a retail broker, sought the assistance of Gloria Drobbin (associated with American Marketing Center, later acquired by CRC Insurance Services), a wholesale broker who negotiated directly with insurers. Arthur and Drobbin acted as brokers for each of defendant's insurance policies beginning in 1998, including both policies in this case.

Defendant contends that the pre-policy negotiations between the brokers and plaintiff Mutual Marine Office, Inc. (Mutual) are evidence that the parties did not agree to include premium adjustment provisions in the policies. Defendant contends that it did not ask for or agree to the premium adjustment provisions. Although defendant applies this argument to both policies, it only affects the second policy. As explained below, the first policy is a complete integrated document which cannot be altered by evidence outside its four corners. In regard to the second policy, however, there is a question as to its enforceability. A binder issued in

connection with the second policy, and the parties disagree over whether the binder or the policy controls. The parties' pre-contractual negotiations will be examined to determine their intentions in regard to the second policy.

In the latter part of 2002, Drobbin and Mutual began exchanging e-mails and faxes about renewing the first policy. Plaintiffs attach records showing that, on November 21, 2002, Mutual e-mailed Drobbin a proposal suggesting a premium of "\$310,000. M&D adjustable @ \$15.50 per \$1000 of gross receipts. \$50,000 SIR," among other things (Ex. 21 [all exhibits are attached to plaintiffs' motion, unless otherwise indicated]). (M&D means minimum and deposit.) On November 27, 2002, Mutual e-mailed Drobbin offering to reduce the premium to "\$305,000 net (\$15.25/\$1,000 Gross Receipts), with the \$50,000 SIR" (Ex. 22). That same day, Drobbin e-mailed back requesting that "we bind today for an effective date of 12/28/02 without jeopardizing the rate quoted for the renewal" (*id.*).

Despite the request to bind, Mutual and Drobbin continued negotiations. On December 16, 2002, Drobbin faxed to Mutual a list of the claimants against defendant's insurance policy (issued by another insurer, not plaintiffs) in 1999 and 2000 (Ex. 23). On December 17, 2002, Drobbin e-mailed Mutual a request for another quote (Ex. 24). The same day, Mutual e-mailed back, offering "\$310,000 M&D adjustable @ \$15.50 per \$1000 of gross receipts" (*id.*).

Drobbin and Mutual exchanged more e-mail messages on December 18, 2002. The messages show that they were negotiating the commission and that Drobbin was seeking quotes from another insurer. Finally, Mutual wrote "... we can agree to go with the \$305,000 ... All other terms and conditions as per our quotation of yesterday" (Ex. 25).

On December 27, 2002, Mutual e-mailed Drobbin "to confirm our telecon that we

confirm bound the renewal at \$305,000, Minimum and Deposit ... terms and conditions as per [Mutual's] renewal quote dated December 17, 2002" and quoting a renewal policy number (Ex. 26). The same day, Drobbin e-mailed back "thanks" (*id.*). On December 30, 2002, Mutual e-mailed asking if Drobbin had sent the fax "requesting that we bind [defendant]?" (*id.*). By letter dated the same day, Drobbin wrote to Arthur, the retail broker, enclosing a binder, stating that the binder was an outline of coverage "as placed" and asking him to review the binder and immediately advise of any errors (Ex. 27).

The two-page binder is dated December 30, 2002. The space for the date of "Binder Expiration" was left blank (*id.*). The binder advises that the policy is effective on December 28, 2002 and expires on December 28, 2003. It notes the dollar amounts for different limits of liability, a self-insured retention amount of \$75,000, a commission of 10%, and a premium of \$305,000. The binder does not state that the premium is adjustable or mention earned premiums.

Some months later, by letter dated July 18, 2003, the retail broker forwarded the second policy to defendant. The letter stated that the broker had reviewed the policy for accuracy and found it correct and suggested that defendant review it and notify the broker of any changes in writing.

The first and second policies are the same except for the amount of the deposit premiums and the percentage of gross receipts to be used to calculate the earned premiums. The first policy applied a deposit premium of \$335,000. In a section entitled Premium Adjustment and Reporting, the policy provided that the premium charged for the policy was calculated at the rate of \$1.70 per \$100 of gross receipts (Ex. 1 at 2). The deposit premium was based on an estimate of defendant's gross receipts. The earned premium would be calculated using the actual gross

receipts, and if the earned premium exceeded the deposit premium, defendant would pay the insurer the difference. If the earned premium was less, the insurer would return the difference to the insured (*id.*).

