

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHICAGO INSURANCE COMPANY : CIVIL ACTION
 :
 v. :
 :
 ROSALYN SAMPSON, :
 TARGET REHABILITATION CO., :
 MARSHALL FRICK, and CAROL FRICK :
 :
 v. :
 :
 MAGINNIS & ASSOCIATES : NO. 97-5514

MEMORANDUM AND ORDER

Hutton, J.

September 13, 1999

Presently before the Court is Defendant's Motion for Rule 54(b) Certification. For the reasons to follow, the Court grants the Defendant's motion.

I. BACKGROUND

This Court issued a Memorandum and Order granting Plaintiff's Motion for Summary Judgment and denying Third Party Defendant, Maginnis & Associates, Motion for Summary Judgment. This Court declared that Plaintiff did not have an obligation to defend or indemnify its policyholder Defendants based upon the exclusionary language within the policy of insurance. Defendant brings this instant motion for a Rule 54(b) certification so that it can appeal said summary judgment prior to a final resolution of the pending claims against Third Party Defendant, Maginnis & Associates.

II. STANDARD OF REVIEW

Pursuant to the directive of the Third Circuit, upon the certification of a Rule 54(b) motion the court shall incorporate a statement-of-reason justifying the propriety of the certification. See Carter v. Philadelphia, 181 F.3d 339, 346 (3d. Cir. 1999) (stating that the failure to include a statement-of reason no longer requires dismissal or remand where judicial economy is served); see also Fed. R. Civ. P. 54(b).

The factors that this Court will consider in its certification decision were announced in Allis-Chambers Corp. v. Philadelphia Elec. Co., 521 F.2d 360 (3d. 1975). These factors include:

(1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the district court; (3) the possibility that the reviewing court might be obligated to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in setoff against the judgement sought to be made final; (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like. Depending upon the facts of the particular case, all or some of the above factors may bear upon the propriety of the trial court's discretion in certifying a judgment as final under Rule 54(b).

Allis-Chambers Corp., 521 F.2d at 364.

III. DISCUSSION

Using the Allis-Chambers Corp. factors in this matter reveals: (1) the relationship between the claims presented by the Plaintiff, Chicago Insurance Company, and the Third Party Complaint against

Maginnis & Associates are independent of each other and require no participation by the Plaintiff. Third Party Defendant, Maginnis & Associates, does not in any way affect the Plaintiff's indemnification responsibility to defendants; (2) there is no possibility that the need for review will be mooted by further developments in this Court. All remaining claims after summary judgment concern only the Defendants and Third Party Defendant. Thus, there can be no developments that will impact upon Plaintiff's indemnification responsibility; (3) as the issue of indemnification is only applicable to the Plaintiff, as insurer of Defendant policyholders, a determination on the propriety of summary judgment will dispose of the matter without the possibility of reconsideration; (4) as Plaintiff's favorable summary judgment motion wholly removed it from any liability in the underlying matter, no possibility exists which could result in a setoff against its liability or lack thereof; (5) finally, a determination of the propriety of this Court's summary judgment ruling will likely serve to clarify several of the remaining issues that will be addressed in the underlying matter with respect to the negligence and contractual breach claims against Third Party Defendant.

As such, a Rule 54(b) certification will increase judicial efficiency, reduce the time of trial and the issues presented, and eliminate frivolous claims. The circumstances presented in this

matter justify a Rule 54(b) certification as there is no just reason for delay. Therefore, the Court grants Defendant's motion for certification.

An appropriate Order follows.

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MARSHALL FRICK, and CAROL FRICK	:	
	:	
v.	:	
	:	
MAGINNIS & ASSOCIATES	:	NO. 97-5514

ORDER

AND NOW this 13th day of September, 1999, upon consideration of Defendants's Motion for Rule 54(b) Certification, IT IS HEREBY ORDERED that the Defendant's Motion is **Granted**.

BY THE COURT:

Herbert J. Hutton, J.