



**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

GENERAL REFRACTORIES COMPANY,	:	APRIL TERM, 2004
	:	
Plaintiff,	:	NO. 06351
	:	
v.	:	COMMERCE PROGRAM
	:	
INSURANCE COMPANY OF NORTH	:	Control Nos. 052564, 052577
AMERICA, CCI INSURANCE COMPANY, and	:	
CENTURY INDEMNITY COMPANY,	:	
	:	
Defendants.	:	

**OPINION**

Plaintiff General Refractories Company (“GRC”) was the insured under an Excess Blanket Catastrophe Liability Policy (the “Policy”) issued by defendant, Insurance Company of North America (“INA”).<sup>1</sup> The term of the Policy was from October 25, 1971 to October 25, 1974. *See* Plaintiff’s Motion for Summary Judgment (“PMSJ”), Ex. A, p.1. The limits of liability for the Policy were \$5 million per occurrence with a \$5 million aggregate for each policy year. *See id.* The Policy further provided that “[i]f the policy is issued for a period of three years, the limits of INA’s liability shall apply separately to each consecutive policy year thereof.” *Id.*, p. 6, ¶ 10.

INA has paid \$15 million under the Policy due to numerous asbestos claims that were made against GRC. The amount paid by INA represents the maximum amount recoverable for the three years that the Policy was in effect. However, GRC believes that it is entitled to an

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<sup>1</sup> Defendant CCI Insurance Company is apparently the successor in interest to INA, and defendant Century Indemnity Company is apparently the successor to CCI Insurance Company. For purposes of this Opinion, they shall be known collectively as “INA.”

additional \$5 million in coverage from INA under a one month extension that INA issued to GRC covering the period October 25, 1974 through November 25, 1974 (the “Extension”).<sup>2</sup>

INA, on the other hand, claims that the Extension acted as the 13<sup>th</sup> month of the last year of the Policy, and that it did not provide any new coverage. The parties have cross-moved for summary judgment<sup>3</sup> on the issue of GRC’s entitlement to additional coverage under the Extension.

The binder memorializing the Extension (the “Binder”) was prepared by GRC’s insurance broker, signed by an agent of INA, and sent to GRC prior to the effective date of the Extension. It does not address the issue of coverage directly, but, instead, provides as follows:

It is hereby agreed that [INA] Excess Blanket Catastrophe Liability Policy No. XBC 82-90 is extended for 30 days. Extension is effective October 25, 1974 through November 25, 1974. Terms and conditions of policy No. 82-90 will govern for the 30 day extension. It is also agreed that the premium for the 30 day extension will be figured using the sales for the period times the rate shown on Policy No. 82-90.<sup>4</sup>

PMSJ, Ex. M. In addition, INA issued an “Endorsement” to the Policy subsequent to the expiration of the Extension, which simply provided that “[i]n consideration of an additional premium to be determined at audit, it is hereby agreed that the policy period is extended to

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<sup>2</sup> GRC apparently asked for the Extension because it had not renewed with INA for another year by the time the Policy expired, and GRC needed the extra month in order to get a new policy.

<sup>3</sup> Summary judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. In determining whether to grant summary judgment, a trial court must resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party. Summary judgment may only be granted in cases where it is clear and free from doubt that the moving party is entitled to judgment as a matter of law.

Horne v. Haladay, 728 A.2d 954, 955 (Pa. Super. 1999). When confronted with a motion for summary judgment, [t]he adverse party may not rest upon the mere allegations or denials of his pleading, but must file a response . . . identifying (1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a challenge to the credibility of one or more witnesses testifying in support of the motion, or (2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced.  
Pa. R. Civ. P. 1035.3.

<sup>4</sup> The premium imposed under the Policy was equal to GRC’s annual sales during the Policy period multiplied by .0738 per \$1,000 in coverage. *See* PMSJ, Ex. A, pp. 1, 8.

11/25/74.” *Id.*, Ex. P. These documents serve as the parties’ written embodiment of the Extension, and the court must interpret them as it would any written contract.

The interpretation of the terms of a contract, including an insurance contract, is a matter of law for the court. *See* Madison Const. Co. v. Harleysville Mut. Ins. Co., 557 Pa. 595, 606, 735 A.2d 100, 106 (1999). “The intent of the parties to a written contract is deemed to be embodied in the writing itself; when the words are clear and unambiguous, the intent is to be gleaned exclusively from the express language of the agreement.” Delaware County v. Delaware County Prison Employees’ Independent Union, 552 Pa. 184, 189, 713 A.2d 1135, 1137 (1998). “Words of common usage in an insurance policy are to be construed in their natural, plain and ordinary sense, and [the court] may inform [its] understanding of these terms by considering their dictionary definitions.” Madison Const. Co., 557 Pa. at 608, 735 A.2d at 108.

The question in this case is what “extended” and “extension” mean as those terms are used in the Binder and Endorsement. These words of common usage are regularly defined as the continuation of an existing thing and not the start of something new. *See, e.g.*, Black’s Law Dictionary, 5<sup>th</sup> Ed., p. 523 (1979) (“A lengthening out of time previously fixed and not the arbitrary setting of a new date. Stretched, spread or drawn out. . . An increase in length of time (e.g. expiration date of lease, or due date of note).”); The American Heritage Dictionary, 3<sup>rd</sup> Ed., p. 647 (1992) (“To stretch or spread. . . . To cause (something) to be or last longer.”) Therefore, the one month Extension must be read as simply an elongation of the Policy period and nothing more.

The Extension does not, by its own terms, create new or additional coverage. Instead, the Extension is expressly governed by the terms and conditions of the Policy. The Policy provides for up to, but no more than, three years at \$5 million each for a total of \$15 million in coverage.

*See* PMSJ, p. 6, ¶ 10. GFC’s attempt to introduce parole evidence, such as evidence of INA’s bookkeeping practices, to vary the written terms of the Binder and Endorsement is improper where the words “extended” and “extension” as used therein are not ambiguous. *See* Steuart v. McChesney, 498 Pa. 45, 48-49, 444 A.2d 659, 661 (1982) (“When a written contract is clear and unequivocal, its meaning must be determined by its contents alone. It speaks for itself and a meaning cannot be given to it other than that expressed. Where the intention of the parties is clear, there is no need to resort to extrinsic aids or evidence.”) Therefore, GRC is not entitled to an additional \$5 million in coverage from INA under the Extension.

### **CONCLUSION**

For all the foregoing reasons, plaintiff’s Motion for Summary Judgment is denied, and defendants’ Motion for Summary Judgment is granted.

**BY THE COURT:**

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**ABRAMSON, HOWLAND, W., J.**