The first policy was amended in August 2002 by the issuance of Endorsement #20 (*id.* at last page; Ex. 19). This endorsement lowered the deposit premium to \$284,000 and changed the premium rate to \$1.45 of \$100 of gross receipts. The second policy charged a deposit premium of \$305,000, and a rate of \$15.25 per \$1,000 of gross receipts (Ex. 3, at 2).

Plaintiffs commenced this action in July 2004 to obtain the premium adjustments. Their moving affidavit claims that defendant refused to allow plaintiffs' accounting firm to audit its books until 2005.

DISCUSSION

First, from the outset, the motion for summary judgment on liability is denied because the plaintiffs did not include in their moving papers a copy of the complaint and answer. Since the papers do not provide what the causes of action and counterclaims are, summary judgment is not appropriate. However, while the motion is denied on this ground, the court will still analyze the substance of the arguments contained in the parties' briefs and the supporting documentation.

In order to grant summary judgment, the court must determine whether a material and triable issue of fact exists (*Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404 [1957]). After the movant makes a prima facie case, the burden shifts to the opposing party to produce evidentiary proof sufficient to establish the existence of a material issue of fact that requires a trial (*Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). When deciding a motion for summary judgment, the court must view the evidence in a light most

favorable to the party opposing the motion and must give that party the benefit of every inference which can be drawn from the evidence (*Assaf v Ropog Cab Corp.*, 153 AD2d 520, 521 [1st Dept 1989]).

As an initial matter, defendant argues that Arthur and Drobbin could not bind it to any contracts, as they were not defendant's agents. Unless there is evidence showing otherwise, a broker is generally considered an agent for the insured (*Temple Constr. Corp. v Sirius Am. Ins. Co.*, 40 AD3d 1109, 1111 [2d Dept 2007]). An insured is bound by its broker's actions in obtaining a policy on its behalf (*Evanston Ins. Co. v Po Wing Hong Food Mkt., Inc.*, 21 AD3d 333, 334 [1st Dept 2005]). The evidence shows that the brokers were defendant's agents. At his deposition, defendant's president testified that defendant retained Arthur, the retail broker (Ex. 9, Deposition Transcript [Tr.], at 45-46, 109-110). Arthur stated the same (Ex. 8, Tr., at 23-24, 37). Drobbin, the wholesale broker, testified that she was retained by and acted on behalf of Arthur (Ex. 7, Tr., at 23-24, 26-27, 28). Drobbin thus became the agent of defendant's agent or defendant's sub-agent. A principal is in privity with its agent's agent or anyone else the agent deals with on its behalf (*Herrington v Verrilli*, 151 F Supp 2d 449, 463 [SD NY 2001]).

Defendant does not produce any evidence to counter the showing that the brokers were its agents. As defendant fails to raise a factual question regarding the brokers' status, it is bound by the brokers' actions in obtaining the policies on its behalf.

A document which is complete, clear and unambiguous on its face is an integrated agreement as a matter of law and must be construed according to its terms (*see Braten v Bankers Trust Co.*, 60 NY2d 155, 162-163 [1983]; *Moshiko, Inc. v Seiger & Smith, Inc.*, 137 AD2d 170, 175 [1st Dept], *aff'd* 72 NY2d 945 [1988]). Unless a contract contains an ambiguity that needs to

be clarified, the parol evidence rule excludes evidence from outside the four corners of a written instrument to contradict or vary the terms therein (*W.W.W. Assoc. v Giancontieri*, 77 NY2d 157, 162 [1990]; *Stage Club Corp. v West Realty Co.*, 212 AD2d 458, 459 [1st Dept 1995]). As the first policy is clear and unambiguous, evidence of the parties' prior dealings will not be admitted to erase the premium adjustment provision. Defendant is therefore bound by the terms of the first policy.

In any event, defendant's arguments are not supported by the negotiations attending the first policy, as those use the same language as the second set of negotiations. Defendant unsuccessfully argues that the second set of negotiations mean something different from what they state. The communications between Drobbin and Mutual make it clear that Drobbin agreed to the premium adjustment provisions. The word "adjustable" was repeatedly used. In addition, at her deposition, Drobbin testified that she intended to bind with a premium adjustment provision (Ex. 7, Tr., at 111-112, 117-118). Arthur also stated that both policies included premium adjustment terms (Ex. 8, Tr., at 121-122).

