

FILED

APR 17 2012

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) WESTERN WORLD)
INSURANCE COMPANY,)
)
Plaintiff,)
)
v.)
)
(1) VALERIE L. LANDMEIER, as)
Guardian for HEATHER M. LANDMEIER,)
an incapacitated adult;)
(2) NARCONON OF OKLAHOMA, INC.;)
(3) NARCONON INTERNATIONAL; and)
(4) SOCIAL BETTERMENT PROPERTIES)
INTERNATIONAL,)
)
Defendants.)

CIV 12 - 173 - JHP
CIV. NO. _____

COMPLAINT FOR DECLARATORY JUDGMENT

The Plaintiff, Western World Insurance Company (“Western World”), by and through its undersigned attorneys, for its Complaint for Declaratory Judgment against the Defendants, Valerie L. Landmeier, as Guardian for Heather M. Landmeier, an incapacitated adult; Narconon of Oklahoma, Inc. (“Narconon”); Narconon International; and Social Betterment Properties International (“Social Betterment”), alleges and states:

INTRODUCTION

1. This is an action for declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, to determine a real and justiciable controversy among the parties with respect to their rights and obligations, if any, under a certain insurance contract, described more fully below.

THE PARTIES

2. Plaintiff, Western World, is an insurance company organized and existing under the laws of the State of New Hampshire, with its principal place of business in a state other than Oklahoma.

3. Upon information and belief, the Defendant, Valerie Landmeier, is a citizen of the State of Illinois, and that her daughter, Heather Landmeier, an incapacitated adult, has been residing with or near her in Illinois for at least the past twelve months, and intends to remain in Illinois for the indefinite future. Both Valerie Landmeier and Heather Landmeier are former citizens and residents of the State of Oklahoma and have substantial ties to this state, including the Eastern District of Oklahoma.

4. Upon information and belief, the Defendant, Narconon, is a not-for-profit corporation organized under the laws of the State of Oklahoma, with substantial ties to the Eastern District of Oklahoma. Narconon is in the business of providing drug rehabilitation services to clients.

5. Upon information and belief, the Defendant, Narconon International, is a corporation organized and existing under and by the laws of the State of California, it does business in Oklahoma, and has substantial ties to the Eastern District of Oklahoma. Narconon International provides managerial expertise to its licensed facilities, such as Narconon.

6. Upon information and belief, the Defendant, Social Betterment, is a corporation organized and existing under and by the laws of a state other than New Hampshire, it does business in Oklahoma, and has substantial ties to the Eastern District of Oklahoma. Social Betterment owns the property that Narconon leases for the purpose of providing such drug rehabilitation services.

JURISDICTION AND VENUE

7. The incidents giving rise to this coverage dispute occurred in March 2008, in Pittsburg County, State of Oklahoma.

8. This Court has jurisdiction in this action pursuant to 28 U.S.C. § 1331(a)(1). Diversity jurisdiction exists because this action is between citizens of different states and the amount in controversy is in excess of \$75,000. Venue is proper in this district pursuant to 28 U.S.C. §1391(e)(c).

INSURANCE CONTRACT

9. Western World issued its commercial lines policy to Narconon, Policy No. NPP0958680, effective June 25, 2007 through June 25, 2008. The policy in question provided limits of \$1 million per occurrence.

10. **Section I, Coverage A** (Bodily Injury and Property Damage Liability) in the Western World policy contains the following exclusion:

2. Exclusions

This insurance does not apply to:

* * *

e. Employer's Liability

'Bodily injury' to:

- (1) An 'employee' of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that 'employee' as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an 'insured contract.'

Section V – Definitions defines “employee” as follows:

5. 'Employee' includes a 'leased worker.' 'Employee' does not include a 'temporary worker.'

11. The Western World policy also contains Endorsement WW220 (10/04), Professional Liability Insurance. The following exclusions apply to the Professional Liability endorsement:

2. Exclusions

This insurance does not apply to:

a. Contractual Liability

'Bodily injury,' 'property damage' or 'personal injury' for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

b. Workers Compensation and Similar Laws

Any obligation of the insured under a workers' compensation disability benefits or unemployment compensation law or any similar law.

c. Employer's Liability

'Bodily injury' or 'personal injury' to:

- (1) An 'employee' of the insured arising out of and in the course of:
 - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or
 - 1. The spouse, child, parent, brother or sister of that employee as a consequence of (1) above.

