

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL LUKE MEIER,

Plaintiff,

Case No. 22-cv-12154
Hon. Matthew F. Leitman

v.

ALLSTATE PROPERTY AND
CASUALTY INSURANCE COMPANY,

Defendant.

**ORDER (1) DENYING PLAINTIFF'S MOTION TO
WITHDRAW (ECF No. 9), (2) DENYING DEFENDANT'S
MOTION TO DISMISS (ECF No. 10), AND (3) VACATING
ORDER TO COMPLETE SERVICE DOCUMENTS (ECF No. 6)**

On August 23, 2022, Plaintiff Daniel Luke Meier filed this action against Defendant Allstate Property and Casualty Insurance Company ("Allstate") in the United States District Court for the Northern District of Texas. (*See* Compl., ECF No. 1.) Meier claims that Allstate deprived him of his civil rights and committed fraud in previous litigation between the parties. (*See id.*)

On September 8, 2022, the Northern District of Texas transferred Meier's action to this Court (the "Transfer Order"). (*See* Transfer Order, ECF No. 3.) The Court thereafter (1) granted Meier *in forma pauperis* status (*see* Order, ECF No. 5) and (2) ordered Meier to complete certain documents so that the U.S. Marshal could

serve Allstate with the Complaint (the “Service Order”). (*See* Service Order, ECF No. 6.)

Two motions are now pending before the Court. First, Meijer has filed a motion that he calls a “Motion to Withdraw or the Alternative Notice of Appeal.” (Meier Mot., ECF No. 9.) In that motion, Meier contends that the Texas District Court should not have transferred his case to this venue, and he says he has appealed the Transfer Order in the United States Court of Appeals for the Fifth Circuit. (*See id.*) He therefore asks this Court to “to immediately withdraw this complaint due to lack of jurisdiction pending appeals by the Fifth Circuit Court of Appeals.” (*Id.*, PageID.13.) The Court has carefully reviewed Meier’s motion and **DENIES** it. Contrary to Meier’s contention, it does not appear that he has an appeal pending with the United States Court of Appeals for the Fifth Circuit. While Meier did attempt to file a Notice of Appeal with the United States District Court for the Northern District of Texas, that court did not accept filing of that document. (*See Meier v. Allstate*, N.D. Texas Case No. 22-cv-01872, at Dkt. No. 7.) And a search of the Fifth Circuit’s docket by this Court did not reveal any pending appeal (or other proceedings) by Meier. Thus, because Meier does not currently have an appeal of the Transfer Order pending before the Fifth Circuit, there is no basis to grant his motion.

Second, Allstate has filed a motion to dismiss Meier’s Complaint. (*See* Allstate Mot., ECF No. 10.) Allstate says that the Court should dismiss this action

because Meier never complied with the Service Order and never made any attempt to serve Allstate with the Complaint. (*See id.*) Allstate is correct that Meier does not appear to have served Allstate with the Complaint. Nor does it appear that he complied with the requirements of the Service Order. Nonetheless, Allstate received notice of this action, and attorneys have appeared in this action on Allstate's behalf. Under these circumstances, the Court will not dismiss Meier's Complaint based on his failure to serve it on Allstate, and the Court will deem the Complaint served on Allstate. Allstate's motion to dismiss is therefore **DENIED**. The Court further **VACATES** the Service Order. Allstate shall answer or otherwise respond to the Complaint by no later than **December 19, 2022**.

IT IS SO ORDERED.

Dated: November 17, 2022

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 17, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
(313) 234-5126