

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
RECEIVED LAFAYETTE

UNITED STATES DISTRICT COURT

APR 09 2014

WESTERN DISTRICT OF LOUISIANA

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

LAFAYETTE DIVISION

LAFAYETTE CONSOLIDATED GOVERNMENT

CIVIL ACTION 13-311

VERSUS

JUDGE HAIK

NEW YORK MARINE AND GENERAL
INSURANCE COMPANY

MAGISTRATE JUDGE HANNA

RULING

Midlands Management Corporation filed a Motion for Partial Dismissal under Federal Rule of Civil Procedure 12(b)(6) (Doc. #38). Midlands argues it is not party to the insurance contract at issue and, as such, should be dismissed from suit for breach of contract claims.

Midlands says it is the managing general underwriter in relation to the policy issued by New York Marine and is simply listed in the policy as a party to whom notice can be made, not a separate insurer.

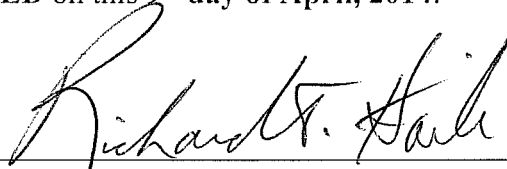
Plaintiffs argue its claims against Midland for bad faith claim handling are properly brought and that Midland's own motion and supporting affidavit establish the claim That is Midlands is the managing general underwriter on the claim and midlands received notice on the policy. The claims go beyond a breach of contract into claims handling issues. Further, plaintiff notes the duties and responsibilities of the various parties should be explored before any determinations are made on dispositive motions. LCG communicated with Midlands as directed by the policy. Midlands can not claim no involvement at this juncture.

To survive a 12(b)(6) motion, a plaintiff must plead enough facts to "state a claim for relief that is plausible on its face." *in re: Katrina Canal Breaches Litigation*, 495 F.3d. 191 (5th

Cir., 2008). A plaintiff must provide enough detail to sufficiently put the opposing party on notice of the claims and must provide more than conclusory allegations. The Court then determines if the allegations, taken as true, give rise to a claim upon which relief may be granted.

Based on the pleadings, the Court finds the plaintiffs have pled a claim against Midlands sufficiently enough to withstand a 12(b)(6) motion. The Motion to Dismiss is **DENIED**.

THUS DONE and SIGNED on this 9th day of April, 2014.

A handwritten signature in cursive script, reading "Richard T. Haik, Sr.", written in black ink. The signature is positioned above a horizontal line.

**RICHARD T. HAIK, SR., DISTRICT JUDGE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**