UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI, GREENVILLE DIVISION

Gore, Kilpatrick & Dambrino, PLLC v. Spinnaker Insurance Company, Cowbell Cyber, Inc., Cowbell Insurance Agency LLC, and John Does I through X

Gore, Kilpatrick & Dambrino · No. 4:25-CV-107-DMB-DAS · Decided March 31, 2026

SUMMARY

The United States District Court for the Northern District of Mississippi grants defendants' motion to dismiss an amended complaint arising from the denial of an insurance claim for funds transferred in an alleged social-engineering fraud. The court concludes that the loss is not covered under the policy's Social Engineering Coverage Endorsement and that Cowbell Cyber and Cowbell Insurance Agency were not parties to the insurance contract. The court also dismisses the bad-faith, gross-negligence, post-claim-underwriting, and fraud claims for failure to state adequate claims.

CASE DETAILS

COURT	United States District Court for the Northern District of Mississippi, Greenville Division
WRITING FOR THE COURT	Debra M. Brown
JURISDICTION	United States District Court for the Northern District of Mississippi, Greenville Division
DECIDED	March 31, 2026
DOCKET	4:25-CV-107-DMB-DAS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Gore's amended complaint for failure to state a claim.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded facts as true and construes the complaint in the plaintiff's favor, but disregards conclusory allegations, unwarranted factual inferences, and legal conclusions. The complaint must contain enough facts to state a plausible claim for relief. The court's review is generally limited to the complaint and documents attached to or central to the claims and referenced by the complaint.

PRECEDENTIAL VALUE	Unknown

TOPICS

insurance coverage · insurance bad faith · contract interpretation · fraud · motions to dismiss

PRACTICE AREAS

insurance · contracts · torts · civil procedure · commercial litigation

QUESTIONS PRESENTED

1. Whether the alleged loss fell within the policy's unambiguous Social Engineering Coverage Endorsement.
2. Whether Gore could maintain breach-of-contract and bad-faith claims against Cowbell Cyber and Cowbell Insurance Agency despite their lack of privity with Gore under the insurance contract.
3. Whether Gore adequately pleaded gross negligence based on an allegedly inadequate investigation of its insurance claim.
4. Whether Gore adequately pleaded a post-claim-underwriting claim.
5. Whether Gore pleaded fraud with the particularity required by Federal Rule of Civil Procedure 9(b).
6. Whether Gore's request for punitive damages survived when the underlying claims failed.

HOLDINGS

1. The policy's Social Engineering Incident provision is clear and unambiguous and does not cover Gore's alleged loss because the real David Casteel was not a person who exchanged or was under contract to exchange goods or services with Gore for a fee, and the alleged imposter could not simultaneously be the client and an imposter purporting to be that client.
2. Gore could not maintain a breach-of-contract claim against Cowbell Cyber or Cowbell Insurance Agency because neither was a party to the insurance contract between Gore and Spinnaker.
3. Gore failed to state a bad-faith claim because it failed to state a breach-of-contract claim; alternatively, Gore did not adequately allege that defendants lacked an arguable or legitimate basis for denial or acted willfully, maliciously, or with gross and reckless disregard for Gore's rights.
4. Gore failed to state a gross-negligence claim because the alleged failure to investigate could not have caused an injury where the loss was not covered even if the investigation had confirmed all alleged facts, and the allegations did not show the reckless indifference required for gross negligence.
5. Gore failed to state a post-claim-underwriting claim because it did not allege that the policy was underwritten after Gore filed its claim.
6. Gore failed to plead fraud under Mississippi law and Federal Rule of Civil Procedure 9(b) because it did not adequately allege the required elements or the circumstances of fraud with particularity.

KEY QUOTATIONS

> *“Because the Court finds that this language is clear and unambiguous, it will apply the policy language as written to Gore’s claim.”* (IV.A.1)

> *“Because the facts alleged by Gore are not covered by the unambiguous language of the Social Engineering Endorsement, Gore fails to state a claim for breach of contract against the defendants.”* (IV.A.1)

> *“An insurer has an obligation to its insureds to do its underwriting at the time a policy application is made, not after a claim is filed.”* (IV.D)

> *“The motion to dismiss [20] is GRANTED. Gore’s claims are DISMISSED without prejudice.”* (V)

FACTUAL BACKGROUND

Gore purchased a cyber-insurance policy issued by Spinnaker, with Cowbell Cyber and Cowbell Insurance Agency involved in administering or procuring the policy. An individual falsely claiming to be David Casteel engaged Gore's legal services, caused Gore to receive a fraudulent cashier's check, and instructed Gore to wire $158,425; the check was later returned unpaid. Gore submitted an insurance claim under a social-engineering endorsement, but Spinnaker denied coverage on the ground that the loss did not involve a covered Social Engineering Incident. Gore then sued for breach of contract, bad faith, gross negligence, post-claim underwriting, and fraud.

