

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-15-109

CRAIG BROWN,

Plaintiff

v.

ORDER

AMICA INSURANCE CO., et al,

Defendants

STATE OF MAINE
Cumberland, ss, Clerk's Office

MAY 04 2015

RECEIVED

Before the court are three motions: (1) a motion to strike filed by defendant Amica Insurance Co.,¹ (2) a motion to dismiss filed by defendant Fidelity National Title Group, and (3) an application by plaintiff Craig Brown for a default against defendant PNC Bank.

Amica's Motion to Strike

Amica's motion to strike is based on the contention that the 61 pages and 309 paragraphs of plaintiff Craig Brown's complaint that are directed against Amica do not constitute a short and plain statement of claims showing that Brown is entitled to relief, *see* M.R.Civ.P. 8(a), and do not allow either Amica or the court to discern the basis of his claims. The court agrees.²

Brown's claims appear to arise from his unhappiness over the outcome of certain land disputes, civil litigation, and criminal charges in Knox County. His complaint consists of a long,

¹ Two other motions have been filed but are not yet fully briefed: a motion for a default judgment against defendant PNC Bank filed by plaintiff Craig Brown and a motion to dismiss filed by PNC.

² Brown filed an opposition to Amica's motion to strike on April 21 but may not have served counsel for Amica with that opposition because counsel for Amica wrote to the court by letter dated April 24 to state that Brown had not opposed the motion to strike within 21 days. Brown is again reminded that any documents that are filed or submitted to the court must be served on counsel for all parties who have appeared. *See* April 23, 2015 order ¶ 4.

disjointed, and partially incoherent diatribe of allegations against, *inter alia*, various law enforcement agencies, surveyors, lawyers who apparently represented Brown at one time, and various state and federal judges who issued rulings in his cases. Brown argues that all of the legal rulings against him should be subject to collateral attack and has filed a motion to that effect. However, he has not joined the parties to those prior legal actions, and the court has previously ruled that it will not entertain his motion to collaterally attack prior state and federal judgments in this action – which is seeking relief not against the parties to those prior actions but against Amica, Fidelity Title, PNC Bank, and Wells Fargo Bank. *See* April 23, 2015 order ¶ 7.

Although not readily discernable from Brown's complaint, the tortuous factual background of this case – and Brown's frequent recourse to litigation – is set forth in a federal district court decision that is attached to defendant Fidelity Title's amended motion to dismiss. *Brown v. State of Maine*, 11-CV-426 JD, 2012 WL 5463087 (D. Me. Nov. 7, 2012). The federal decision includes an order enjoining Brown from filing any further federal court actions without obtaining prior court permission in order "to prevent Brown from continuing to abuse the judicial process, from wasting judicial resources, and from wasting the resources of parties who must respond to his frivolous lawsuits."

In this case, as far as the court can discern, Brown appears to be alleging that Amica violated a duty to defend Brown under a homeowner's policy. It is, however, impossible to discern which of the various cases that are mentioned but not adequately identified in the complaint – including a criminal charge against Brown, an action for a protection order against Brown, a boundary dispute litigation, and four federal lawsuits initiated by Brown – are cases which Brown alleges triggered a duty to defend. Moreover, the court cannot discern any factual

basis for Brown's conclusory allegations that that Amica acted in bad faith or engaged in unfair competition, fraud, or "outrageous behavior."

Brown shall have leave to amend his complaint as against Amica to specify by docket number the actions against him which he contends Amica had a duty to defend and to clarify whether he is also contending that Amica's alleged duty to defend obligated Amica to undertake affirmative litigation on Brown's behalf. This pleading shall be limited to no more than 10 double-spaced pages and shall comply with 14 M.R.S § 52, which prohibits specifying the dollar amount of monetary damages sought.

Fidelity Title's Motion to Dismiss

Brown's claims against defendant Fidelity National Title Group are far more succinct. He alleges that he contacted Chicago Title, which is apparently part of the Fidelity National Title Group,³ and requested that Chicago Title provide legal representation and support for Brown's claims against Amica and his attempt to collaterally attack the judgment in Knox docket RE-09-10. Complaint ¶ 310. The Chicago Title policy is annexed to Brown's opposition to Fidelity Title's motion,⁴ and the court can consider that policy because it is central to Brown's claim against Fidelity Title. *See Moody v. State Liquor and Lottery Commission*, 2004 ME 20 ¶¶ 9-10, 843 A.2d 43.

Nothing in the Chicago Title policy obligates Chicago Title to assist Brown in an action against his homeowner's insurance carrier. Moreover, Brown's apparent contention that Chicago Title has an obligation to undertake a collateral attack against the judgment in RE-09-10 on

³ The caption in this case names Fidelity National Title Group as a defendant and Fidelity National Title Group has appeared and has filed a motion to dismiss the claims directed at Chicago Title without contending that plaintiff has sued the wrong entity.

⁴ See Exhibit 5 to Brown's opposition dated April 20, 2015.

Brown's behalf ignores the threshold issue of whether Chicago Title was notified of the suit in RE-09-10 in a timely fashion. If Chicago Title was not promptly notified, its obligations to Brown terminated pursuant to Paragraph 3 of the policy. Although it is not entirely clear, Brown's complaint appears to suggest that Chicago Title was not notified. *See* complaint ¶ 312.

Accordingly, Brown's complaint shall be dismissed as against Fidelity National Title Group without prejudice to his right to amend if the facts can support an allegation that he promptly notified Chicago Title of the claims in RE-09-10 before that action went to trial and before judgment was entered in that action.

Application for Default Judgment

Brown's application for a default judgment against PNC Bank appears to be based on service by certified mail, which appears to have been delivered to a PNC office in Pittsburgh on April 1, 2015. The first problem with this application is that certified mail is not proper service under M.R.Civ.P. 4(d)(9) and 4(e). The second problem is that Brown's application suggests that he discussed giving PNC an extension of time to answer – although he now contends that he did so under false pretenses.

PNC has now appeared and filed a motion to dismiss. The Law Court has suggested that, when a party has appeared and is prepared to litigate the issues, only "serious instances of noncompliance with pretrial procedures" should lead to a default. *Design Build of Maine v. Paul*, 601 A.2d 1089, 1091 (Me. 1992). It is unclear whether there was any noncompliance with pretrial procedures in this case, but there were certainly no serious instances of noncompliance.

Brown's application for a default judgment is denied. Brown shall have until May 22, 2015 to oppose PNC's motion.

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