

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEADFAST INSURANCE COMPANY,)	Case No. 09-1889 SC
)	
Plaintiff,)	SECOND ORDER RE: MOTION TO
)	<u>REMAND</u>
v.)	
)	
PROBUILDERS SPECIAL INSURANCE)	
COMPANY, AMERICAN SAFETY INDEMNITY)	
COMPANY, and DOES 1 through 20,)	
inclusive,)	
)	
Defendants.)	
)	

This Order addresses the Motion to Remand ("Motion") filed by Plaintiff Steadfast Insurance Company ("Plaintiff"). Docket No. 5. In addition to the Opposition filed by Defendant American Safety Indemnity Company ("ASIC"), Docket No. 7, and Plaintiff's Reply, Docket No. 9, both parties have submitted supplemental briefs in response to this Court's previous request for additional information regarding the content and outcome of a prior related state action involving both parties' insured. Docket Nos. 12 ("First MTR Order"), 13 ("Pl.'s Supplemental Br."), 15 ("ASIC's Supplemental Br."). Having considered all of the papers submitted by both parties, the Court concludes that remand of this case is unnecessary, and DENIES Plaintiff's Motion.

Plaintiff contends that this Court should remand this dispute to state court because, as a general rule, federal courts should

1 not exercise jurisdiction over a declaratory relief action related
2 to an insurance coverage dispute. The Court must consider factors
3 such as 1) the avoidance of needless determination of state law
4 issues; 2) discouragement of the filing of declaratory actions as a
5 means of forum shopping; and 3) avoidance of duplicative
6 litigation. See Gov't Employees Ins. Co. v. Dizol, 133 F.3d 1220,
7 1225 (9th Cir. 1998). Other factors set out by the Ninth Circuit
8 include:

9 whether the declaratory action will settle all
10 aspects of the controversy; whether the
11 declaratory action will serve a useful purpose in
12 clarifying the legal relations at issue; whether
13 the declaratory action is being sought merely for
14 the purposes of procedural fencing or to obtain a
15 'res judicata' advantage; or whether the use of a
16 declaratory action will result in entanglement
17 between the federal and state court systems. In
18 addition, the district court might also consider
19 the convenience of the parties, and the
20 availability and relative convenience of other
21 remedies.

22 Id., 133 F.3d at 1225 n.5 (quoting American States Ins. Co. v.
23 Kearns, 15 F.3d 142, 145 (9th Cir. 1994) (J. Garth, concurring))
24 (quotation marks omitted).

25 The Court first notes that there is no parallel proceeding in
26 state court. "The underlying construction defect matters at issue
27 in this case are settled and resolved, and have been dismissed."
28 Pl.'s Supplemental Br. at 5. No state court is currently handling
a dispute about the same facts involving the same or related
parties. Thus, "there is no parallel state action in light of the
settlement" of the underlying dispute, in which this Court may risk
meddling or interfering if it retains jurisdiction. See Keown v.
Tudor Ins. Co., 621 F. Supp. 2d 1025, 1097-38 (D. Haw. 2008).

 The Court finds that consideration of this matter in federal

1 court would not require the "needless determination of state law
2 issues," any more than would any other diversity suit involving
3 state claims. Although the Court recognizes that it will need to
4 address questions of state insurance law, it appears to be a
5 routine question of interpreting the language and applicability of
6 an insurance policy. See Allstate Ins. Co. v. Davis, 430 F. Supp.
7 2d 1112, 1120 (D. Haw. 2006) (retaining jurisdiction of insurance
8 dispute, noting that "[o]n numerous occasions, the United States
9 District Court in the District of Hawaii has interpreted insurance
10 policies pursuant to Hawaii state law to determine the scope of an
11 insurer's duties to an insured."). The mere fact that this matter
12 will require an interpretation of an insurance provision or state
13 insurance law is insufficient to warrant remand. See Dizol, 133
14 F.3d at 1225 ("[T]here is no presumption in favor of abstention in
15 declaratory actions generally, nor in insurance coverage cases
16 specifically.").

17 The Court finds no evidence of forum shopping. ACIS simply
18 removed a state action to this Court, and as this Court previously
19 found, it did so lawfully after it discovered a clear basis for
20 removal, which did not appear on the face of Plaintiff's Complaint.
21 See First MTR Order at 3-5. ACIS did not choose to ignore or avoid
22 a parallel state action in favor of a federal forum.

23 Should this Court retain jurisdiction, there is no risk of
24 duplicative litigation. Even if both cases involve a common set of
25 core facts, the legal issues of coverage are distinct from the
26 questions of liability in the state suit. See American Cas. Co. v.
27 Krieger, 181 F.3d 1113, 1119 (9th Cir. 1999). Moreover, the
28 parties to the underlying dispute settled the matter themselves,

1 and Plaintiffs have not identified any particular participation by
2 the state court that might suggest that it was involved in the
3 facts of the underlying dispute before settlement, or that it
4 invested any resources that this Court might risk "duplicating" by
5 retaining jurisdiction in this action. "Because the state court
6 case did not include the coverage issue, and because the coverage
7 issue in the federal action was not contingent on any further state
8 court proceedings," there is "good cause" to continue the exercise
9 of jurisdiction in federal court. Id.

10 As far as this Court can tell, this suit will resolve all of
11 the issues between the parties relevant to the underlying
12 litigation. There is no parallel action that presents risks of
13 entanglement between the federal and state court systems. Although
14 the dispute implicates state insurance law, it appears to be
15 relatively routine in nature. The Court concludes that remand is
16 unnecessary, and jurisdiction is proper. Plaintiff's Motion to
17 Remand is therefore DENIED.

18

19 IT IS SO ORDERED.

20

21 Dated: February 2, 2010

22


UNITED STATES DISTRICT JUDGE

23

24

25

26

27

28