PROCEDURAL HISTORY

Gore filed its original complaint on July 11, 2025, and amended its complaint after the Court ordered it to show cause why the case should not be dismissed for lack of diversity jurisdiction. Defendants moved to dismiss the amended complaint under Rule 12(b)(6); after briefing, the court granted the motion and dismissed all claims without prejudice.

DISPOSITION

dismissed

CASES CITED

- Mandawala v. Ne. Baptist Hosp., 16 F.4th 1144, 1150 (5th Cir. 2021)
- Serrano v. Customs & Border Patrol, 975 F.3d 488, 496 (5th Cir. 2020)
- Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC, 594 F.3d 383, 387 (5th Cir. 2010)
- Heinze v. Tesco Corp., 971 F.3d 475, 479 (5th Cir. 2020)
- In re Great Lakes Dredge & Dock Co., 624 F.3d 201, 210 (5th Cir. 2010)
- Maness v. K & A Enters. of Miss. LLC, 250 So. 3d 402, 414 (Miss. 2018)
- Hankins v. Md. Cas. Co./Zurich Am. Ins. Co., 101 So. 3d 645, 652-54 (Miss. 2012)
- Corban v. United Servs. Auto. Ass'n, 20 So. 3d 601, 609 (Miss. 2009)
- Architex Ass'n, Inc. v. Scottsdale Ins. Co., 27 So. 3d 1148, 1157 (Miss. 2010)
- Leonard v. Nationwide Mut. Ins. Co., 499 F.3d 419, 429 (5th Cir. 2007)

- Lunday v. Lititz Mut. Ins. Co., 276 So. 2d 696, 698 (Miss. 1973)
- Mortera v. State Farm Fire & Cas. Co., 561 F. Supp. 3d 684, 690 (S.D. Miss. 2021)
- Burns v. Washington Sav., 171 So. 2d 322, 324 (Miss. 1965)
- Bissette v. Univ. of Miss. Med. Ctr., 282 So. 3d 507, 513 (Miss. Ct. App. 2019)
- Jenkins v. Farmington Cas. Co., 979 F. Supp. 454, 457 (S.D. Miss. 1997)
- Harris v. Allstate Vehicle & Prop. Ins. Co., 470 F. Supp. 3d 625, 635 (S.D. Miss. 2020)
- Jenkins v. Ohio Cas. Ins. Co., 794 So. 2d 228, 232-33 (Miss. 2001)
- Johnson v. Travelers Pers. Ins. Co., 747 F. Supp. 3d 941, 949 (S.D. Miss. 2024)
- Watkins & Eager, PLLC v. Lawrence, 326 So. 3d 988, 993 n.2 (Miss. 2021)
- Clausell v. Bourque, 158 So. 3d 384, 391 (Miss. Ct. App. 2015)
- Hazell Mach. Co. v. Shahan, 161 So. 2d 618, 624 (Miss. 1964)
- George B. Gilmore Co. v. Garrett, 582 So. 2d 387, 391 (Miss. 1991)
- Hardaway v. Howard Indus., Inc., 378 So. 3d 946, 953 (Miss. 2024)
- Bass v. California Life Ins. Co., 581 So. 2d 1087, 1090 (Miss. 1991)
- Fid. & Cas. Co. of N.Y. v. Gault, 196 F.2d 329, 330 (5th Cir. 1952)
- United Emergency Servs. of Miss., Inc. v. Miller ex rel. Reed, 414 So. 3d 66, 71 (Miss. 2025)
- Vaughn v. Miss. Baptist Med. Ctr., 20 So. 3d 645, 650 (Miss. 2009)
- In re Guardianship of Duckett, 991 So. 2d 1165, 1176 (Miss. 2008)
- Dame v. Estes, 101 So. 2d 644, 645 (Miss. 1958)
- Lewis v. Equity Nat'l Life Ins. Co., 637 So. 2d 183, 188-89 (Miss. 1994)
- Riverboat Corp. of Miss. v. Davis, 341 So. 3d 77, 82 (Miss. 2022)
- Stringfellow v. Stringfellow, 451 So. 2d 219, 221 (Miss. 1984)
- 84 Lumber Co. v. Cont'l Cas. Co., 914 F.3d 329, 333 (5th Cir. 2019)

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