The next question is whether the binder means that the premium adjustment provision in the policy should not apply. The binder omits the premium adjustment provision that is included in the second policy. A binder is a temporary contract of insurance, consisting of an insurer's acknowledgment that it will temporarily protect the insured against a specified loss (16 Lord, *Williston on Contracts* [Williston] § 49:53 [4th ed] [Westlaw citation: WILLSTN-CN § 49:53]). Generally, the binder provides coverage starting on the date that the party seeking insurance applies for it until the date that the insurer either denies the application or issues a policy (*Springer v Allstate Life Ins. Co. of N.Y.*, 94 NY2d 645, 649 [2000]). The binder provides

coverage within its indicated time period, even if a formal policy never issues (Williston § 49:53).

A binder is not part of the insurance policy and does not create any rights for the insured other than during its effective period (*Springer*, 94 NY2d at 649). The binder and the subsequently issued policy are taken as two distinct agreements (*id.* at 650-651).

A binder usually sets forth the most important terms of the agreement, but not necessarily all of them (Williston § 49:53). Some of the elements normally essential to the formation of a contract of insurance may be supplied by inference (1 A Couch on Insurance 3d [Couch] § 13:3 [Westlaw citation: COUCH § 13:3]). Given that a binder contemplates a subsequent and more formal agreement, it is taken to incorporate the terms of the prospective policy whether those terms are prescribed by law or are part of the customary policy issued by the insurer (Couch § 13:1; *see also SR Intl. Bus. Ins. Co., Ltd. v World Trade Ctr. Properties, LLC*, 467 F3d 107, 114 [2d Cir 2006]). Although a binder may be sketchy and informal, it is still enforceable (Couch § 13:1). A binder need not state the premium to be enforceable, and its mere existence usually suffices to imply an agreement to pay premiums at the customary rate (Couch § 13:2).

In determining the terms to be implied in the binder, the court may rely upon extrinsic evidence of the parties' pre-binder negotiations (*see In Re September 11th Liability Ins. Coverage Cases*, 458 F Supp 2d 104, 115 [SD NY 2006]). The court looks to the negotiations to determine what the parties intended to include in the binder (*id.*). "The objective expectations of the parties is what counts--what they told each other, and not what each side may have discussed among themselves or subjectively wished to accomplish" (*id.*).

In this case, the binder is not exactly the document contemplated by the above cited

authorities. Unlike the customary binder, this binder appears to be not so much an agreement separate from the formal policy as a kind of shorthand note confirming that a policy was agreed upon. While a binder is usually effective before the formal policy issues, the binder in this case provided coverage for the same period as the formal policy. The letter that accompanied the binder stated that it was an outline of coverage as placed for the formal policy. This letter and the binder itself establish that the terms of the binder are the same as those of the formal policy. In addition, as discussed above, the agent and the insurer negotiated and agreed upon an adjustable premium for the second policy. Therefore, although the binder does not mention it, the binder provides for an adjustable premium also, per the parties' intentions.

Defendant cites *Crouse W. Holding Corp. v Sphere Drake Ins. Co.* (248 AD2d 932, 932 [4th Dept], *aff'd* 92 NY2d 1017 [1998]), in which the insured was issued a binder for a commercial general liability policy and a liquor liability policy. The binder contained an assault and battery exclusion that explicitly noted the commercial general liability policy but not the liquor liability policy. Although the assault and battery exclusion generally applied to the insurer's liquor liability policies, the Fourth Department found that because the binder was ambiguous as to whether it applied to the liquor liability policy, coverage had to be resolved in favor of the insured. The Court stated that it would have been reasonable for the insured to conclude based upon the binder that the exclusion applied to commercial general liability coverage only (*id.*). Accordingly, the court held that the exclusion did not apply under the liquor liability policy but did apply to the commercial general liability policy.

In *Crouse*, the binder applied before the formal policy issued. The binder in this case and the formal policy provided coverage for the same period, and the formal policy provided for a

premium adjustment. The omission in the binder did not change the provision in the formal policy.

