

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JUDITH DRAKE : CIVIL ACTION
 :
v. : No. 17-3170
 :
NATIONAL LIFE INSURANCE :
COMPANY, et al. :

ORDER

AND NOW, this 4th day of December, 2018, upon consideration of Third-Party Defendant Steven A. Fishman's Motion to Dismiss and Strike the Third-Party Complaint, Defendant/Third-Party Plaintiff National Life Insurance Company's opposition thereto, and Fishman's reply, and for the reasons set forth in the accompanying Memorandum, it is ORDERED the Motion (Document 36) is GRANTED. National's Third-Party Complaint against Fishman is DISMISSED without prejudice.

It is further ORDERED Plaintiff Judith Drake's Motion to Amend Second Amended Complaint (Document 38), to which no opposition has been filed, is GRANTED in part. Drake is granted leave to file a Third Amended Complaint which asserts a negligence claim against Fishman, who has not opposed the Motion.¹

A case management order will be entered separately.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, C.J.

¹ In her Motion to Amend, Drake asserts that she seeks leave to amend her Second Amended Complaint "in order to assert claims against Third-Party Defendant, Steven A. Fishman for his alleged negligence that Plaintiff only now has discovered as a result of Defendant, National Life Insurance Company's Third-Party Complaint." Pl.'s Mot. to Amend ¶ 9. In her proposed Third Amended Civil Action Complaint, however, Drake seeks to add a negligence claim not only against Fishman but also against National. Because Drake has provided no explanation for why she seeks to add this claim against National, and has cited no authority supporting such a claim, the Motion to Amend is denied as without prejudice as to the claim against National.

