

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>TICOR TITLE INSURANCE OF FLORIDA,</b>	)	<b>CONSOLIDATED CASES</b>
	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 07-2456-CM</b>
	)	
	)	
<b>NATIONS HOLDING CO., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
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<b>FIDELITY NATIONAL TITLE INSURANCE CO.,</b>	)	
	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 07-2459-CM</b>
	)	
	)	
<b>NATIONS HOLDING CO., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
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**ORDER**

This consolidated case is before the court on plaintiffs' Motion for Leave to Amend Complaints. (Doc. 34.) Plaintiffs seek to add new claims and one new defendant to the litigation. For the reasons stated below, and in this court's September 25, 2008 Memorandum and Order dismissing certain defendants and claims in the case for lack of personal and subject matter jurisdiction (Doc. 40), the court denies in part and grants in part plaintiffs' motion to amend.

**I. STANDARD FOR JUDGMENT**

Under Federal Rule 15(a)(2), a party may amend its pleading only with the opposing party's

written consent or the court's leave. Although the defendants and proposed defendants filed a joint opposition to this motion to amend (Doc. 35), the court freely gives leave if and when justice so requires.

## **II. DISCUSSION**

### **A. New Claims**

Plaintiff TICOR seeks to add new claims as follows: Counts 94–99 against Nations Title Agency of the Carolinas, Inc.; Counts 100–105 against Nations Title Agency of Georgia, Inc.; Counts 106–108 against Nations Title Agency of Kentucky, Inc.; Counts 109–114 against Nations Title Agency of Louisiana, Inc.; and Counts 115–117 against Nations Title Agency, Inc. (Doc. 34-2.)

Plaintiff Fidelity seeks to add new claims as follows: Counts 22–27 against Nations Title Agency of Indiana, Inc.; and Counts 28–30 against Nations Title Agency of Michigan, Inc. (Doc. 34-3.)

This court has dismissed Nations Title Agency of the Carolinas, Indiana, Georgia, Michigan, and Kentucky from this lawsuit for lack of personal jurisdiction. In the absence of any allegation that this court may exercise personal jurisdiction over them in regard to these additional claims, the court denies plaintiffs' motion to amend as to claims against these corporations.

With respect to the claims against Nations Title Agency of Louisiana, Inc., Counts 109–114 of plaintiff TICOR's amended complaint; and against Nations Title Agency, Inc., Counts 115–117 of TICOR's amended complaint, the court grants the plaintiffs' motion to amend.

### **B. New Defendant**

Finally, plaintiff Fidelity seeks to amend its complaint to include claims for breach of

contract, subrogation, and unjust enrichment against a new party, Nations of Pennsylvania, Inc., seeking damages in the amount of \$20,865.23. (Doc. 34-3, at 28–30.) The court concludes that, for the rationale set out in its order granting the motions to dismiss filed in this case (Doc. 40), plaintiff's motion to amend should be denied as futile because the additional claims would not survive a motion to dismiss for lack of either subject matter or personal jurisdiction.

**IT IS THEREFORE ORDERED** that plaintiffs' Motion for Leave to Amend (Doc. 34) is granted in part and denied in part as set out in this order.

Dated this 25th day of September 2008, at Kansas City, Kansas.

s/ Carlos Murguia \_\_\_\_\_  
**CARLOS MURGUIA**  
**United States District Judge**