

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

D.R.

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v.

Civil No. – JFM-14-3708

CX REINSURANCE COMPANY LIMITED,  
ET AL.

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**MEMORANDUM**

Plaintiff obtained a judgment against Elliot Dackman, individually and as Trustee of the Assets of the Dackman Company and Jacob Dackman & Sons, LLC, the Estate of Sandra Dackman, and the Estate of Bernard Dackman, in the Circuit Court for Baltimore City, Maryland. The judgment was in the amount of \$2,088,550. Thereafter, the Circuit Court, on post-trial motions, reduced the jury's award of non-economic damages from \$818,330 to \$530,000, and the jury's award of economic damages from \$1,270,000, to \$1,000,000. The court also granted a motion filed by the two estates, stating that it was "Ordered that the Plaintiff's recovery from the Estate of Sandra Dackman and the Estate of Bernard Dackman is limited to the available insurance coverage and proceeds."

After obtaining the jury verdict but before the post-trial motions were ruled upon, plaintiff filed a complaint for declaratory judgment in the Circuit Court for Baltimore City against the Dackman defendants and CX Reinsurance Company, Limited f/k/a CNA Reinsurance Company Limited ("CX Re") and Pennsylvania National Mutual Casualty Insurance Company, ("Pennsylvania National"). CX Re and Pennsylvania National removed that action to this court.


Presently pending are a motion to realign, dismiss or consider non-insurance defendants as nominal filed by CX Re and Pennsylvania National and a motion to remand filed by plaintiff. The motion to realign filed by CX Re and Pennsylvania National will be denied, and the motion to remand filed by plaintiff will be granted.<sup>1</sup>

I am not persuaded, as argued by plaintiff, that this is a "direct action" against CX Re and Pennsylvania National within the meaning of 28 U.S.C. §1332(c)(1), and that CX Re and Pennsylvania National should thus be deemed to be citizens of Maryland for removal purpose. I am, however, persuaded that Elliot Dackman and Jacob Dackman & Sons have an interest in preserving, to the extent possible, the insurance they obtained from CX Re and Pennsylvania National since the latter are apparently defending them in other actions (with a reservation of rights). This interest is adverse to plaintiff's interest in attempting to have the insurance provided by CX Re and Pennsylvania National used to pay the judgment obtained by plaintiff.

Accordingly, this action will be remanded to the Circuit Court for Baltimore City. In light of the fact that the issues presented by this case are close ones, however, and in light of the fact that I find that the primary argument made by plaintiff does not have merit, no costs are awarded against CX Re, Limited and Pennsylvania National.

A separate order effecting the rulings made in this memorandum is being entered herewith.

Date: 2/24/15

  
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J. Frederick Motz  
United States District Judge

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<sup>1</sup> Also pending is a motion to dismiss. That motion has not yet been fully briefed. In any event, it is appropriate for the Circuit Court for Baltimore City to decide the motion.