

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

CANAL INSURANCE COMPANY, )  
 )  
 Plaintiff, )  
 )  
 v. ) CV-08-76-B-W  
 )  
 W.M. JR. TRUCKING COMPANY, )  
 *et al.*, )  
 )  
 Defendants. )

**ORDER AFFIRMING RECOMMENDED DECISION ON DEFENDANT HUBER  
ENGINEERING WOODS, LLC'S MOTION TO ABSTAIN AND/OR DISMISS**

On May 16, 2008, Defendant Huber Engineered Woods, LLC ("Huber") filed a motion to dismiss or, in the alternative, to abstain from hearing this action pending resolution of a parallel North Carolina state court proceeding (Docket # 10). Plaintiff Canal Insurance Company ("Canal") filed its response to the motion on June 5, 2008 (Docket # 14), and Huber filed its reply on June 16, 2008 (Docket # 16).

The United States Magistrate Judge filed with the Court on July 1, 2008 her Recommended Decision (Docket # 20). Canal filed its objections to the Recommended Decision on July 11, 2008 (Docket # 21) and Huber filed its response to those objections on July 28, 2008 (Docket # 22). As an exhibit to its response, Huber attached a copy of an Order dated July 9, 2008 from the Superior Court in North Carolina in which the North Carolina Court denied Canal's motion to dismiss and motion to stay, and held in abeyance Huber's motion for a preliminary injunction (Docket # 22 Ex. A). The Court interprets the state court Order to suggest that the state action in North Carolina is proceeding apace.

The Court has reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record, and has made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision. The Court concurs with the recommendation of the United States Magistrate Judge to abstain for the reasons set forth in her Recommended Decision.

It is therefore ORDERED that Huber's motion to dismiss/abstain (Docket # 10) be and hereby is GRANTED IN PART and DENIED IN PART. The Court DENIES Huber Engineered Wood, LLC's motion to dismiss and GRANTS its motion to abstain to the extent that this action is stayed pending final judgment in the North Carolina state action. In the event circumstances substantially change, any party to this action may move to lift the stay for good cause.

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
UNITED STATES DISTRICT JUDGE

Dated this 1st day of October, 2008

**Plaintiff**

**CANAL INSURANCE  
COMPANY**

represented by **HILLARY J. BOUCHARD**  
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**ATTORNEY TO BE NOTICED**

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V.

**Defaulted Party**

**W M JR TRUCKING  
COMPANY**

**Defendant**

**HUBER ENGINEERED  
WOODS LLC**

represented by **NEAL F. PRATT**  
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**Interested Party**

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