This exclusion applies:

- 1. Whether the insured may be liable as an employer or in any other capacity; and
- 2. To an obligation to share damages with or repay someone else who must pay damages because of the injury.

12. Narconon International and Social Betterment are identified as additional insureds on the Western World Insurance Policy in question. Western World contends it owes a duty to defend Narconon International and Social Betterment only to the extent coverage exists with respect to its named insured, Narconon.

FACTUAL BACKGROUND

13. Heather Landmeier initially sought drug rehabilitation services from Narconon in approximately June 2005, because she was struggling at that time with substance addictions. Upon information and belief, she graduated from this program in October 2005. In March 2006, Heather Landmeier returned to Narconon because she had relapsed. Subsequently, Heather Landmeier was expelled from Narconon because as she was violating certain Narconon rules. In approximately August 2007, Heather Landmeier was readmitted to Narconon for the purpose of detoxification and drug rehabilitation treatment.

14. Heather Landmeier remained at Narconon from August 2007 through March 2008. During the latter part of her stay at Narconon, she was accepted into and entered a training program to become a full-time employee/counselor at Narconon. As a trainee, she was compensated by Narconon, her job as a trainee primarily benefitted Narconon, she was supervised by Narconon, she

was required to follow the rules of Narconon, and upon completion of the training program she was promised a full-time counseling position with Narconon.

15. On approximately March 4, 2008, Narconon terminated its employment relationship with Heather Landmeier and demanded that she leave its facility for the reason that she had once again begun using drugs. In fact, it has been alleged that Heather Landmeier was under the influence of drugs at the time she was required to leave the facility. On or about March 5, 2008, Heather Landmeier overdosed, resulting in her being left in a permanent vegetative state, completely paralyzed from the neck down.

16. On March 2, 2010, Valerie Landmeier, as guardian for Heather Landmeier, an incapacitated adult, filed her Petition in the District Court of Pittsburg County, State of Oklahoma, Case No. CJ-2010-0057, alleging sundry claims against Narconon, Narconon International, and Social Betterment, in connection with Heather Landmeier's expulsion from Narconon.

17. Since the inception of the underlying lawsuit filed by Valerie Landmeier, Western World has provided a defense to the Defendants, Narconon, Narconon International, and Social Betterment, under a reservation of rights. However, Western World contends that neither its policy nor Oklahoma law obligates it to provide a defense to Narconon, Narconon International, or Social Betterment, because Heather Landmeier was an employee of Narconon at the time of the Defendants' alleged culpable acts, as described in Plaintiff's Petition. In addition, for the same reason, Western World asserts that it is not required to indemnify these Defendants from any liability they might incur in connection with the claims brought against them by Valerie Landmeier, as guardian of Heather Landmeier, an incapacitated adult.

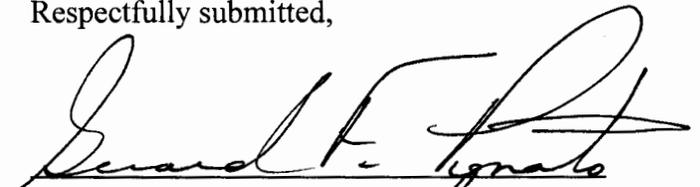
DECLARATORY COMPLAINT

18. There, thus, exists an actual and justiciable controversy between Western World and the Defendants within the jurisdiction of this Court and involving the rights and liabilities of the parties under a contract of insurance, which controversy may be determined by a judgment of this Court. Western World seeks guidance from this Court to determine the rights and liabilities of the parties.

WHEREFORE, Plaintiff prays that:

1. This Court determine and adjudicate the rights and liabilities of the parties with respect to the subject contract of insurance;
2. This Court find and determine that neither Western World's insurance policy nor Oklahoma law requires Western World to provide a defense to the Defendants, Narconon, Narconon International, or Social Betterment, in connection with the claims brought against them by Landmeier, and that Western World is not required to indemnify these Defendants from any liability they might incur in connection with the underlying lawsuit brought by Valerie Landmeier.
3. This Court award Western World such other and further relief as in law and justice it may be entitled to receive.

Respectfully submitted,



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