UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA, WESTERN DIVISION

Raymond Tarlton, as guardian ad litem for Henry Lee McCollum, et al. v. Leroy Allen, et al.

No. 5:15-CV-451-BO · No. No. 5:15-CV-451-BO · Decided March 9, 2026

SUMMARY

The United States District Court for the Eastern District of North Carolina ruled on motions to strike, compel discovery, and obtain judgment on the pleadings in litigation involving insurance coverage for judgment debtors. The court denied the motion to strike, adopted a magistrate judge's recommendation concerning attorney-client privilege and work-product protection, and rejected Lexington Insurance Company's argument that the plaintiffs lacked standing to assert unfair and deceptive trade practices and bad-faith claims. The order directs the parties to submit an updated proposed schedule.

CASE DETAILS

COURT	United States District Court for the Eastern District of North Carolina, Western Division
WRITING FOR THE COURT	Terrence W. Boyle
JURISDICTION	United States District Court for the Eastern District of North Carolina, Western Division
DECIDED	March 9, 2026
DOCKET	No. 5:15-CV-451-BO
DISPOSITION	other
PROCEDURAL POSTURE	The district court considered plaintiffs' and the receiver's motion to strike, plaintiffs' motion to compel discovery, and Lexington Insurance Company's motion for judgment on the pleadings.
STANDARD OF REVIEW	A Rule 12(c) motion is evaluated under the same standard as a Rule 12(b)(6) motion: the court accepts well-pleaded allegations as true, views them in the light most favorable to the plaintiff, and asks whether the complaint states a facially plausible claim. The court may consider the answer as well as the complaint, but cannot rely on answer allegations that contradict the complaint. A Rule 12(c) motion tests pleading sufficiency and does not resolve the merits or factual disputes. For a motion to compel, the resisting party bears the burden

	of showing why discovery should not be compelled. Motions to strike are disfavored and generally are not a vehicle for resolving factual disputes.
PRECEDENTIAL VALUE	unpublished
PARTIES	Raymond Tarlton, as guardian ad litem for Henry Lee McCollum, et al., Receiver v. Leroy Allen, et al., Jefferson Insurance Company, et al., Lexington Insurance Company

TOPICS

motion for judgment on the pleadings · discovery dispute · deceptive trade practices · insurance bad faith · civil procedure

PRACTICE AREAS

civil procedure · insurance · consumer protection · contracts

QUESTIONS PRESENTED

1. Whether portions of Lexington's answers and mutual-mistake defenses should be stricken under Federal Rule of Civil Procedure 12(f).
2. Whether plaintiffs were entitled under Federal Rule of Civil Procedure 37 to compel production of documents withheld under the attorney-client privilege or work product doctrine.
3. Whether plaintiffs plausibly alleged standing and claims for unfair and deceptive trade practices and common-law bad faith against an insurer of judgment debtors, such that Lexington was not entitled to judgment on the pleadings under Rule 12(c).

HOLDINGS

1. The motion to strike portions of Lexington's pleadings and mutual-mistake defenses was denied because the pending partial-summary-judgment motion addressed overlapping issues and striking the pleadings would be a drastic remedy.
2. The court adopted Magistrate Judge Meyers's memorandum and recommendation concerning the withheld documents and resolved the motion to compel in accordance with that recommendation.
3. Lexington was not entitled to judgment on the pleadings because plaintiffs plausibly alleged unfair and deceptive trade practices and common-law bad faith, and the court declined to hold that plaintiffs were categorically barred from proceeding as third-party beneficiaries or persons in sufficient privity with Lexington.

