

pleading requirements is exceedingly low: a court may dismiss a complaint only if the plaintiff can prove no set of facts that would entitle the plaintiff to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

PNC submitted a signature card in support of its Motion to Dismiss and claimed that it is an indisputably authentic document. See Pension Benefit Guar. Corp. v. White Consol. Indus., Inc., 998 F.2d 1192, 1196 (3d Cir. 1993). The authenticity of the signature card, however, goes to the heart of the controversy as Sonders alleges that withdrawals from Mezvinsky's account required the second signature of Wesley Sine. Accordingly, the signature card cannot be accepted as indisputably authentic.

Count Two of Sonders's Complaint alleges negligence by PNC. The UFA bars claims based upon negligence. 7 Pa. Con. Stat. Ann. § 6351. Consequently, the Motion to Dismiss is GRANTED IN PART and Count Two of Sonders's Complaint is DISMISSED.

The UFA protects a bank in PNC's position for payments made to a fiduciary in good faith. Id. § 6361. A bank only acts in bad faith where it has actual knowledge of a fiduciary's misapplication of funds. Id. § 6381. Following review of the Complaint in this matter, the Court is convinced that Sonders has sufficiently alleged that PNC released these funds to Mezvinsky in bad faith, that is, under circumstances where PNC should have

known that the funds were misapplied. See id. Specifically, Sonders has alleged that PNC failed to follow the signature requirements of the account and failed to react to or perhaps even report suspicious transactions to the federal government pursuant to 31 U.S.C. § 5313 (1994). PNC seems to suggest that it is immune from liability for not reporting suspicious transactions under 31 U.S.C. § 5318(g)(3). That Section, however, protects PNC from suit by Mezvinsky for filing proper reports. Here, by contrast, the lack of such reports would evidence a failure by PNC to properly monitor the funds in this trust account, in a manner that could have made PNC aware of a misappropriation of trust funds.¹ Accordingly, the Motion to Dismiss is DENIED IN PART as to Count One of the Complaint.

BY THE COURT:

JAMES MCGIRR KELLY, J.

¹ The Court expresses no opinion as to whether the lack of proper reporting by PNC is admissible or even, indeed, discoverable, as those issues have not been presented to the Court.