UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, ALEXANDRIA DIVISION

Progressive Paloverde Insurance Co. v. NTP Nail Salon, LLC, et al.

Progressive Paloverde · No. 1:25-CV-00360 · Decided February 25, 2026

SUMMARY

The United States Magistrate Judge recommends denying Defendant Quan Quoc’s Rule 12(b)(6) motion to dismiss Progressive Paloverde Insurance Co.’s declaratory judgment complaint. The court concludes that the alleged assault-or-battery exclusion plausibly bars coverage and that the complaint adequately alleges no duty to defend or indemnify. The court also finds an actual controversy under the Declaratory Judgment Act based on a letter of representation and Quoc’s related suit against Progressive.

CASE DETAILS

COURT	United States District Court for the Western District of Louisiana, Alexandria Division
WRITING FOR THE COURT	Joseph H.L. Perez-Montes
JURISDICTION	United States District Court for the Western District of Louisiana, Alexandria Division
DECIDED	February 25, 2026
DOCKET	1:25-CV-00360
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Defendant Quan Quoc's Rule 12(b)(6) motion to dismiss a declaratory-judgment complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and views them in the light most favorable to the plaintiff, but disregards conclusory allegations, unwarranted factual inferences, and legal conclusions. The complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

insurance coverage · duty to defend · duty to indemnify · declaratory relief insurance · motions to dismiss

PRACTICE AREAS

insurance coverage · declaratory judgment · civil procedure · contracts

QUESTIONS PRESENTED

1. Whether Progressive's declaratory-judgment complaint adequately stated claims concerning the absence of a duty to defend and duty to indemnify despite Louisiana's generally broader duty to defend.
2. Whether the alleged assault-or-battery exclusion, including provisions addressing negligent hiring, supervision, training, monitoring, and failure to prevent or suppress the violent act, was sufficient at the pleading stage to support Progressive's requested declarations.
3. Whether the complaint alleged an actual, ripe controversy between Progressive and Quan Quoc under the Declaratory Judgment Act.
4. Whether the court should exercise its discretion to retain and decide the declaratory-judgment action.

HOLDINGS

1. The complaint sufficiently stated claims for declarations that the policy exclusions barred coverage and that Progressive therefore owed no duty to defend or indemnify claims brought by the named defendants.
2. The complaint alleged an actual controversy of sufficient immediacy and reality between Progressive and Quoc.
3. The relevant discretionary factors favored retaining and deciding the declaratory-judgment action rather than dismissing it.

KEY QUOTATIONS

> *"At this juncture, Progressive's Complaint adequately alleges that Policy exclusions—such as the assault and battery exclusion—bar coverage of claims brought by the named defendants, and it accordingly owes no duty to defend or indemnify."*

> *"Plainly, then, "a substantial controversy of sufficient immediacy and reality" exists between Quoc and Progressive."*

FACTUAL BACKGROUND

Progressive insured NTP Nail Salon under a policy effective from November 8, 2023, through November 8, 2024. On September 13, 2024, Jimmy Nguyen entered the salon and shot Tien Tran, Tai Tran, and Tai Ngoc Nguyen. After an attorney retained by Quan Quoc sent Progressive a letter of representation concerning the homicide, Progressive sought a declaration that an assault-or-battery exclusion eliminated any duty to defend or indemnify claims arising from the shooting.

PROCEDURAL HISTORY

Progressive filed a declaratory-judgment action against NTP Nail Salon, LLC and several individuals, seeking declarations that it owed no duty to defend or indemnify claims arising from a shooting at the insured business.

Quan Quoc moved to dismiss under Rule 12(b)(6), arguing that the complaint did not adequately address Louisiana's broad duty to defend, the possible application of policy exclusions, or the existence of an actual controversy. The magistrate judge recommends denial of the motion; the recommendation remained subject to objections and adoption by the district judge.

DISPOSITION

other

CASES CITED

- 822 F.3d 207, 210 (5th Cir. 2016)
- 556 U.S. 662, 678 (2009)
- 764 F.3d 500, 503 (5th Cir. 2014)
- 975 F.3d 488, 496 (5th Cir. 2020)
- 627 F.3d 540, 544 (5th Cir. 2010)
- 523 F.3d 477, 486 (5th Cir. 2008)
- 179 F. Supp. 3d 656, 675 (E.D. La. 2016)
- 2022 WL 834643, at *1 (E.D. La. Mar. 21, 2022)
- 2002 WL 1308585, at *3 (E.D. La. June 12, 2002)
- 759 So. 2d 37, 43 (La. 4/11/00)
- 515 U.S. 277, 287 (1995)
- 199 F. Supp. 2d 495, 499 (E.D. La. 2002)
- 876 F.2d 26, 28 (5th Cir. 1989)
- 212 F.3d 891, 895-97 (5th Cir. 2000)
- 996 F.2d 774, 776 (5th Cir. 1993)
- 800 F.2d 488, 490 (5th Cir. 1986)
- 39 F.3d 585, 590-91 (5th Cir. 1994)
- 343 F.3d 383, 391 (5th Cir. 2003)
- 2015 WL 11120873, at *3 (N.D. Tex. Jan. 9, 2015)
- 540 F.3d 333, 338 (5th Cir. 2008)
- 759 F. Supp. 2d 822, 828 (E.D. La. 2010)
- 2017 WL 7596890, at *3 (N.D. Tex. May 23, 2017)
- 2017 WL 3574665 (N.D. Tex. Aug. 18, 2017)