Another consideration is that this was a renewal binder. An agreement to renew implies that the terms of the existing policy will continue (*Matter of State Farm Mutual Auto. Ins. Co. v Guarascio*, 153 Misc 2d 485, 487 [Sup Ct, Nassau County 1992]). In this case, the parties agreed to continue the premium adjustment provision that was in the first policy. They also agreed to the modified premium and premium rate. Only if a change in a renewed policy is not brought to the insured's attention at the time that the change is made is the insured entitled to reform the agreement so as to conform it with the earlier one (*id.*). In this case, the modifications involving the deposit premium and the percentage rate to be applied to the gross receipts were agreed to by defendant's agent, whose knowledge is imputed to defendant.

Defendant's president stated that he did not read either policy and did not know until this litigation about the premium adjustment. Failure to read the policy will not relieve a party from its contractual obligations (*Metzger v Aetna Ins. Co.*, 227 NY 411, 416 [1920]). An insured is presumed to know the terms of its policy (*Wausau Underwriters Ins. Co. v St. Barnabas Hosp.*, 145 AD2d 314, 315 [1st Dept 1988]). Thus, defendant had constructive knowledge of the adjustment provisions at the inception of both policies (*see Ribacoff v Chubb Group of Ins. Cos.*, 2 AD3d 153, 154-55 [1st Dept 2003]).

Therefore, defendant is bound by the premium adjustment provisions in the policies.

Next, the parties disagree on how to calculate the premium adjustments. The adjustment is the difference between the deposit premium and the earned premium. The earned premium is a percentage of defendant's actual gross receipts for a policy year, and the deposit premium is a

percentage of the estimated receipts for the same period.

Each policy states that gross receipts are the “gross amount of money charged by the Named Insured for ‘Your Product’ and ‘Your Work’ during the Policy Period, and includes taxes, other than taxes which the Named Insured collects as a separate item and remits directly to a governmental division” (Ex. 1, at 3). “Your Product” means any goods or products manufactured or sold by defendant or others trading under defendant’s name (*id.* at 18). “Your Work” means work or operations performed by defendant or on defendant’s behalf (*id.*).

While the policy periods ran from December to December, the audit periods were from January to January. As defendant complains about this, the audits will have to be adjusted to reflect the proper policy years.

In his reports, plaintiffs’ auditor states that he based the audit on defendant’s cash receipts, bank statements, financial statements, and tax returns (Exs. 2 and 4).

For 2002, plaintiffs’ auditor made the following calculations.

Cash receipts	\$	38,771,504.56
Less accounts receivables for 2001		(5,689,336)
Plus accounts receivables for 2002		4,758,964
Gross receipts	\$	<u>37,841,132.56</u>
Premium rate (per \$100)		1.45
Total premium	\$	548,696.42.

The deposit premium of \$284,000 was subtracted from the total premium, leaving an earned premium of \$264,696.42.

The same calculation was done for the 2003 audit, using these figures: cash receipts \$40,434,752.05, accounts receivables for 2002, \$4,758,964, accounts receivables for 2003, \$12,302,026, gross receipts \$47,977,814.05, premium rate 15.25 per \$1,000, total premium \$731,661.66, deposit premium \$305,000, and earned premium \$426,661.66. Plaintiffs seek the

sum of the earned premiums.

Defendant conducted its own audits, also from January to January. For 2002, it determined:

Cash deposits	\$	38,819,493
Less interest income		(47,989)
Less payments received on behalf of a third party		<u>(3,388,000)</u>
Total gross receipts	\$	35,383,504

For 2002, defendant calculated a premium adjustment of \$248,364.

The 2003 audit by defendant's auditor applied: cash deposits \$40,489,553, interest income \$54,800, and payments received on behalf of a third party \$5,780,000. The earned premium was \$223,485. Defendant's audits resulted in smaller gross receipts than plaintiffs'.

As shown by defendant's tax returns, while neither auditor took the gross sales/cash deposit figures from defendant's tax returns, plaintiffs took the accounts receivables figures from the returns (Exs. 5 and 6). Plaintiffs claim that accounts receivables are the same as "money charged" for defendant's work per the policies' definitions. Defendant contends that the accounts receivables are not "money charged" because they include estimates of the ultimate amounts due at the completion of long-term projects. Although defendant included these estimates in the accounts receivables in the tax returns, it claims that the estimates are not amounts charged for work actually performed and thus are not accounts receivables or money charged.

