

NAACP v. American Family Mut. Ins. Co.

United States District Court for the Eastern District of Wisconsin
December 17, 1990, Decided ; December 17, 1990, Filed
Civil Action No. 90-C-759

Reporter: 1990 U.S. Dist. LEXIS 18522

THE NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, et al., Plaintiffs,
v. AMERICAN FAMILY MUTUAL INSURANCE CO.,
Defendant

Judges: [*1] J.P. Stadtmueller, United States District Judge.

Opinion by: STADTMUELLER

Opinion

ORDER

This matter came on for hearing on December 11, 1990 upon the defendant's motions to dismiss and for Rule 11 sanctions. The plaintiffs appeared by John Powell, William H. Lynch, James H. Hall, Jr., and Curry First. The defendant appeared by Thomas L. Shriner, Jr., Richard M. Esenberg, and Robert C. Burrell. Amicus curiae United States of America appeared, by special leave of the Court, by Joseph D. Rich and Conrad Schneider. Having heard the oral arguments of counsel and considered the briefs of

the parties and amici curiae, and for the reasons stated on the record in open court, the Court entered the following orders:

1. The defendant's motion to dismiss the first and fifth claims of the complaint, pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state claims upon which relief can be granted, is GRANTED.

2. Upon its own motion, the Court, pursuant to Fed. R. Civ. P. 54(b), expressly DIRECTS the Clerk to enter a final judgment dismissing the first and fifth claims of the complaint, having expressly determined that there is no just reason for delay in the entry of the judgment.

3. The defendant's motion for [*2] an order, pursuant to Rule 11, Fed. R. Civ. P., requiring the plaintiffs to pay the defendant its costs incurred in bringing the motion to dismiss the fifth claim is DENIED.

Done at Milwaukee, Wisconsin this 17th day of December, 1990.