

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JENNA KUCKLA,
Plaintiff

No. 3:07cv1968

(Judge Munley)

v.

**FARMERS INSURANCE GROUP OF
COMPANIES D/B/A FARMERS NEW
CENTURY INSURANCE COMPANY,**
Defendant

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MEMORANDUM

Before the court is plaintiff's complaint for a declaratory judgment in a dispute over insurance coverage, which defendant has removed to this court from the Court of Common Pleas of Luzerne County, Pennsylvania. For the reasons stated below, we will decline to exercise our discretion to hear the case.

Background

This case arises out of an automobile accident that occurred on September 15, 2005 in Luzerne County, Pennsylvania. (See Complaint (Doc. 4) attached as Exh. 3 to Notice of Removal (Doc. 1) (hereinafter "Compl." at ¶ 3)). Plaintiff, who was involved in the collision, suffered serious physical and mental injuries that included closed-head trauma, post-traumatic stress disorder, post-concussive syndrome, permanent loss of smell and taste, disc herniation and an adjustment disorder. (Id. at ¶¶ 4-5). At the time of the accident, defendant insured four personal vehicles owned by plaintiff's father, in addition to the car involved in the accident.

(Id. at ¶ 6). The complaint alleges that all of those vehicles carried the same coverage and named the same insureds, and that each of the vehicles carried stacked underinsured motorist coverage. (Id. at ¶¶ 6-7).

The driver who was completely at fault for the accident that injured the plaintiff was an underinsured motorist. (Id. at ¶ 8). The insurance declaration for the vehicle operated by the plaintiff provided \$100,000 in underinsured motorist coverage. (Id. at ¶ 9). Plaintiff never made a written request for a reduction in coverage, and she eventually received \$300,000 of stacked coverage. (Id. at ¶¶ 10-11). Defendant Farmers Insurance Company agreed only to pay this amount. (Id. at ¶ 11). Plaintiff claims that she was entitled to stacked coverage for each of the automobiles under the policy. (Id. at ¶ 12). Plaintiff also contends that the policyholder never asked, authorized or requested that the vehicles be placed on separate individual policies, nor was he advised of any exclusion that would prevent the stacked coverage for all the cars. (Id. at ¶¶ 13-14). Similarly, the defendant never informed the policyholder that any sort of “family car” exclusion applied to the policy, or that defendant would not issue a policy covering multiple vehicles. (Id. at ¶¶ 15-16). Plaintiff also alleges that defendant never informed the policyholder that Farmers Insurance had changed its practice around November 28, 2005 to enforce a “family car” exclusion that applied to every policy, and that defendant never reimbursed the policyholder for excess fees connected to this change. (Id. at ¶¶ 17-19). As a result, plaintiff alleged, she was entitled to stacked underinsured motorist coverage of \$300,000 for

each of the four other vehicles covered by her policy. (Id. at ¶ 20).

Plaintiff filed her complaint seeking declaratory judgment in the Luzerne County Court of Common Pleas on September 4, 2007. She asserted that defendant's denial of coverage was improper and contrary to provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 PENN. CONS. STAT. ANN. ¶ 1731, covering underinsured motorist coverage. Plaintiff sought a declaratory judgment stating that she was insured under the policy; that the "family car" exclusion enforced by the defendant was invalid as a matter of law; that Pennsylvania law invalidated such an exclusion; an order submitting plaintiff's claim to arbitration; and any other relief the court deemed appropriate.

On October 26, 2007, defendant filed a notice of removal with this court (Doc. 1). As grounds for removal, defendant claimed that this court had original jurisdiction pursuant to 28 U.S.C. § 1332. The plaintiff is a citizen of the Commonwealth of Pennsylvania, and defendant is an Illinois Corporation with its principal place of business in California. Since the amount in controversy exceeds \$75,000, this court, defendant asserted, had diversity jurisdiction over the case. The petition for removal included as exhibits the plaintiff's original complaint, as well as copies of two cases decided by Judge William J. Nealon of the Middle District of Pennsylvania which defendant contends concluded that the issue here should be decided in favor of the defendant insurance carrier.

