

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

AMERICAN NATIONAL INSURANCE
COMPANY,

Plaintiff,

v.

Case No: 8:17-cv-341-T-30JSS

APRIL HANSEN, DANIELLE ELARDO,
MARY BURNE, MATTHEW BURNE,
in his capacity as the Personal
Representative of the Estate of James L.
Burne, III, and V.B., minor, by his next
friend, April Hansen, his mother,

Defendants.

MARY BURNE and MATTHEW BURNE, in
his capacity as the Personal Representative
of the Estate of James L. Burne, III,

Cross-Plaintiffs,

v.

APRIL HANSEN and DANIELLE ELARDO,

Cross-Defendants.

ORDER

THIS CAUSE comes before the Court upon Defendants Mary and Matthew Burnes' Motion to Dismiss (Doc. 27), Plaintiff American National Insurance Company's Advisory in Response to the Motion to Dismiss (Doc. 30), Defendant Danielle Elardo's Brief in Opposition to the Motion to Dismiss (Doc. 31), and a court hearing held on May 24, 2017.

At this hearing, the Burnes argued for the first time that American National Insurance Company (“American National”) did not sufficiently allege its place of citizenship in its Complaint (Doc. 1). Technically, the Burnes are correct,¹ although the Court questions the utility of raising this argument given that American National noted that it was not a citizen of Florida in its Civil Cover Sheet and the Burnes do not dispute that American National is a citizen of Texas. It is interesting to note that the Burnes would prefer to delay these proceedings for American National to add one sentence to its Complaint rather than to move on with this case so that they can get their life insurance funds as soon as possible.

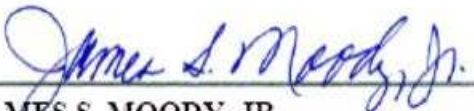
It is ORDERED AND ADJUDGED that:

1. The Court vacates the portion of its Judgment dated March 27, 2017 (Doc. 20) dismissing Plaintiff American National Insurance Company from this action.
2. Plaintiff American National Insurance Company shall file an amendment to its Complaint within seven (7) days, adding the following sentence to ¶ 1: “American National is incorporated in Texas.”
3. Upon filing of the amendment, the Court will reinstate the portion of its Judgment dismissing Plaintiff American National Insurance Company from this action.

¹ American National alleged that its principal place of business is in Galveston, Texas, but it did not also allege that it is incorporated in Texas. A corporation is a citizen of both its place of incorporation and its principal place of business. 28 U.S.C. § 1332(c)(1).

4. The Court will defer ruling on Defendants Mary and Matthew Burnes' Motion to Dismiss (Doc. 27) until after the amendment has been filed.

DONE and **ORDERED** in Tampa, Florida, on May 25th, 2017.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record