

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

NICHOLAS SAMPSON,

Plaintiff,

v.

EARL SCHENCK, et al.,

Defendants.

v.

ST. PAUL FIRE AND MARINE INSURANCE
COMPANY, also known as
THE SAINT PAUL TRAVELERS
COMPANIES, INC.,

Garnishee.

MATTHEW LIVERS,

Plaintiff,

v.

EARL SCHENCK, et al.,

Defendants.

v.

ST. PAUL FIRE AND MARINE INSURANCE
COMPANY, also known as
THE SAINT PAUL TRAVELERS
COMPANIES, INC.,

Garnishee.

8:07CV155

ORDER

8:08CV107

MEMORANDUM AND ORDER

This matter is before the court on remand from the United States Court of appeals for the Eighth Circuit (“Eighth Circuit”). The Eighth Circuit reversed this court’s denial, see Filing No. 853 in 8:07cv155 and Filing No. 801 in 8:08cv107, of garnishee St. Paul fire and Marine Insurance Company’s (“St. Paul”) motions for summary judgment in garnishment proceedings in aid of execution in these related cases. Filing No. 878 in 8:07cv155 and Filing No. 823 in 8:08cv107, Eighth Circuit opinions; Filing No. 879 in 8:10cv155 and Filing No. 824 in 8:08cv107, Eighth Circuit Judgments. The Eighth Circuit found that garnishee St. Paul has no duty to indemnify defendant David Kofoed for unsatisfied judgments against him in this action. *Id.* The action was remanded for proceedings consistent with the Eighth Circuit’s opinion. *Id.* A petition for rehearing en banc was denied, Filing No. 800 in 8:07cv155 and Filing No. 825 in 8:08cv107, and the Eighth Circuit’s mandate has now issued. Filing No. 881 in 8:07cv155 and Filing No. 826 in 8:08cv107.

Pursuant to the Eighth Circuit’s Judgment and Mandate,

IT IS ORDERED that:

1. Garnishee St. Paul Fire and Marine Company’s motions for summary judgment (Filing No. 819 in Case No. 8:07CV155 and Filing No. 771 in Case No. 8:08CV107) are granted.
2. This court’s final orders of garnishment (Filing No. 855 in 8:07cv155 and Filing No. 803 in 8:08cv107) are vacated.
3. The garnishment proceeding in aid of execution is dismissed.

4. The Clerk of Court is directed to close this case.

Dated this 10th day of December 2018.

BY THE COURT:

s/ Joseph F. Bataillon _____
Senior United States District Judge