

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:09-cv-12087-RWZ**

Welch Foods, Inc. v. National Union Fire Insurance Company of Pittsburg, PA, et al
Assigned to: Judge Rya W. Zobel
Cause: 28:1332 Diversity-Declaratory Judgement

Date Filed: 12/08/2009
Jury Demand: Both
Nature of Suit: 110 Insurance
Jurisdiction: Diversity

Plaintiff

Welch Foods, Inc.
A Cooperative

represented by **Richard D. Milone**
Kelley Drye & Warren LLP
3050 K Street NW,
Suite 400
Washington, DC 20007
202 342 8400
Fax: 202 342 8451
Email: rmilone@kelleydrye.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

S. Mahmood Ahmad
Kelley Drye & Warren LLP
3050 K Street NW
Suite 400
Washington, DC 20007
202 342 8400
Fax: 202 342 8451
Email: mahmad@kelleydrye.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Shaun M Gehan
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, DC 20007
202-342-8469
Fax: 202-342-8451
Email: sgehan@kelleydrye.com

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Edward William Little , Jr.
McCarter & English, LLP
225 Franklin street
Boston, MA 02110
617-345-7018
Fax: 617-204-8018
Email: elittle@mccarter.com
ATTORNEY TO BE NOTICED

V.

Defendant

**National Union Fire Insurance
Company of Pittsburg, PA**

represented by **Harvey Weiner**
Peabody & Arnold LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2261
617-951-2104
Fax: 617-951-2125
Email:
hweiner@peabodyarnold.com
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Michael P. Duffy
Peabody & Arnold LLP
600 Atlantic Avenue
Boston, MA 02210
617-951-2100
Email:
mduffy@peabodyarnold.com
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Alan K. Tannenwald
Peabody & Arnold LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02110-2261
617-951-2071

Fax: (617) 235-3571

Email:

atannenwald@peabodyarnold.com

ATTORNEY TO BE NOTICED

Defendant

**Zurich American Insurance
Company**

represented by **Amie R. Pelletier**
Robinson & Cole LLP
One Boston Place
Suite 2500
Boston, MA 02108
617-557-5900

Fax: 617-557-5999

Email: apelletier@rc.com

TERMINATED: 05/13/2010

ATTORNEY TO BE NOTICED

Barbara A. O'Donnell

Zelle McDonough & Cohen, LLP
101 Federal Street
14th floor

Boston, MA 02110

617-742-6520 x208

Fax: 617-742-1393

Email: bodonnell@zelmcd.com

ATTORNEY TO BE NOTICED

Brian P. McDonough

Zelle McDonough & Cohen LLP
101 Federal Street

Boston, MA 02110

617-742-6520

Fax: 617-973-1562

Email:

bmcDonough@zelmcd.com

ATTORNEY TO BE NOTICED

Stephen J. Abarbanel

Zelle McDonough & Cohen, LLP
101 Federal Street

14th floor

Boston, MA 02110

617-742-6520 x212
Fax: 617-742-1393
Email: sabarbanel@zelmcd.com
ATTORNEY TO BE NOTICED

Defendant

**Axis Surplus Insurance
Company**

represented by **Joseph S. Sano**
Prince, Lobel Glovsky & Tye LLP

100 Cambridge Street, Suite 2200
Boston, MA 02114
617-456-8000
Fax: 617-456-8100
Email: jssano@princelobel.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam R. Doherty
Prince, Lobel, Glovsky & Tye
LLP
100 Cambridge Street
Suite 2200
Boston, MA 02114
617-456-8114
Fax: 617-456-8100
Email:
adoherty@princeLobel.com
ATTORNEY TO BE NOTICED

John E. Matosky
Prince, Lobel, Glovsky & Tye
LLP
100 Cambridge Street
Suite 2200
Boston, MA 02114
617-456-8000
Fax: 617-456-8100
Email:
JEMATOSKY@PLGT.COM
ATTORNEY TO BE NOTICED

Counter Claimant

Axis Surplus Insurance

represented by **Joseph S. Sano**

Company

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam R. Doherty
 (See above for address)
ATTORNEY TO BE NOTICED

John E. Matosky
 (See above for address)
ATTORNEY TO BE NOTICED

V.

