

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AMERITAS LIFE INSURANCE
CORP.,

Plaintiff,

vs.

J.P. MORGAN CHASE & CO.,

Defendant.

4:17-CV-3127

MEMORANDUM AND ORDER

This matter is before the Court on the defendant's motion to dismiss ([filing 9](#)). Specifically, the defendant, J.P. Morgan Chase Bank N.A. (named as J.P. Morgan Chase & Co.) argues that the claims asserted by the plaintiff, Ameritas Life Insurance Corporation, should be dismissed pursuant to [Fed. R. Civ. P. 12\(b\)\(6\)](#). [Filing 9](#).

The Court has reviewed Ameritas' complaint and the parties' briefs. The Court has also reviewed Judge Kopf's Memorandum and Order in [Ameritas Life Ins. Corp. v. Bank of America, N.A.](#), which addressed essentially identical claims. [No. 4:17-CV-3128 \(D. Neb. filed Jan. 31, 2018\)](#). The Court agrees with Judge Kopf's thoughtful and well-reasoned decision. [See id.](#) Specifically, the Court agrees with Judge Kopf's conclusion that given the facts alleged,¹ Ameritas owed no legal duty to Chase under Nebraska law,

¹ In deciding a [Rule 12\(b\)\(6\)](#) motion, the Court will accept as true all facts pleaded by the plaintiff, and grants all reasonable inferences from the pleadings in its favor. [Gallagher v. City of Clayton](#), 699 F.3d 1013, 1016 (8th Cir. 2012). But a pleading that offers labels and conclusions or a formulaic recitation of the elements of a cause of action will not do. [Ashcroft v. Iqbal](#), 556 U.S. 662, 678 (2009). The complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. [Id.](#) at 678-79.

and accordingly, Ameritas has failed to state a claim for negligence. [Ameritas, No. 4:17-CV-3128, slip op. at 6-15](#). The Court further agrees that to the extent Ameritas is still asserting a fiduciary duty claim, *but see* [filing 12](#), Chase owed Ameritas no fiduciary duty, *id.* [at 15-16](#).

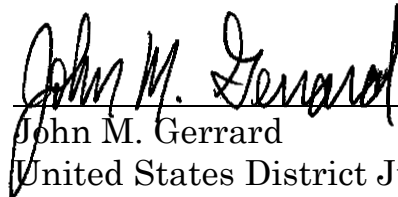
Based on Judge Kopf's thorough reasoning, with which I agree, the Court will grant Chase's motion to dismiss.

IT IS ORDERED:

1. Chase's motion to dismiss ([filing 9](#)) is granted.
2. Ameritas' complaint is dismissed.
3. A separate judgment will be entered.

Dated this 14th day of February, 2018.

BY THE COURT:



John M. Gerrard
United States District Judge