

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

FERRELLGAS PARTNERS L.P. *et al.*,)

Plaintiffs,)

v.)

ZURICH AMERICAN INSURANCE)
COMPANY and BEAZLEY)
INSURANCE COMPANY,)

Defendants.)

C.A. No. N19C-05-275 MMJ [CCLD]

ORDER

Decided: October 14, 2020

**Order Addressing Motion of Beazley Insurance Company, Inc. Pursuant to
Civil Rule 6(b) for Order Extending by 16 Days Deadline to Respond to
Upcoming Demand for Payment of Fees Previously Advanced**

JOHNSTON, J.

1. By Opinion and Order dated August 20, 2020, the Court granted the motion of plaintiffs Ferrelgas Partners L.P. (“FG”), et al. to order defendant Beazley Insurance Company (“Beazley”) to advance and reimburse certain defense costs in compliance with two previous rulings of the Court. In doing so, the Court directed the parties to follow a *Fitracks*-style protocol and awarded Plaintiffs reasonable attorneys’ fees and other expenses incurred in preparing and prosecuting their enforcement motion – so-called “fees-on-fees” or “fees-for-fees.”

2. On August 31, 2020, Beazley filed an application for certification of an interlocutory appeal from the August 20 Order. By Order dated September 17, 2020, the Court denied the application. By Order dated October 9, 2020, the Delaware Supreme Court refused the interlocutory appeal.

3. On September 28, 2020, while its notice of interlocutory appeal was pending before the Supreme Court, Beazley filed a motion to extend by 16 days the deadline for responding to the then-upcoming demand of FG for payment of fees previously advanced.

4. On October 2, 2020, FG filed its opposition to Beazley’s extension motion. On the same day, FG filed with the Court certifications of counsel in support of FG’s entitlement to fees-for-fees incurred in preparing and prosecuting the previous advancement enforcement action, which resulted in the Court’s August 20 Order.

5. By letter dated October 7, 2020, Delaware counsel for Beazley requested a virtual office conference “concerning issues raised by the defense-cost protocol issued by Your Honor in the August 20, 2020 Opinion.”

6. By letter dated October 12, 2020, Delaware counsel for FG responded to the October 7, 2020 letter.

7. Based upon the written submissions of the parties, the Court concludes as follows:

(a) The pending extension motion has been rendered moot because FG has agreed to the 16-day extension. Accordingly, Beazley shall object to any time entries/disbursements by November 2, 2020.

(b) Pursuant to the August 20 Order, Beazley shall pay to FG the 50% minimum by October 15, 2020.

(c) By agreement of the parties, and with the approval of the Court, Beazley shall respond to FG’s fees-for-fees certifications with a like 16-day extension of time, namely, by November 2, 2020.

(d) Beazley’s request that FG be ordered to provide an undertaking to repay amounts advanced is premature and is denied without prejudice.

(e) The scheduled office conference is cancelled.

IT IS SO ORDERED.


The Honorable Mary M. Johnston