Counter Defendant

Welch Foods, Inc.
A Cooperative

represented by **Richard D. Milone**
 (See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

S. Mahmood Ahmad
 (See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Shaun M Gehan
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/08/2009	<u>1</u>	COMPLAINT against National Union Fire Insurance Company of Pittsburg, PA, Zurich American Insurance Company Filing fee: \$ 350, receipt number 0101000000002695856, filed by Welch Foods, Inc.. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit Category Form - 08, # <u>3</u> Exhibit A, # <u>4</u> Exhibit B (part 1), # <u>5</u> Exhibit B (part 2), # <u>6</u> Exhibit C, # <u>7</u> Exhibit D, # <u>8</u> Exhibit E, # <u>9</u> Exhibit F, # <u>10</u> Exhibit G, # <u>11</u> Exhibit H, # <u>12</u> Exhibit I, # <u>13</u> Exhibit J, # <u>14</u> Exhibit K, # <u>15</u> Exhibit L, # <u>16</u> Exhibit M, # <u>17</u>

		Exhibit N, # <u>18</u> Exhibit O, # <u>19</u> Exhibit P, # <u>20</u> Exhibit Q)(Gehan, Shaun) (Entered: 12/08/2009)
12/08/2009	<u>2</u>	CORPORATE DISCLOSURE STATEMENT by Welch Foods, Inc. identifying Corporate Parent National Grape Cooperative Association, Inc. for Welch Foods, Inc... (Gehan, Shaun) (Entered: 12/08/2009)
12/08/2009		ELECTRONIC NOTICE of Case Assignment. Judge Rya W. Zobel assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Robert B. Collings (Cummings, Mary) (Entered: 12/08/2009)
12/08/2009	<u>3</u>	Summons Issued as to National Union Fire Insurance Company of Pittsburg, PA, Zurich American Insurance Company. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Cummings, Mary) (Entered: 12/08/2009)
12/11/2009	<u>4</u>	AFFIDAVIT OF SERVICE Executed by Welch Foods, Inc.. National Union Fire Insurance Company of Pittsburg, PA served on 12/10/2009, answer due 12/31/2009. Acknowledgement filed by Welch Foods, Inc.. (Gehan, Shaun) (Entered: 12/11/2009)
12/11/2009	<u>5</u>	AFFIDAVIT OF SERVICE Executed by Welch Foods, Inc.. Zurich American Insurance Company served on 12/10/2009, answer due 12/31/2009. Acknowledgement filed by Welch Foods, Inc.. (Gehan, Shaun) (Entered: 12/11/2009)
12/18/2009	<u>6</u>	First AMENDED COMPLAINT against Axis Surplus Insurance Company, National Union Fire Insurance Company of Pittsburg, PA, Zurich American Insurance Company, filed by Welch Foods, Inc.. (Attachments: # <u>1</u> Exhibit R, # <u>2</u> Exhibit S, # <u>3</u> Exhibit T, # <u>4</u> Exhibit U, # <u>5</u> Exhibit V, # <u>6</u> Exhibit W, # <u>7</u> Exhibit X, # <u>8</u> Exhibit Y, # <u>9</u> Exhibit Z, # <u>10</u> Exhibit AA, # <u>11</u> Exhibit AB)(Gehan, Shaun) (Entered: 12/18/2009)
12/21/2009	<u>7</u>	Summons Issued as to Axis Surplus Insurance Company. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Johnson, Jay) (Entered: 12/21/2009)

12/23/2009	<u>8</u>	MOTION for Extension of Time to January 20, 2010 to File Answer <i>or Other Responsive Pleading</i> by Zurich American Insurance Company.(Pelletier, Amie) (Entered: 12/23/2009)
12/23/2009	<u>9</u>	CORPORATE DISCLOSURE STATEMENT by Zurich American Insurance Company. (Pelletier, Amie) (Entered: 12/23/2009)
12/23/2009		Judge Rya W. Zobel: Electronic ORDER entered granting <u>8</u> Motion for Extension of Time to Answer re <u>6</u> Amended Complaint, Zurich American Insurance Company answer due 1/20/2010. (Urso, Lisa) (Entered: 12/23/2009)
12/28/2009	<u>10</u>	NOTICE of Appearance by Amie R. Pelletier on behalf of Zurich American Insurance Company (Pelletier, Amie) (Entered: 12/28/2009)
12/29/2009	<u>11</u>	AFFIDAVIT OF SERVICE Executed by Welch Foods, Inc.. Axis Surplus Insurance Company served on 12/23/2009, answer due 1/13/2010. Acknowledgement filed by Welch Foods, Inc.. (Gehan, Shaun) (Entered: 12/29/2009)
12/31/2009	<u>12</u>	Assented to MOTION for Extension of Time to January 20, 2010 to File Answer re <u>6</u> Amended Complaint, by National Union Fire Insurance Company of Pittsburg, PA.(Weiner, Harvey) (Entered: 12/31/2009)
01/04/2010		Judge Rya W. Zobel: Electronic ORDER entered granting <u>12</u> Motion for Extension of Time to Answer re <u>6</u> Amended Complaint, National Union Fire Insurance Company of Pittsburg, PA answer due 1/20/2010. (Urso, Lisa) (Entered: 01/04/2010)
01/05/2010	<u>13</u>	NOTICE of Appearance by Stephen J. Abarbanel on behalf of Zurich American Insurance Company (Abarbanel, Stephen) (Entered: 01/05/2010)
01/13/2010	<u>14</u>	<i>Axis's</i> ANSWER to <u>6</u> Amended Complaint, <i>Affirmative Defenses</i> , COUNTERCLAIM <i>and Jury Demand</i> against Welch Foods, Inc. by Axis Surplus Insurance Company. (Attachments: # <u>1</u> Exhibit A) (Sano, Joseph) (Entered: 01/13/2010)
01/14/2010	<u>15</u>	NOTICE of Scheduling Conference Scheduling Conference set for 2/18/2010 02:30 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Additional attachment(s) added on 1/14/2010: # <u>1</u> corrected) (Urso, Lisa). (Entered: 01/14/2010)
01/14/2010	<u>16</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Richard D. Milone Filing fee \$ 50, receipt number

