

that service by means of the Secretary of the Commonwealth is not the proper method of serving process on a Mexican resident. The court has granted Collins two subsequent extensions of time to file proof of service on Flores. Under the last extension, proof of service must be filed no later than July 5, 2013.

In the meantime, Collins served Government Employees Insurance Company (“GEICO”), ostensibly his insurer, and GEICO answered on October 25, 2012.

On March 12, 2013, Collins requested that a summons be issued to Nationwide, and a summons was issued by the clerk on March 26, 2013. On May 5, 2013, Nationwide filed the pending motion to quash or dismiss and a supporting memorandum. Although required to respond within fourteen (14) days by Local Civil Rule 11(c)(1), Collins has filed no response to Nationwide’s motion.

II.

Plainly, under the circumstances of this case, Nationwide is not a proper party defendant and is not susceptible to service of process as such. Nationwide is not mentioned in the complaint, and there is no allegation of any duty owed Collins by Nationwide. Ostensibly, Collins served Nationwide as Flores’ liability insurance carrier. As Flores’ liability insurer, Nationwide may not be sued in its own right in a tort action unless and until a judgment is entered against Flores, its insured. “[I]n Virginia, an injured person must reduce his claim to judgment before bringing an action against the tort-feasor’s liability insurer.” United States Auto. Ass’n v. Nationwide Mut. Ins. Co., 218 Va. 861, 867, 241 S.E.2d 784, 788 (1978); Richmond, F. & P. R. Co. v. Hughes-Keegan, Inc., 207 Va. 765, 773, 152 S.E.2d 28, 33-34 (1967); Miller v. Augusta Mut. Ins. Co., 157 Fed. Appx. 632, 636 (4th Cir. 2005). See also Va. Code § 8.01-5 (prohibiting joinder of an insurance company on the basis of the issuance of a policy of insurance

to a party to the action). No judgment has been rendered against Flores in this case. Because the process issued against Nationwide is not proper in this case at this time, it must be quashed.

An appropriate order will be entered.

Entered: June 5, 2013

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge