

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

WESTPORT INSURANCE CORPORATION, :  
 :  
 Plaintiff, :  
 :  
 V. : CASE NO.3:03CV2171 (RNC)  
 :  
 SHERI PAIGE & ASSOCIATES, et al.:  
 :  
 Defendants. :

RULING AND ORDER

Westport Insurance Company brings this action under the Declaratory Judgment Act, 28 U.S.C. § 2201(a), against its insured, Attorney Sheri Paige, who is being sued in Superior Court by two individuals, Beverly Cogswell and Heidi Hemingway. See Cogswell v. Paige, No. CV 01 0186822S (JD Stamford/Norwalk at Stamford). Westport's seven-count complaint seeks a declaration that a professional liability policy it issued to Paige should be rescinded and, in addition, that the policy provides no coverage for Paige in the underlying action because the complaint charges her with larceny, conversion, and wrongful receipt of gifts and fees, all of which are excluded from coverage. Paige has moved to dismiss or stay counts three through five of Westport's complaint, which are predicated on

these coverage exclusions. [Doc. # 9] In essence, Paige asks this court to refrain from addressing the issues raised by these counts until the state court decides whether she committed larceny, conversion, or misappropriation, as alleged.

An action for a declaratory judgment should be entertained when the judgment will afford relief from uncertainty, insecurity, and controversy. See Broadview Chem. Corp. v. Loctite Corp., 417 F.2d 998, 1001 (2d Cir. 1969). Even when that is the case, however, a district court may decline to exercise jurisdiction when another suit involving the same parties and issues is pending in state court. See Wilton v. Seven Falls Co., 515 U.S. 277, 288 (1995). Westport does not contend that it would be damaged or prejudiced in any way if it had to wait for a final decision from the state court. But Westport is not a party to the action in Superior Court, and there is reason to believe that its interest is not adequately represented there. In fact, the state court has refused to give the plaintiffs a prejudgment remedy against Paige on the ground that they conspired with Paige to defraud Paige's client. In light of this, I decline to abstain.<sup>1</sup>

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<sup>1</sup> Paige's request for an order directing Westport to provide a defense in the state court action is also denied. Westport is already doing that under a reservation of rights.

Accordingly, the motion to dismiss or stay is hereby denied.

So Ordered.

Dated at Hartford, Connecticut this 24th day of May 2004.

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Robert N. Chatigny  
United States District Judge