Jurisdiction

This Court has jurisdiction pursuant to the diversity jurisdiction statute, 28 U.S.C. § 1332. The plaintiff is Pennsylvania citizen, and the defendant is an Illinois corporation with a principal place of business in California. The amount in controversy exceeds \$75,000.

Discussion

In most cases, because we are sitting in diversity, the substantive law of Pennsylvania would apply. Chamberlain v. Giampapa, 210 F.3d 154, 158 (3d Cir. 2000) (citing Erie R.R. v. Tompkins, 304 U.S. 64, 78 (1938)). Still, “federal courts are to apply state substantive law and federal procedural law.” Hanna v. Plumer, 380 U.S. 460, 465 (1965). The instant case is before the court in the form of a declaratory judgment action, and Federal Courts have concluded that declaratory judgment actions are procedural rather than substantive. See Fischer & Porter Co. v. Moorco Int’l Inc., 869 F.Supp. 323, 326 (E.D. Pa. 1994) (holding that “[c]ase law indicates that the [Declaratory Judgment] Act is procedural in nature, and therefore federal law, not state law, governs whether claims may be heard under it.”); Farmers Alliance Mut. Ins. Co. v. Jones, 570 F.2d 1384, 1386 (10th Cir. 1978) (holding that the [Declaratory Judgment] Act involves procedural remedies and not substantive rights . . . The Act does not create substantive rights for parties; it merely provides another procedure whereby parties may obtain judicial relief.”). As a result, even in cases brought under a state declaratory judgment law, we apply the procedural strictures of the federal Declaratory Judgment Act, 28 U.S.C. § 2201. See Fischer &

Porter, 869 F. Supp. at 326.

Under the Declaratory Judgment Act, “[i]n a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, *may* declare the rights and other legal relations of any interested party seeking such declaration.” 28 U.S.C. § 2201(a) (emphasis added). The United States Supreme Court has declared that “[d]istrict courts possess discretion in determining whether and when to entertain an action under the Declaratory Judgment Act, even when the suit otherwise satisfies subject matter jurisdictional prerequisites.” Wilton v. Seven Falls Co., 515 U.S. 277, 282 (1995). A court’s decision to exercise its discretion to hear an action under the Declaratory Judgment Act “requires some inquiry into the scope of the state court proceeding, the nature of defenses available there, and whether the claims of all parties in interest can satisfactorily be adjudicated in that proceeding.” Sate Auto Ins. Co. v. Summy, 234 F.3d 131, 133 (3d Cir. 2001). Further, “[a] federal court should also decline to exercise its discretionary jurisdiction when doing so would promote judicial economy by avoiding duplicative and piecemeal litigation.” Id. at 135. These considerations are especially important because “district courts should give serious consideration to the fact that they do not establish state law, but are limited to predicting it.” Id.

We will decline jurisdiction over this declaratory judgment action. The matter before this court is one of contract interpretation under Pennsylvania law. In addition, we would be asked to determine the procedures required to secure a

waiver or reduction of underinsured motorist coverage under the Pennsylvania Motor Vehicle Financial Responsibility Law. All of these are questions of state law, where we would be required to predict how a state court would rule in the matter.¹ No unique questions of federal law exist, and this court's expertise is not necessarily for a just outcome in the case. The parties' claims can be addressed satisfactorily in state court, and we will decline to exercise our jurisdiction to hear this case.

Conclusion

For the reasons stated above, we will remand the case to the Court of Common Pleas of Luzerne County, Pennsylvania. An appropriate order follows.

¹The defendant includes cases decided in the Middle District of Pennsylvania as appendices to its notice of removal, arguing that those case have resolved the question at issue in this case. We note that such decisions have only persuasive authority over us, and that they applied Pennsylvania, not federal law. As such, they do not weigh against our decision that the state forum is better suited to address the questions in this case.

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: (Judge Munley)
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ORDER

AND NOW, to wit, this 31 st day of October 2007, it is hereby **ORDERED** that this case is **REMANDED** to the Luzerne County, Pennsylvania Court of Common Pleas. The Clerk of Court is directed to **CLOSE** the case.

BY THE COURT:

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court