

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 THE HANOVER INSURANCE
9 COMPANY,

10 Plaintiff,

11 v.

12 CRISTINA MEHLING, et al.,

Defendants.

C16-1671 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiff's motion for judgment on the pleadings, docket no. 15, is DENIED
16 in part as to the duty to defend and DEFERRED in part as to any duty of indemnification.
17 With regard to The Hanover Insurance Company's duty to defend Christina Mehling and
18 the Mehling Law Firm PLLC (collectively, "Mehling Defendants") in the action brought
19 in King County Superior Court by Virginia L. Burdette in her capacity as the Chapter 7
20 Trustee for the Andrew Kim Bankruptcy Estate, the Court is persuaded that issues of
21 material fact preclude judgment as a matter of law on the pleadings. *See* Fed. R. Civ.
22 P. 12(c); *see also Gen'l Conference Corp. of Seventh-Day Adventists v. Seventh-Day*
Adventist Congregational Church, 887 F.2d 228, 230 (9th Cir. 1989). The allegations
and claims asserted by Burdette, *see* Ex. A to Compl. (docket no. 1-2), are broader than
the matters about which Mehling might have had notice in 2013, before the "inception"
date of the policy at issue, *see* Exs. C, D, E, G, & H to Compl. (docket nos. 1-4, 1-5, 1-6,
1-8, & 1-9), and thus, whether the policy "conceivably covers" the assertions in the
underlying complaint, as liberally construed, is at least a question of fact. *See Am. Best*
Food, Inc. v. Alea London, Ltd., 168 Wn.2d 398, 404-05, 229 P.3d 693 (2010); *see also*
Expedia, Inc. v. Steadfast Ins. Co., 180 Wn.2d 793, 802, 329 P.3d 59 (2014).

1 (2) The deferred portion of the Mehling Defendants' motion to stay, docket
no. 18, is GRANTED, and this case is hereby STAYED pending resolution of the
2 underlying litigation between Burdette and the Mehling Defendants. The parties shall
provide a Joint Status Report within fourteen (14) days after the underlying litigation in
3 King County Superior Court is completed or by January 15, 2018, whichever occurs
earlier.

4 (3) The oral argument scheduled for Friday, May 12, 2017, at 10:00 a.m., is
5 STRICKEN.

6 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

7 Dated this 8th day of May, 2017.

8 William M. McCool
9 Clerk

10 s/Karen Dews
11 Deputy Clerk