UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Blain v. Liberty Mutual Fire Insurance Company

No. 22-cv-0970-AJB-DEB (S.D. Cal. Mar. 9, 2023) · No. 22-cv-0970-AJB-DEB · Decided March 9, 2023

SUMMARY

The United States District Court for the Southern District of California addresses Liberty Mutual Fire Insurance Company's motion to dismiss a putative class action arising from allegedly inadequate automobile insurance premium refunds issued during the COVID-19 pandemic. The court rejects arguments based on the California Insurance Commissioner's exclusive or primary jurisdiction and declines equitable abstention. It dismisses Plaintiff's request for injunctive relief without leave to amend for lack of Article III standing, while otherwise granting or denying the motion in part as described in the order.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Anthony J. Battaglia
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 9, 2023
DOCKET	22-cv-0970-AJB-DEB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a putative class action alleging breach of the implied covenant of good faith and fair dealing, unjust enrichment, and violation of California's Unfair Competition Law based on allegedly inadequate automobile-insurance premium refunds during the COVID-19 pandemic. Defendant moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	For a facial Rule 12(b)(1) challenge, the court accepted the complaint's allegations as true and drew reasonable inferences in the plaintiff's favor. For Rule 12(b)(6), the court accepted well-pleaded factual allegations as true, drew reasonable inferences for the nonmoving party, and assessed whether the complaint stated a plausible claim for relief, disregarding legal conclusions.
PRECEDENTIAL VALUE	unpublished_nonprecedential

PARTIES Sarah Blain v. Liberty Mutual Fire Insurance Company

TOPICS

motions to dismiss · insurance coverage · insurance · contract interpretation · civil procedure

PRACTICE AREAS

insurance law · civil procedure · contract law · consumer protection

QUESTIONS PRESENTED

1. Whether California Insurance Code section 1860.1 deprived the court of jurisdiction or immunized Liberty Mutual from claims challenging the application of approved insurance rates during the COVID-19 pandemic.
2. Whether the doctrine of primary jurisdiction required dismissal or referral of the claims to the California Department of Insurance.
3. Whether Blain had Article III standing to seek injunctive relief after the COVID-19 stay-at-home orders had ended.
4. Whether the implied covenant of good faith and fair dealing claim failed because Blain did not identify a violated express contract provision.
5. Whether the unjust-enrichment claim was barred by the existence of an enforceable insurance contract covering the same subject matter.
6. Whether Blain adequately pleaded statutory standing and unfair conduct under the unfairness prong of California's Unfair Competition Law.
7. Whether Blain adequately pleaded that she lacked an adequate remedy at law to seek equitable relief under the UCL.

HOLDINGS

1. Claims challenging an insurer's application of approved rates, including allegedly inadequate COVID-19 premium refunds, are not within the Insurance Commissioner's exclusive jurisdiction and are not immunized by section 1860.1.
2. The doctrine of primary jurisdiction did not require dismissal or referral to the California Department of Insurance.
3. Blain lacked Article III standing to seek injunctive relief because she could not plausibly allege a likelihood of repeated injury after California's stay-at-home orders had ended.
4. Failure to identify a breached express contract provision did not defeat Blain's implied-covenant claim where the alleged breach concerned Liberty Mutual's exercise of contractual discretion affecting policyholders' rights.
5. The unjust-enrichment claim was barred because the parties had an undisputed, enforceable insurance contract governing the subject matter.

6. Blain adequately pleaded UCL standing by alleging that she paid excessive premiums and received less than the benefit for which she bargained.
7. Blain adequately pleaded unfair conduct under the UCL, and Liberty Mutual could not invoke the insurance-rate safe harbor because the claim challenged allegedly inadequate refunds and application of approved rates rather than the approved rates themselves.
8. The UCL claim was inadequately pleaded because Blain did not allege that she lacked an adequate remedy at law, but the defect could be cured by amendment.

