

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

WALTER OLEJNIK, KATHERINE OLEJNIK,
KENNETH OLEJNIK and JOANN OLEJNIK,

Plaintiffs,

v.

TRACI J. ENGLAND, ONEIDA COUNTY,
and WISCONSIN COUNTY MUTUAL
INSURANCE CORPORATION,

Defendants.

ORDER

14-cv-88-jdp

In an October 8, 2014 order, I granted defendant Tracy J. England's motion for recruitment of counsel to represent her on coverage issues in this case. Dkt. 34. I noted in that order that it might prove difficult to find counsel willing to represent her, and that if the court's search was unsuccessful, she would have to proceed pro se on this aspect of the case.

After several weeks, the court has been unable to locate counsel to represent defendant England, so she will have to proceed without a lawyer. As I expect that intervening defendant Wisconsin County Mutual Insurance Company will file a motion for summary judgment on coverage issues, this means that defendant England will have to craft her own response.

However, at this point I do not believe that this means that defendant England is placed at an unfair disadvantage. As Magistrate Judge Stephen Crocker has already pointed out, "ordinarily coverage and the duty to defend are triggered by allegations within the four corners of the complaint." Dkt. 32 at 2 (citing *Newhouse by Skow v. Citizens Sec. Mut. Ins. Co.*, 176 Wis. 2d 824, 835, 501 N.W. 2d 1, 5 (1993)). In considering coverage issues, the court will be applying legal authority to the language of the insurance policy and the allegations of

the complaint, which means that defendant England will not be placed in the difficult position of cultivating a factual record as a pro se prisoner. Even to the extent that defendant England may not be in a position to offer sophisticated legal argument on these issues, it is possible that she will not be the only party opposing such a motion for summary judgment, so the relevant issues may, at least to some extent, receive adversarial briefing. In short, I believe that this dispute can be fairly resolved even though defendant England will be proceeding pro se. If unforeseen issues arise that change that belief, I will consider undertaking further efforts to locate counsel.

Finally, I note that the parties (excluding defendant England) have filed a joint motion to amend the schedule to extend the dispositive motions deadline to January 15, 2015. Dkt. 35. IT IS ORDERED that the motion is GRANTED.

Entered this 24th day of November, 2014.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge