

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

AMERICAN NATIONAL PROPERTY
AND CASUALTY COMPANY,

Plaintiff,

v.

Civil Action No. 2:14-10340

PAUL MOORE and
BARBARA NICHOLS,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is defendants' motion and renewed motion for joinder ("motions for joinder") of Lesley Reeves and Theresa Tyann Evans as cross-claim defendants filed respectively on May 12 and July 13, 2014.

As noted in the style of the motions for joinder, defendants seek to file a cross claim. They have attached to their motions for joinder a "PROPOSED CROSS-CLAIM AGAINST LESLEY REEVES AND AGENT THERESA TYANN EVANS." In the body of the motions for joinder, however, they refer to the attachment as a third-party complaint.

A cross claim is not contemplated under these circumstances inasmuch as the two proposed cross claim defendants are not presently parties defendant to the case. See Fed. R. Civ.

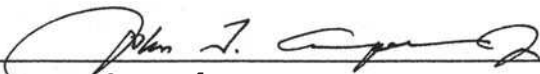
Proc. 13(g) ("A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action.") (emphasis added).

It also appears that third-party practice is inappropriate. See Fed. R. Civ. Proc. 14(a) ("A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it.") (emphasis added).

Further, this case is in the nature of a declaratory judgment action. The proposed individuals to be joined are not parties to the applicable insurance contract. It is, accordingly, ORDERED that the motions for joinder be, and hereby are, denied.

The Clerk is directed to transmit copies of this written opinion and order to all counsel of record and any unrepresented parties.

ENTER: August 20, 2014



John T. Copenhaver, Jr.
United States District Judge