KEY QUOTATIONS

> *"Based on the foregoing, this Court too finds that Plaintiff's challenge is to the application of approved rates, not to the rates themselves, and therefore does not fall within the Insurance Commissioner's exclusive jurisdiction."* (Section IV.A)

> *"Therefore, the Court finds Plaintiff lacks Article III standing to seek injunctive relief and Plaintiff's claim for injunctive relief is DISMISSED WITHOUT LEAVE TO AMEND."* (Section IV.C)

> *"Where a contract confers on one party a discretionary power affecting the rights of the other, a duty is imposed to exercise that discretion in good faith and in accordance with fair dealing."* (Section IV.E)

> *"Liberty Mutual's motion to dismiss is GRANTED IN PART AND DENIED IN PART."* (Conclusion)

FACTUAL BACKGROUND

Sarah Blain held a Liberty Mutual automobile-insurance policy during the period beginning March 1, 2020. COVID-19 stay-at-home orders reduced driving and allegedly reduced the claims Liberty Mutual would be expected to pay, while Liberty Mutual continued collecting premiums under approved rates. Liberty Mutual issued refunds of 15% for two months and 5% from June 2020 through May 2021, but Blain alleged the refunds were inadequate and that Liberty Mutual should have used contractual discretion to make greater downward adjustments.

PROCEDURAL HISTORY

The court considered Liberty Mutual's motion to dismiss on the papers. It denied dismissal based on exclusive jurisdiction, primary jurisdiction, equitable abstention, the implied-covenant claim, and UCL standing and unfairness. It dismissed the claims for injunctive relief and unjust enrichment without leave to amend and dismissed the UCL claim for failure to plead an inadequate legal remedy, with leave to amend.

DISPOSITION

other

CASES CITED

- Brown v. Electronic Arts, Inc., 724 F.3d 1235, 1247 (9th Cir. 2013)
- Northwest Requirements Utilities v. F.E.R.C., 798 F.3d 796, 808 (9th Cir. 2015)

- Lexmark International, Inc. v. Static Control Components, Inc., 572 U.S. 118, 128 n.4 (2014)
- Maya v. Centex Corp., 658 F.3d 1060, 1067 (9th Cir. 2011)
- Safe Air for Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir. 2004)
- Leite v. Crane Co., 749 F.3d 1117, 1121 (9th Cir. 2014)
- Chandler v. State Farm Mutual Automobile Insurance Co., 598 F.3d 1115, 1122 (9th Cir. 2010)
- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- SmileCare Dental Group v. Delta Dental Plan of California, 88 F.3d 780, 783 (9th Cir. 1996)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009)
- Associated General Contractors of California, Inc. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983)
- Thompson v. Davis, 295 F.3d 890, 895 (9th Cir. 2002)
- Daniels-Hall v. National Education Association, 629 F.3d 992, 998 (9th Cir. 2010)
- Welk v. Beam Suntory Importers, Inc., 124 F. Supp. 3d 1039, 1041–42 (S.D. Cal. 2015)
- Interstate Natural Gas Co. v. Southern California Gas Co., 209 F.2d 380, 385 (9th Cir. 1954)
- Rowland v. Paris Las Vegas, 2014 WL 76993, at *2 (S.D. Cal. Feb. 25, 2014)
- Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006)
- United States v. Southern California Edison Co., 300 F. Supp. 2d 964, 974 (E.D. Cal. 2004)
- Day v. GEICO Casualty Co., 580 F. Supp. 3d 830, 837, 841, 847 (N.D. Cal. 2022)
- Rejoice! Coffee Co., LLC v. Hartford Financial Services Group, Inc., 2021 WL 5879118, at *3–8 (N.D. Cal. Dec. 9, 2021)
- Boobuli's LLC v. State Farm Fire & Casualty Co., 562 F. Supp. 3d 469, 477–86 (N.D. Cal. 2021)
- Drawdy v. Nationwide Insurance Co. of America, 2022 WL 3020050, at *2–3 (E.D. Cal. July 29, 2022)
- Torrez v. Infinity Insurance Co., 2022 WL 6819848, at *2–4 (C.D. Cal. Oct. 11, 2022)
- Villanueva v. Fidelity National Title Co., 11 Cal. 5th 104, 132 (2021)
- Krumme v. Mercury Insurance Co., 123 Cal. App. 4th 924, 937 (2004)
- State Farm General Insurance Co. v. Lara, 71 Cal. App. 5th 148, 188–94 (2021)
- Astiana v. Hain Celestial Group, 783 F.3d 753, 760–62 (9th Cir. 2015)
- Clapper v. Amnesty International USA, 568 U.S. 398, 409 (2013)
- Brown v. Stored Value Cards, Inc., 953 F.3d 567, 574 (9th Cir. 2020)
- Guz v. Bechtel National, Inc., 24 Cal. 4th 317, 349–50 (2000)
- Carma Developers (Cal.), Inc. v. Marathon Development California, Inc., 2 Cal. 4th 342, 374 (1992)
- Shirley v. L.L. Bean, Inc., 2019 WL 1205089, at *3 (N.D. Cal. Mar. 14, 2019)
- Bevis v. Terrace View Partners, LP, 33 Cal. App. 5th 230, 252 (2019)
- Roby v. Liberty Mutual Personal Insurance Co., 2022 WL 204610, at *7 (N.D. Ill. Jan. 24, 2022)
- Careau & Co. v. Security Pacific Business Credit, Inc., 222 Cal. App. 3d 1371, 1395 (1990)
- Klein v. Chevron U.S.A., Inc., 202 Cal. App. 4th 1342, 1388 (2012)

