UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

NATIONWIDE MUTUAL INSURANCE CO., Plaintiff,	:	
v.	:	CA 04-382ML
GOULET TRUCKING, INC., Alias, and SCOTT HARPER, Alias, Defendants.	:	

REPORT AND RECOMMENDATION

David L. Martin, United States Magistrate Judge

Before the court is Defendants' Motion for a Conditional Order of Dismissal (Document #10) (the "Motion"). Plaintiff Nationwide Mutual Insurance Co.[1] ("Plaintiff") has not filed an objection to the Motion. The matter has been referred to this Magistrate Judge for preliminary review, findings, and recommended disposition pursuant to 28 U.S.C. § 636(b)(1)(B) and D.R.I. Local R. 32(a).

In their Motion,[2] Defendants Goulet Trucking, Inc., and Scott Harper (collectively "Defendants") recite that an order granting their motion to compel answers to interrogatories and response to Defendants' first request for production of documents (Document #7) was entered on January 10, 2005. See Motion; see also Order dated 1/10/05 (Document #8) (granting motion by rule of court, no objection having been filed). Defendants further state that according to that order, Plaintiff's responses were

[1] On April 5, 2005, a stipulation was entered substituting the name of Plaintiff from INA Petroleum, Inc., to Nationwide Mutual Insurance Co., as subrogee of INA Petroleum, Inc. See Document #13.

[2] The court notes that Defendants failed to file a memorandum in support of their Motion as required by D.R.I. Local Rule 12(a)(1). However, the motion contains sufficient information for the court to make its findings and recommendations.

due by January 30, 2005, but that as of the date of the Motion, none had been received. See Motion. Defendants on March 7, 2005, filed the instant Motion.

Accordingly, the court recommends that the Motion be granted and that a conditional order of dismissal be entered stating that the Complaint will be dismissed within twenty days of that order if the requested discovery responses are not forthcoming. Any objections to this Report and Recommendation must be specific and must be filed with the Clerk of Court within ten (10) days of its receipt. See Fed. R. Civ. P. 72(b); D.R.I. Local R. 32. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district court and of the right to appeal the district court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

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David L. Martin
United States Magistrate Judge
April 18, 2005