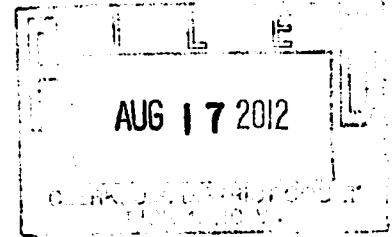


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



SENECA SPECIALTY
INSURANCE COMPANY,

Plaintiff,

v.

Civil Action No. 3:12cv19

DOCKSIDE DOLLS, INC.,
et al.,

Defendants.

ORDER

By Order entered herein on June 1, 2012, SENECA SPECIALTY INSURANCE COMPANY'S MOTION TO DISMISS UNDER RULE 12(b)(6), MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS UNDER RULE 12(c), OR IN THE ALTERNATIVE FOR SEPARATE TRIAL UNDER RULE 42(b) (Docket Nos. 15, 18 and 20, respectively) were referred to Magistrate Judge David J. Novak for report and recommendation. Having reviewed the REPORT AND RECOMMENDATION of the Magistrate Judge (Docket No. 31) entered herein on June 22, 2012, and there being no timely filed objections thereto, and the time for filing objections having expired, and having considered the record and the REPORT AND RECOMMENDATION and finding no error therein, it is hereby ORDERED that the REPORT AND RECOMMENDATION of the Magistrate Judge (Docket No. 31) is ADOPTED on the basis of the reasoning of the REPORT AND RECOMMENDATION.

It is further ORDERED that SENECA SPECIALTY INSURANCE COMPANY'S MOTION TO DISMISS UNDER RULE 12(b)(6) (Docket No. 15) and MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS UNDER RULE 12(c) (Docket No. 20) are:

(1) granted in part with respect to Count III and Count IV, and Count III and Count IV of the defendants' COUNTERCLAIM (Docket No. 6) are dismissed;

(2) denied in part with respect to Count I and Count II of the defendants COUNTERCLAIM (Docket No. 6); and

(3) THE ALTERNATIVE MOTION FOR SEPARATE TRIAL UNDER RULE 42(b) (Docket No. 18) is denied.

The issues are adequately addressed by the briefs and oral argument would not materially aid the decisional process.

Counsel are advised that motions under different rules are to be filed separately and briefed separately.

It is so ORDERED.

/s/ *REP*
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: August 17, 2012