KEY QUOTATIONS

> *"Rule 12(f) motions are generally viewed with disfavor 'because striking a portion of a pleading is a drastic remedy and because it is often sought by the movant simply as a dilatory tactic.'"* (Discussion § A)

> *"A Rule 12(c) motion tests only the sufficiency of the complaint and does not resolve the merits of the plaintiffs claims or any disputes of fact."* (Discussion § C)

> *"where the policy of insurance is against liability . . . and the liability of the insured has been established by judgment, the injured person may maintain an action on the policy of insurance, that is, coverage attaches when liability attaches, regardless of actual loss by the insured at the time, and the coverage inures to the benefit of the party injured."* (Discussion § C)

FACTUAL BACKGROUND

Plaintiffs obtained judgments against Kenneth Snead and Leroy Allen, attempted to execute on those judgments, and allege that the judgments remain unsatisfied. Snead and Allen, through POELIC, were the direct beneficiaries and named insureds under Lexington insurance policies; plaintiffs were not named insureds. Plaintiffs asserted unfair and deceptive trade practices and bad-faith claims against Lexington and sought discovery concerning Lexington's intent in issuing the policies, while Lexington withheld hundreds of documents based on attorney-client privilege and work product.

PROCEDURAL HISTORY

Plaintiffs and the receiver moved to strike portions of Lexington's answers and affirmative defenses. Plaintiffs also moved under Rule 37 to compel production of documents withheld as attorney-client privileged or work product, and the matter was referred for in-camera review to Magistrate Judge Meyers, whose memorandum and recommendation was adopted. Lexington moved under Rule 12(c) for judgment on the pleadings on plaintiffs' unfair and deceptive trade practices and common-law bad-faith claims. The court denied the motion to strike, denied the motion to compel as stated in the conclusion despite discussing partial relief in the body, and denied Lexington's Rule 12(c) motion.

DISPOSITION

other

REMAND INSTRUCTIONS

The parties were directed to file an updated proposed schedule for proceeding in the case within fourteen days of entry of the order. The court also indicated that an additional discovery period and time for additional dispositive motions appeared likely.

CASES CITED

- Bell v. Koss, 2020 WL 4570439, at *5 (S.D.N.Y. 2020)
- Waste Mgmt. Holdings, Inc. v. Gilmore, 252 F.3d 316, 347 (4th Cir. 2001)
- Mainstreet Collection, Inc. v. Kirkland's, Inc., 270 F.R.D. 238, 241 (E.D.N.C. 2010)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Dunlap v. TM Trucking of the Carolinas, LLC, 288 F. Supp. 3d 654, 662 (D.S.C. 2017)
- Alexander v. City of Greensboro, 801 F. Supp. 2d 429, 433 (M.D.N.C. 2011)

- Mylan Labs., Inc. v. Matkari, 7 F.3d 1130, 1134 (4th Cir. 1993)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Mendenhall v. Hanesbrands, Inc., 856 F. Supp. 2d 717, 724 (M.D.N.C. 2012)
- Drager v. PLIVA USA, Inc., 741 F.3d 470, 474 (4th Cir. 2014)
- Med-Trans Corp. v. Benton, 581 F. Supp. 2d 721, 728 (E.D.N.C. 2008)
- Gray v. N. Carolina Ins. Underwriting Ass'n, 352 N.C. 61, 68, 529 S.E.2d 676 (2000)
- Marshall, 302 N.C. at 548, 276 S.E.2d at 403
- Lovell v. Nationwide Mut. Ins. Co., 108 N.C. App. 416, 420 (1993)
- Hariri v. State Farm Mut. Auto. Ins. Co., No. 3:25-CV-00237-KDB-DCK, 2026 WL 279880, at *3 (W.D.N.C. Feb. 3, 2026)
- Wilson v. Wilson, 121 N.C. App. 662, 665 (1996)
- Murray v. Nationwide Mut. Ins. Co., 123 N.C. App. 1, 14-15 (1996)
- Taylor v. N. Carolina Farm Bureau Mut. Ins. Co., 181 N.C. App. 343, 345 (2007)
- Craven v. Demidovich, 172 N.C. App. 340, 341-43 (2005)
- USA Trouser, S.A. de C.V. v. Williams, 258 N.C. App. 192, 197 (2018)
- Seguro-Suarez by & through Connette v. Key Risk Ins. Co., 261 N.C. App. 200, 214-15 (2018)
- Nash Hosps., Inc. v. State Farm Mut. Auto. Ins. Co., 254 N.C. App. 726, 734 (2017)
- Hall v. Harleysville Mut. Cas. Co., 233 N.C. 339, 340 (1951)