- SunPower Corp. v. SunPower California, LLC, 2021 WL 2781245, at *3 (S.D. Cal. July 2, 2021)
- Lance v. Camper Manufacturing Corp. v. Republic Indemnity Co., 44 Cal. App. 4th 194, 203 (1996)
- Peterson v. Cellco Partnership, 164 Cal. App. 4th 1583, 1593 (2008)
- Lectrodryer v. SeoulBank, 77 Cal. App. 4th 723, 726 (2000)
- Rutherford Holdings, LLC v. Plaza Del Rey, 223 Cal. App. 4th 221, 231 (2014)
- Steward v. Kodiak Cakes, LLC, 537 F. Supp. 3d 1103, 1159 (S.D. Cal. 2021)
- Saroya v. University of the Pacific, 503 F. Supp. 3d 986, 998–99 (N.D. Cal. 2020)
- Davis v. HSBC Bank Nevada, N.A., 691 F.3d 1152, 1169 (9th Cir. 2012)
- Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co., 20 Cal. 4th 163, 180 (1999)
- MacKay v. Superior Court, 188 Cal. App. 4th 1427, 1450 (2010)
- Ellsworth v. U.S. Bank, N.A., 908 F. Supp. 2d 1063, 1082 (N.D. Cal. 2012)
- Wahl v. American Security Insurance Co., 2010 WL 4509814, at *3 (N.D. Cal. Nov. 1, 2010)
- Kwikset Corp. v. Superior Court, 51 Cal. 4th 310, 323, 330 (2011)
- In re Solara Medical Supplies, LLC Customer Data Security Breach Litigation, 2020 WL 2214152, at *9 (S.D. Cal. May 7, 2020)
- Schwartz v. Provident Life & Accident Insurance Co., 216 Cal. App. 4th 607, 611–12 (2013)
- Tripp v. PHH Mortgage, 2015 WL 12645023, at *3 (C.D. Cal. Aug. 20, 2015)
- In re Adobe Systems, Inc. Privacy Litigation, 66 F. Supp. 3d 1197, 1224 (N.D. Cal. 2014)
- In re LinkedIn User Privacy Litigation, 2014 WL 1323713, at *4 (N.D. Cal. Mar. 28, 2014)
- Pemberton v. Nationstar Mortgage LLC, 331 F. Supp. 3d 1018, 1051 (S.D. Cal. 2018)
- Lozano v. AT&T Wireless Services, Inc., 504 F.3d 718, 735 (9th Cir. 2007)
- Kellman v. Whole Foods Market, Inc., 313 F. Supp. 3d 1031, 1049 (N.D. Cal. 2018)
- Sonner v. Premier Nutrition Corp., 971 F.3d 834, 844 (9th Cir. 2020)
- Ketayi v. Health Enrollment Group, 516 F. Supp. 3d 1092, 1140 (S.D. Cal. 2021)
- Zaback v. Kellogg Sales Co., 2020 WL 6381987, at *4 (S.D. Cal. Oct. 29, 2020)
- Nacarino v. Chobani, LLC, 2022 WL 344966, at *27 (N.D. Cal. Feb. 4, 2022)
- Jeong v. Nexo Financial LLC, 2022 WL 174236, at *27 (N.D. Cal. Jan. 19, 2022)
- Wildin v. FCA US LLC, 2018 WL 3032986, at *7 (S.D. Cal. June 19, 2018)
- Caroll v. Liberty Mutual Fire Insurance Co.