

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AIG FEDERAL SAVINGS BANK,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 09-242-SLR
)	
WACHOVIA BANK, N.A.,)	
)	
Defendant.)	


MEMORANDUM ORDER

At Wilmington this *25th* day of September, 2009, having reviewed defendant's motion to dismiss count II of plaintiff's complaint and to strike certain relief, and the papers submitted in connection therewith;

IT IS ORDERED that said motion (D.I. 10) is granted in part and denied in part, as follows:

1. **Consequential damages, attorneys fees and costs.** I agree that section 3.04, the only contractual provision relating to legal remedies, is limited to third party claims and that plaintiff's remedies are confined to equitable remedies, as per section 3.03(g) to the contract. Therefore, defendant's motion to dismiss or strike is granted in this regard.

2. **Count II.** The motion is denied insofar as it seeks dismissal of count II as redundant. As the finder of fact in this case, I can find no prejudice to defendant in allowing prosecution of this count.


United States District Judge