

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

LAURA PENDERGEST-HOLT, <i>et al.</i> ,	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL ACTION NO. H-09-3712
	§	
CERTAIN UNDERWRITERS AT	§	
LLOYD’S OF LONDON AND ARCH	§	
SPECIALTY INSURANCE CO.,	§	
Defendant.	§	

ORDER

Pending before the Court is Defendant’s Emergency Motion to Vacate Preliminary Injunction [Doc. # 61] (“Motion”) and Defendant’s request for expedited consideration of that Motion [Doc. # 62]. Plaintiffs oppose any expedited consideration of the Motion and seek a conference with the Court at which the schedule for this case may be set and issues pertaining to discovery may be determined.

Defendant seeks two types of relief in the Motion. First, Defendant asks the Court to vacate the preliminary injunction on the grounds that the Fifth Circuit’s opinion constituted a “significant change in law making the continued viability of the injunction inequitable.” Motion, at 4. The Fifth Circuit did not remand the case to this Court on the issue of the continued viability of the preliminary injunction. *See*

Pendergest-Holt v. Certain Underwriters at Lloyd's of London and Arch Specialty Insurance Co., No. 10-20069, slip. op. at 22-23 (5th Cir. 2010) [Doc. # 57]. Rather, the Fifth Circuit stated that Defendant is “enjoined from refusing to advance defense costs as provided for in the D&O Policy unless and until a court determines ‘that the alleged act or alleged acts [of Money Laundering] did in fact occur.’” *Id.* Accordingly, to the extent that Defendant’s Motion requests this Court to vacate the preliminary injunction, the Motion is **denied**.

Next, Defendant’s Motion asks the Court to “weigh the evidence in the record and make a determination that Plaintiffs engaged in acts of Money Laundering,” *see* Motion at 4. Defendant’s Motion, to this extent, is **denied without prejudice**. In this regard, Defendant requests the Court to reach the merits of the case. The Court recognizes the need to decide the remanded issues “as expeditiously as is feasible under the circumstances.” *See Pendergest-Holt*, at 24. The circumstances, however, dictate that the parties be given a reasonable opportunity to brief the issues fully, particularly given the magnitude of the contractual dispute financially and legally. The parties are also entitled to argue their positions about the need for and viability of discovery, and the need for an evidentiary hearing or motions for summary judgment, as predicates for judicial determination of the contractual issues. It is therefore

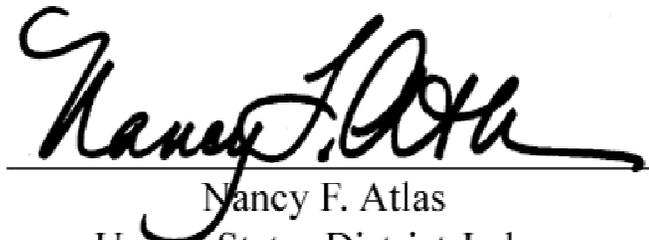
ORDERED that Defendant's Emergency Motion to Vacate Preliminary Injunction [Doc. # 61] is **DENIED**. It is further

ORDERED that Defendant's Request for Expedited Response and Consideration of Underwriters Emergency Motion to Vacate Preliminary Injunction [Doc. # 62] is **DENIED**. It is further

ORDERED that the Court will hold a status conference in this case on **April 20, 2010, at 10:00 a.m.** The parties should be prepared at the conference to propose a schedule for the remainder of the case; to discuss whether the case can be resolved through summary judgment motions, or requires an evidentiary hearing; and what discovery, if any, is necessary. It is further

ORDERED that each party shall file with the Court by **April 19, 2010, at 4:00 p.m.**, a report, not to exceed three single-spaced pages, outlining all discovery and the schedule that the party proposes in this case.

SIGNED at Houston, Texas, this 7th day of **April, 2010**.



Nancy F. Atlas
United States District Judge