

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KAYE FINANCIAL  
CORPORATION,

Plaintiff,

vs.

TICOR TITLE AGENCY OF  
ARIZONA, INC., FIDELITY  
NATIONAL TITLE COMPANY,  
LLC,

Defendants.

2:17-CV-12427-TGB

ORDER GRANTING IN PART  
AND DENYING IN PART  
DEFENDANTS' SECOND  
MOTION TO DISMISS (DKT. 15)

This matter is before the Court on Defendants' second motion to dismiss (Dkt. 15). Plaintiff filed a response (Dkt. 17) and Defendant filed a reply (Dkt. 19). The Court held a hearing on Defendants' motion on September 17, 2018. For the reasons stated on the record during the hearing, Defendants' motion is **GRANTED IN PART** and **DENIED IN PART**.

Specifically, Plaintiff's breach of contract indemnification claim (Count 1) can proceed, as it is not time barred. Plaintiff's tort related claims (Counts 2 through 6) are dismissed without prejudice. Defendants' argument regarding dismissing the allegedly improperly named defendant, Fidelity National Title Company, and argument to change the name of Ticor Title Agency of Arizona Inc. are denied without prejudice. Defendants may renew those arguments at the conclusion of discovery, but the Court encourages the parties to reach a mutual agreement on the correct names of the defendants. Finally, Plaintiff's claim to recover attorney's fees is dismissed.

**SO ORDERED.**

DATED this 4th day of June, 2018.

BY THE COURT:

s/Terrence G. Berg  
TERRENCE G. BERG  
UNITED STATES DISTRICT JUDGE

Dated: October 29, 2018

**Certificate of Service**

I hereby certify that this Order was electronically submitted on October 29, 2018, using the CM/ECF system, which will send notification to each party.

s/A. Chubb  
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Case Manager