

RECEIPT NUMBER  
558765

9

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

This lawsuit was filed by the State Bar against its own insurance company in an attempt to recoup \$237,080.64 that it spent between 2003 and 2006 in its effort to stop StateBarWatch Founder Frank Lawrence from practicing law.  
Please scroll down to paragraph 39 of this complaint.

STATE BAR OF MICHIGAN,

Plaintiff

vs

BIRMINGHAM FIRE INSURANCE  
COMPANY OF PENNSYLVANIA,  
AIG CASUALTY COMPANY, and  
NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA.,

Defendants

Case: 2:07-cv-12599  
Assigned To: Rosen, Gerald E  
Referral Judge: Pepe, Steven D  
Filed: 06-18-2007 At 04:06 PM  
CMP STATE BAR OF MICHIGAN V BIRMING  
HAM FIRE INS (RRH)

VANDEVEER GARZIA, P.C.  
Hal O. Carroll (P11668)  
Daniel P. Steele (P34295)  
Counsel for Plaintiff  
1450 West Long Lake Road, Suite 100  
Troy, MI 48169  
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(248) 312-2800

**COMPLAINT FOR DECLARATORY AND OTHER RELIEF**

**DEMAND FOR TRIAL BY JURY**

## **COMPLAINT FOR DECLARATORY AND OTHER RELIEF**

Plaintiff State Bar of Michigan, by its attorneys, Vandevener Garzia, P.C., asserts the following complaint against Defendants Birmingham Fire Insurance Company of Pennsylvania, AIG Casualty Company, and National Union Fire Insurance Company of Pittsburgh, PA.:

### **Introduction**

1. Plaintiff is a public body corporate, created under Mich. Comp. Laws 600.901.
2. Defendant Birmingham Fire Insurance Company of Pennsylvania (“Birmingham”) is a corporation incorporated in Pennsylvania and whose principal place of business is 175 Water Street, New York City, New York.
3. AIG Casualty Company is a successor to Birmingham Fire Insurance Company of Pennsylvania and is a corporation incorporated in Pennsylvania and whose principal place of business is 175 Water Street, New York City, New York.
4. Defendant National Union Fire Insurance Company of Pittsburgh, Pa. (“National Union”) is a corporation incorporated in Pennsylvania and whose principal place of business is 175 Water Street, in New York City, New York.
5. The amount in controversy exceeds \$75,000, exclusive of interest and costs.
6. Jurisdiction is based upon diversity of citizenship, 28 U.S.C. § 1332(a)(1).

### **Nature of the Action**

7. Plaintiff seeks declaratory relief under 28 U.S.C. § 2201 including a determination of insurance coverage with respect to the underlying claims identified below.

8. There exists a real and justiciable controversy regarding insurance coverage and Plaintiff is entitled to a determination of its rights under the insurance contracts at issue.

9. A declaratory judgment will resolve the insurance coverage disputes that currently exist with regard to the underlying actions.

10. In addition to declaratory relief, Plaintiff also seeks a money judgment for amounts that are due and owing from Defendants with respect to the underlying claims under the insurance contracts identified below.

#### **Allegations**

11. Defendant Birmingham issued a liability insurance policy, number 861-75-83, insuring Plaintiff as the named insured, for the policy period July 18, 1998 to July 18 2001.

12. Defendant National Union issued liability insurance policy, number 873-76-02, a renewal of policy number 861-75-83, insuring Plaintiff as the named insured, for policy period July 18, 2001 to July 18, 2002.

13. Defendant National Union issued liability insurance policy, number 561-56-22, a renewal of policy number 873-76-02, insuring Plaintiff as the named insured, for policy period July 18, 2002 to July 18, 2003.

#### **COUNT I CONTRACTUAL OBLIGATIONS OF DEFENDANTS BIRMINGHAM AND AIG (DEAN CLAIM; POLICY NUMBER 861-73-83)**

14. Plaintiff incorporates herein the allegations in paragraphs 1 through 13.

15. On or about April 14, 2001, during the period when liability insurance policy number 861-75-83 issued by Defendant Birmingham was in force, E. Stephen Dean commenced litigation against Thomas K. Bycrly, the State Bar Regulation Counsel.

16. On or about August 9, 2001, Defendant Birmingham denied coverage for the claim. However, four years later, on or about July 7, 2005, Defendant Birmingham, by its attorneys, reconsidered its August 9, 2001 denial and determined that the Dean claim was covered under policy number 861-75-83.

17. Plaintiff successfully defended the claim brought by Mr. Dean and submitted defense costs for reimbursement pursuant to the policy.

18. The policy provides for reimbursement of defense costs if the insured successfully defends a claim.

19. Defendant Birmingham made partial reimbursement of defense costs on or about September 2, 2005, but withheld additional reimbursement pending resolution of the appellate process.

20. The appellate process with respect to the underlying claim concluded and Defendant Birmingham was advised of the conclusion of the appellate process, but Defendant Birmingham and its successor, Defendant AIG, has failed or refused to provide the additional reimbursement of defense costs of approximately \$15,617.37, which is owed pursuant to the policy.

21. Mich. Comp. Laws 500.2006 prohibits unfair trade practices in insurance and requires payment "on a timely basis," and provides for penalty interest of 12% per annum.

22. Defendants Birmingham and its successor, are in violation of Mich. Comp. Laws 500.2006 by having failed to pay on a timely basis the amount owed on the claim.

Wherefore, Plaintiff seeks a judgment in its favor against Defendants Birmingham and its successor, AIG in the amount of \$15,617.37 plus penalty interest pursuant to Mich. Comp. Laws 500.2006.

