

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

NEIL F. KEENAN, Plaintiff :
 :
 vs. : C.A. No. 86-0072-L
 :
 EDWARD SEAMANS, WILLIAM DOORLEY, :
 REALTY CONCEPTS and WASHINGTON :
 NATIONAL INSURANCE COMPANY, :
 Defendants :

MEMORANDUM AND ORDER

RONALD R. LAGUEUX, United States District Judge.

In this action plaintiff alleges that defendants were involved in a conspiracy to withhold certain exculpatory evidence during the course of plaintiff's criminal trial, apparently on drug-related charges. Plaintiff also alleges that defendants made attempts, subsequent to plaintiff's conviction, to extort monetary compensation from him in exchange for such evidence. The court's jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1332 as a matter arising under federal law as well as involving diversity of citizenship. Plaintiff alleges violation of his federal constitutional rights and of numerous federal criminal statutes

including, inter alia, 18 U.S.C. §§ 241, 242, 871, 872, 875, 1341, 1342, 1343, 1503, 1506, 1511, 1621, 1961, 1962 and 1964. Defendant Washington National Insurance Company (Washington National) seeks entry of summary judgment in its favor on all counts of plaintiff's complaint.

The facts pertinent to the motion for summary judgment by Washington National are undisputed. During at least a portion of the relevant time period, defendant Edward Seamans served as a "writing agent" for Washington National. Seamans' duties consisted of procurement of life and health insurance applications. While associated with Washington National, Seamans corresponded with plaintiff on at least two occasions. Seamans' letters, dated September 16 and September 24, 1984, allegedly related to the purported extortion scheme. Both letters were hand-written on "memo" or "scratch" pads bearing the insurance company's letterhead. This use of company stationary serves as the sole basis for plaintiff's allegation that Washington National was involved in the conspiracy.

Entry of summary judgment is appropriate when the court's review of the pleadings, depositions, answers to interrogatories, admissions and affidavits

demonstrates that there are no genuine issues of material fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). Under the facts presented, it is clear that entry of summary judgment in favor of Washington National on all counts of plaintiff's complaint is appropriate in this case.

A review of the record reveals a complete lack of any genuine issue of material fact concerning Washington National's involvement in the activities complained of. In support of its motion for summary judgment, the company has proffered the affidavit of defendant Seamans. Seamans' affidavit demonstrates that, in corresponding with plaintiff, he was neither acting on behalf of Washington National nor with its knowledge or consent. He states that he drafted the letters during non-business hours and in connection with personal matters that were completely unrelated to insurance. Seamans avers that Washington National lacked any knowledge concerning the subject matter of the correspondence. Also, the company neither authorized nor knew of such use of its stationary.

Further, plaintiff's own deposition testimony demonstrates a complete lack of evidence of any

Washington National involvement in the alleged conspiracy.¹ Plaintiff testified that Seamans' above-described use of company stationary was the only evidence in his possession that suggested that Washington National participated in the extortion scheme. Plaintiff added that, to his knowledge, the company did not authorize the correspondence. In fact, plaintiff opined that Seamans used Washington National stationary in an attempt to conceal his illegal activities.

The mere fact that Seamans unilaterally chose to use Washington National stationary in corresponding with plaintiff does not create a genuine issue of material fact concerning the company's involvement in the alleged conspiracy. Therefore, it is clear that Washington National is entitled to judgment as a matter of law.

Accordingly, defendant Washington National's

1 In opposing Washington National's motion for summary judgment, plaintiff challenges the company's reliance upon his deposition testimony. Plaintiff alleges that Washington National acted improperly in utilizing such testimony prior to his review and approval of the deposition transcript. However, in view of plaintiff's subsequent written revision and approval of the transcript, such an argument is without merit.

motion for summary judgment hereby is granted as
to all counts of the complaint.

It is so Ordered.

ENTER:


Judge Ronald R. Lagueux
United States District Judge

11/5/86
Date