		01010000000002741677. by Welch Foods, Inc.. (Attachments: # <u>1</u> Exhibit A - Declaration of Richard D. Milone)(Gehan, Shaun) (Entered: 01/14/2010)
01/14/2010	<u>17</u>	MOTION for Leave to Appear Pro Hac Vice for admission of S. Mahmood Ahmad Filing fee \$ 50, receipt number 01010000000002741715. by Welch Foods, Inc.. (Attachments: # <u>1</u> Exhibit A - Declaration of S. Mahmood Ahmad)(Gehan, Shaun) (Entered: 01/14/2010)
01/15/2010	<u>18</u>	MOTION to Continue Scheduling Conference to New Date (<i>Unopposed</i>) by Axis Surplus Insurance Company.(Sano, Joseph) (Entered: 01/15/2010)
01/19/2010		Judge Rya W. Zobel: Electronic ORDER entered granting <u>18</u> Motion to Continue Scheduling Conference reset for 3/10/2010 02:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 01/19/2010)
01/20/2010	<u>19</u>	ANSWER to <u>6</u> Amended Complaint, by Zurich American Insurance Company.(Pelletier, Amie) (Entered: 01/20/2010)
01/20/2010	<u>20</u>	ANSWER to <u>6</u> Amended Complaint, by National Union Fire Insurance Company of Pittsburg, PA.(Weiner, Harvey) (Entered: 01/20/2010)
01/26/2010	<u>21</u>	CORPORATE DISCLOSURE STATEMENT by National Union Fire Insurance Company of Pittsburg, PA identifying Corporate Parent American International Group, Inc. (AIG), Corporate Parent Chartis U.S., Inc. for.. (Weiner, Harvey) (Entered: 01/26/2010)
01/28/2010		Judge Rya W. Zobel: Electronic ORDER entered granting <u>16</u> Motion for Leave to Appear Pro Hac Vice; Added Richard D. Milone for Welch Foods, Inc., S. Mahmood Ahmad for Welch Foods, Inc. granting <u>17</u> Motion for Leave to Appear Pro Hac Vice; Added Richard D. Milone for Welch Foods, Inc., S. Mahmood Ahmad for Welch Foods, Inc.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Johnson, Jay) (Entered: 01/28/2010)
02/03/2010	<u>22</u>	ANSWER to <u>14</u> Answer to Amended Complaint, Counterclaim by Welch Foods, Inc..(Gehan, Shaun) (Entered: 02/03/2010)
03/02/2010	<u>23</u>	CERTIFICATE OF CONSULTATION Pursuant to L.R. 16.1(d) (3). (Ahmad, S.) (Entered: 03/02/2010)

03/03/2010	<u>24</u>	NOTICE of Appearance by Alan K. Tannenwald on behalf of National Union Fire Insurance Company of Pittsburg, PA (Tannenwald, Alan) (Entered: 03/03/2010)
03/03/2010	<u>25</u>	JOINT STATEMENT re scheduling conference. (Ahmad, S.) (Entered: 03/03/2010)
03/03/2010	<u>26</u>	CERTIFICATE OF CONSULTATION of <i>AXIS Surplus Insurance Company Pursuant To Local Rule 16.1(d) (3)</i> . (Sano, Joseph) (Entered: 03/03/2010)
03/04/2010	<u>27</u>	CERTIFICATE OF CONSULTATION of <i>Zurich American Insurance Company pursuant to Local Rule 16.(d)</i> . (Pelletier, Amie) (Entered: 03/04/2010)
03/05/2010	<u>28</u>	NOTICE of Appearance by Edward William Little, Jr on behalf of Welch Foods, Inc. (Little, Edward) (Entered: 03/05/2010)
03/08/2010	<u>29</u>	Disclosure pursuant to Rule 26 by Zurich American Insurance Company.(Pelletier, Amie) (Entered: 03/08/2010)
03/08/2010	<u>30</u>	Disclosure pursuant to Rule 26 by Welch Foods, Inc..(Ahmad, S.) (Entered: 03/08/2010)
03/09/2010	<u>31</u>	CERTIFICATION pursuant to Local Rule 16.1 by National Union Fire Insurance Company of Pittsburg, PA.(Weiner, Harvey) (Entered: 03/09/2010)
03/09/2010	<u>32</u>	Disclosure pursuant to Rule 26 by National Union Fire Insurance Company of Pittsburg, PA.(Weiner, Harvey) (Entered: 03/09/2010)
03/10/2010	<u>33</u>	Disclosure pursuant to Rule 26 by Axis Surplus Insurance Company.(Sano, Joseph) (Entered: 03/10/2010)
03/10/2010		Electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel: Scheduling Conference held on 3/10/2010, (Amended Pleadings due by 4/5/2010., Cross Motions due by 5/3/2010; oppositions 6/4/10; 5 page replies 6/18/10; Motion Hearing set for 6/23/2010 02:00 PM in Courtroom 12 before Judge Rya W. Zobel.). 20 pages; (Attorneys present: Milone, Little, Weiner, Duffy, Pelletier, Sano & Doherty) (Urso, Lisa) (Entered: 03/10/2010)
03/11/2010	<u>34</u>	NOTICE of Appearance by Adam R. Doherty on behalf of Axis Surplus Insurance Company (Doherty, Adam) (Entered: 03/11/2010)
03/11/2010	<u>35</u>	NOTICE of Appearance by John E. Matosky on behalf of Axis

		Surplus Insurance Company (Matosky, John) (Entered: 03/11/2010)
03/11/2010	<u>36</u>	MOTION for Leave to File <i>Second Amended Complaint</i> by Welch Foods, Inc.. (Attachments: # <u>1</u> Exhibit A - Proposed Second Amended Complaint, # <u>2</u> Exhibit AC to Proposed Second Amended Complaint, # <u>3</u> Exhibit AD to Proposed Second Amended Complaint, # <u>4</u> Text of Proposed Order)(Ahmad, S.) (Entered: 03/11/2010)
03/12/2010		Judge Rya W. Zobel: Electronic ORDER entered granting <u>36</u> Motion for Leave to File; Counsel using the Electronic Case Filing System should now file the document for which leave to file has been granted in accordance with the CM/ECF Administrative Procedures. Counsel must include - Leave to file granted on (date of order)- in the caption of the document. (Urso, Lisa) (Entered: 03/12/2010)
03/12/2010	<u>37</u>	Second AMENDED COMPLAINT against Axis Surplus Insurance Company, National Union Fire Insurance Company of Pittsburg, PA, Zurich American Insurance Company ; <i>Leave Granted to File on March 12, 2010</i> , filed by Welch Foods, Inc.. (Attachments: # <u>1</u> Exhibit AC, # <u>2</u> Exhibit AD)(Ahmad, S.) (Entered: 03/12/2010)
03/25/2010	<u>38</u>	ANSWER to Amended Complaint (<i>Second Amended Complaint</i>) by Zurich American Insurance Company.(Abarbanel, Stephen) (Entered: 03/25/2010)
03/29/2010	<u>39</u>	ANSWER to Amended Complaint by National Union Fire Insurance Company of Pittsburg, PA.(Tannenwald, Alan) (Entered: 03/29/2010)
03/30/2010	<u>40</u>	<i>Axis's</i> ANSWER to Amended Complaint <i>Second, COUNTERCLAIM And Jury Demand</i> against Welch Foods, Inc. by Axis Surplus Insurance Company. (Attachments: # <u>1</u> Exhibit A) (Sano, Joseph) (Entered: 03/30/2010)
04/16/2010	<u>41</u>	<i>Second</i> ANSWER to Counterclaim by Welch Foods, Inc..(Ahmad, S.) (Entered: 04/16/2010)
05/03/2010	<u>42</u>	MOTION for Summary Judgment by Zurich American Insurance Company.(Pelletier, Amie) (Entered: 05/03/2010)
05/03/2010	<u>43</u>	MEMORANDUM in Support re <u>42</u> MOTION for Summary Judgment filed by Zurich American Insurance Company. (Pelletier, Amie) (Entered: 05/03/2010)