An account receivable is an "account reflecting a balance owed by a debtor; a debt owed by a customer to an enterprise for goods or services" (Black's Law Dictionary [8th ed 2004] [Westlaw]). "It is clear from its plain meaning that 'accounts receivable' are payments that are

anticipated to be received by a business but not yet presented by a debtor to a creditor or settled between a debtor and creditor” (*Comprehensive Med. Care of New York, P.C. v Hausknecht*, 14 Misc 3d 1216[A], *2, 2007 NY Slip Op 50041[U] [Sup Ct, Kings County 2007]). As defendant would have it, accounts receivables arise after the work is completed and the bill is sent. In this case, the accounts receivables allegedly include estimated payments for work which is not yet completed or billed for. Therefore, according to defendant, these sums, which are not really accounts receivables, properly speaking, must be subtracted from the accounts receivables figure that plaintiffs used to calculate gross receipts.

The estimated payments to which defendant refers appear to be identified as retainage receivables on its 2002 balance sheet (Defendant’s Ex. 6). A retainage is an amount withheld from the contractor by the customer until the contract is completed (*see Black's Law Dictionary* [8th ed 2004] [Westlaw]).

Defendant employs the percentage of completion method to calculate taxes on long term contracts. The internal revenue code sets forth the percentage of completion method and other special rules for long-term contracts at 26 USC § 460. A long-term contract means any construction or building contract “if such contract is not completed within the taxable year in which such contract is entered into” (26 USC § 460 [f] [1]). As further explained by the United States Tax Court:

Under the percentage of completion method of accounting, income from the contract must be reported over the life of the contract, and expenses must be deducted in the year incurred. The reportable income for each year is calculated as follows: the total contract costs incurred through the end of the tax year are divided by the total estimated contract costs, and then multiplied by the total contract price; the product of this multiplication is reduced by gross income from the contract reported for prior years

(*Tutor-Saliba Corp. v Commissioner of Internal Revenue*, 115 TC No. 1, 5 [2000]).

The amount that is treated as the total contract price for the purposes of applying the percentage of completion method includes all amounts that the taxpayer expects to receive from the customer, including holdbacks, retainages, and cost reimbursements (*id.* at 6; 26 CFR § 1.460-4 [b] [4] [i] [A]). Assuming that the accounts receivables reported on the tax returns include retainages or other sums that defendant might become entitled to, there is a triable issue as to whether the alleged retainages or other estimated amounts should be included in “money charged” and added to the gross receipts.

The policy defines gross receipts as money resulting from work by or for defendant. Defendant’s calculations of its gross receipts subtracted amounts paid to it and then paid to a third party, while plaintiffs added these amounts to the gross receipts. Defendant alleges that these sums are not gross receipts, and that they are pass-through payments, not charges for work. The policies define gross receipts as “money charged” for work.

Assuming that gross receipts as defined in the policies means gross income as in the tax code, for taxation purposes, gross income/receipts generally means income over which the taxpayer has dominion and control (26 USC § 61 [a]; *Carione v United States*, 368 F Supp 2d 186, 192 [ED NY 2005]). Such income is taxable (*id.*). The mere fact that a taxpayer receives funds does not establish that the funds are gross income (*In re Rodriguez*, 387 BR 76, 87 [Bankr ED NY 2008]). Monies that a taxpayer receives only as conduit or agent for transmittal to another are not gross income and are not taxable (*id.*). Whether these sums were “money charged” or mere pass throughs that should not be included in gross receipts is another triable issue.

Another difference between plaintiffs' and defendant's calculations of the premium adjustments is that defendant subtracted interest from its calculations. Whether this is correct is yet another triable issue.

The parties disagree on how much interest defendant should pay. Plaintiffs seek pre-judgment interest beginning the 30th day following the expiration of each policy on the ground that said date marks the earliest ascertainable date that their cause of action existed, as provided in CPLR 5001 (b). The policies provide that defendant agrees to send to plaintiffs its gross receipts on or before the 30th day following the expiration. Defendant did not do so. The policies also provide that plaintiffs may audit defendant's finances at any reasonable time during the life of the policy and for two years after. Defendant argues, and the court agrees, that plaintiffs do not prove that their cause of action accrued on the 30th day after expiration of each policy. At this stage, the court will not find that defendant was obligated, without demand, to send plaintiffs its gross receipts. The date on which interest should begin is another triable question.

CONCLUSION

Therefore, based on the foregoing, it is hereby

ORDERED that plaintiffs' motion for summary judgment is denied.

Dated: October 16, 2008

ENTER:

FILED

[Signature]
HON. RICHARD B. LOWE, JR.

OCT 21 2008

J.S.C.

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