**COUNT II**  
**CONTRACTUAL OBLIGATIONS OF DEFENDANT NATIONAL UNION**  
**(DUBUC CLAIM; POLICY NUMBER 873-76-02)**

23. Plaintiff incorporates herein the allegations in paragraphs 1 through 12.

24. On March 28, 2002, when policy number 873-76-02 issued by Defendant National Union was in effect, Dennis Dubuc commenced litigation against Plaintiff, Plaintiff's Executive Director, and the chairperson of the Michigan Board of Law Examiners.

25. On April 2, 2004, Plaintiff provided notice of the claim to Mourer Foster Insurance Agency, an authorized agent of Defendant as prescribed in Mich. Comp. Laws 632.26, and authorized thereunder to receive notice of the claim on behalf of Defendant.

26. The defendants named in the action filed by Dennis Dubuc are insureds as defined in the policy issued by Defendant.

27. The subject matter of the claim is within the coverage provisions of the policy issued by Defendant.

28. The policy requires that Defendant reimburse Plaintiff for the costs of defense incurred by Plaintiff, subject to a \$35,000 self-insured retention that is waived if and when the defense is successful.

29. Plaintiff's defense of Mr. Dubuc's action was successful, and in the course of the successful defense, Plaintiff incurred defense costs of approximately \$124,871.03.

30. On July 7, 2005, denied coverage for the claim.

32. The denial of coverage was wrongful.

See Paragraph #39 below

Wherefore, Plaintiff seeks a declaration that policy number 873-76-02 issued by Defendant National Union provides coverage for the claim filed by Dennis Dubuc, and a judgment in the amount of \$124,871.03 plus interest.

**COUNT III  
CONTRACTUAL OBLIGATIONS OF DEFENDANT NATIONAL UNION  
(LAWRENCE CLAIM; POLICY NUMBER 561-56-22)**

33. Plaintiff incorporates herein the allegations in paragraphs 1 through 32.

34. On February 25, 2003, while policy number 561-56-22 issued by Defendant National Union was in effect, Frank J. Lawrence, Jr. commenced litigation against Plaintiff and others.

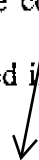
35. On April 2, 2004, Plaintiff provided notice of the claim to Mourer Foster Insurance Agency, an authorized agent of Defendant as prescribed in Mich Comp. Laws 632.26, and authorized thereunder to receive notice of the claim on behalf of Defendant.

36. The defendants named in the action filed by Frank J. Lawrence, Jr. are insureds as defined in the policy issued by Defendant.

37. The subject matter of the claim is within the coverage provisions of the policy issued by Defendant.

38. The policy requires that Defendant reimburse Plaintiff for the costs of incurred by Plaintiff, subject to a \$35,000 self-insured retention that is waived if and w defense is successful.

The State Bar spent nearly a quarter of a million dollars to stop Frank Lawrence from practicing law. These are hard economic times. Was it worth it to the dues-paying members?



39. Plaintiff's defense of Mr. Lawrence's claim was successful, and in the course of the successful defense, Plaintiff incurred defense costs of approximately \$237,080.64.

40. On July 7, 2005, denied coverage for the claim.

41. The denial of coverage was wrongful.

Wherefore, Plaintiff seeks a declaration that policy number 561-56-02 issued by Defendant National Union provides coverage for the claim filed by Dennis Dubuc, and a judgment in the amount of \$237,080.64 plus interest.

Respectfully submitted,

VANDEVEER GARZIA, P.C.



Hal O. Carroll (P11668)

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June 15, 2007

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands trial by jury.

Respectfully submitted,

VANDEVEER GARZIA, P.C.



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June 15, 2007

### CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of Initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
State Bar of Michigan

**DEFENDANTS**  
Birmingham Fire Insurance Company of Pennsylvania,  
AIG Casualty Company and National Union Fire Insurance  
Company of Pittsburgh, PA

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF**  
(EXCEPT IN U.S. PLAINTIFF CASES) Ingham

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_

**NOTE:** Case: 2:07-cv-12599  
Assigned To: Rosen, Gerald E  
Referral Judge: Pepe, Steven D  
Filed: 06-18-2007 At 04:06 PM  
CMP STATE BAR OF MICHIGAN V BIRMING  
HAM FIRE INS (RRH)

**(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)**  
Hall O. Carroll (P11668)  
Daniel P. Steele (P34295)  
1450 W. Long Lake Road, Suite 100  
Troy, MI 48169 (248) 312-2800

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (For Diversity Cases Only)

- (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
- |   |   |   |  |
|---|---|---|--|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input checked="" type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2         | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5         |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3         | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6                    |

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure Of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1305f) <input type="checkbox"/> 862 Black Lung (323) <input type="checkbox"/> 863 DWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 980 Other Statutory Actions

**V. ORIGIN**

- (PLACE AN "X" IN ONE BOX ONLY)
- 1 Original Proceeding
  - 2 Removed from State Court
  - 3 Remanded from Appellate Court
  - 4 Reinstated or Reopened
  - 5 Transferred from another district (specify)
  - 6 Multidistrict Litigation
  - 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

(CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. 1332 (a)(1); wrongful denial of insurance coverage.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$377,569.00

CHECK YES only if demanded in complaint:

JURY DEMAND  YES  NO

**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE  
June 18, 2007

SIGNATURE OF ATTORNEY OF RECORD

Hall O. Carroll

FOR OFFICE USE ONLY

RECEIPT \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?  Yes  
 No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)  Yes  
 No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes: \_\_\_\_\_