

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THOMAS ZIMMERMAN and
PATRICIA ZIMMERMAN,

Plaintiffs,

v.

GREG LOGEMANN, 1st RATE MORTGAGE CORP.,
GRETТА HAUN, BOARDWALK REALTY, INC.,
COUNTRYWIDE BANK, N.A., and
AMERICA'S WHOLESALE LENDER,

Defendants,

and

ACUITY, A Mutual Insurance Company,

Intervenor Defendant,

and

TRI-COUNTY TITLE & ABSTRACT, LLC and
TERRI S. OSWALD,

Third Party Defendants.

ORDER
09-cv-210-slc

Defendants Country Wide Bank and America's Wholesale Lender have filed a motion for leave to file a third party complaint on First American Title Insurance Company. Dkt. 144. The motion is DENIED.

Defendants' proposed new claims are not related to the merits of this case. Rather, defendants wish to sue First American for breaching its duty to defend and indemnify them. However, this case is already more than a year old and defendants identify no reason they waited so long to assert this claim. I see no reason to permit such an untimely claim that will do nothing but add distractions from the primary issues and further delay the case.

Defendants represent in their motion that the other parties "will not oppose the motion . . . so long as Countrywide and AWL agree to be bound by the schedule outlined in the Court's

January 27, 2010 Preliminary Pretrial Conference Order.” Dkt. 144, at 4. This agreement is unsurprising because the other parties have little to do with the new claims. First American, however, may have a different idea. The deadline for filing summary judgment motions is now less than three months away. It would be unfair to expect a new party to prepare for summary judgment so quickly, particularly when defendants’ tarrying would be the only reason for placing that party at such a tactical disadvantage. If defendants believe that First American breached its duty to defend, they may file a separate lawsuit.

Entered this 26th day of June, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge