

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JEROME O. HERLIHY
JUDGE

NEW CASTLE COUNTY
COURT HOUSE
WILMINGTON, DE 19801-3733

February 9, 2012

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RE: *Gary F. Rantz v. David Pavick, Sr. et al.*
C. A. No. N11C-06-043 JOH

Dear Counsel:

Defendants Lawyers Title Insurance Corporation, Land America Lawyers Title, Inc., and Susan Pittard Weidmann, Esq. have moved to dismiss portions or all of plaintiff's complaint. These motions to dismiss include exhibits which go beyond the scope of the pleadings. As properly addressed in plaintiff's responses to these motions, the Court must convert the motions to dismiss to motions for summary judgment.¹ In addition, the Court is required to provide the parties at least ten days notice of its decision to consider the motions under Rule 56 rather than Rule 12.² This letter serves as the required notice.

¹ Super. Ct. R. 12(b); *Furman v. Del. Dep't of Transportation*, 30 A.3d 711 (Del. 2011); *Appriva Shareholder Litigation Co., LLC v. eV3, Inc.*, 937 A.2d 1275 (Del. 2007).

² *Id.*

These motions to dismiss are, therefore, **DENIED**.

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The defendants may renew their motions as motions for summary judgment. Counsel are to file any such motions on or before February 20, 2012. Plaintiffs shall file a response to any re-filed summary judgment motions on or before March 5, 2012.

Although not necessarily affected by this letter, the other motions in this case which are scheduled for a hearing on February 16, 2012 will be rescheduled to be heard with any motions re-filed pursuant to this letter. The rescheduled hearing is April 17, 2012 at 9:30 a.m.

IT IS SO ORDERED.

Sincerely,

JOH/krb

cc: Prothonotary