

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**JON CHRISTOPHER EVANS,
DEBTOR.**

**CASE NO. 09-03763-NPO
CHAPTER 7**

JOINTLY ADMINISTERED WITH RELATED CASES

**DEREK A. HENDERSON, TRUSTEE
FOR THE BANKRUPTCY ESTATE OF
JON CHRISTOPHER EVANS AND
JOINTLY ADMINISTERED RELATED
CASES**

PLAINTIFF

V.

ADV. PROC. NO. 10-00005-NPO

**COMMUNITY BANK OF MISSISSIPPI,
ET AL.**

DEFENDANTS

**ORDER CLARIFYING
MEMORANDUM OPINION AND ORDER ON MISSISSIPPI VALLEY TITLE
INSURANCE COMPANY AND OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT
ON INSURANCE CONTRACT CLAIMS OF PATRIOT BANK,
FIRST ALLIANCE BANK, FIRST STATE BANK AND OMNIBANK (ADV. DKT. 391)**

This matter came before the Court for a status conference (the "Status Conference") on January 31, 2012, at which time OmniBank asked for clarification of the Memorandum Opinion and Order on Mississippi Valley Title Insurance Company and Old Republic National Title Insurance Company's Motion for Summary Judgment on Insurance Contract Claims of Patriot Bank, First Alliance Bank, First State Bank and OmniBank ("Opinion IV") (Adv. Dkt. 391) issued on December 15, 2011, in the above-referenced adversary proceeding (the "Adversary"). At the Status Conference, Michael S. MacInnis appeared on behalf of OmniBank.

Opinion IV is the fourth of six opinions issued in the Adversary on the same day in which the Court addressed motions for partial summary judgment on claims brought against Mississippi Valley Title Insurance Company and Old Republic National Title Insurance Company (the “Title Companies”). (Adv. Dkt. 388, 389, 390, 391, 392, & 393). With regard to OmniBank, the Court granted partial summary judgment to the Title Companies on OmniBank’s claims for breach of contract and bad faith. OmniBank submits that clarification of Opinion IV is necessary for it to prepare for trial, which is set to begin on February 21, 2012.

Apparently, OmniBank is confused by the following sentence that appears on page 19 of Opinion IV: “The Court, therefore, concludes that the Title Companies fully performed their obligations and do not owe OmniBank for any monetary losses or damages it may have sustained with regard to Tracts 2B and 2C.” (Opinion IV at 19, Adv. Dkt. 391). OmniBank is unsure whether this conclusion extends to its claims for breach of the covenant of good faith and fair dealing.

The Court notes that the Title Companies did not specifically request partial summary judgment on OmniBank’s claims for breach of the covenant of good faith and fair dealing in Mississippi Valley Title Company and Old Republic National Title Insurance Company’s Motion for Summary Judgment on Insurance Contract Claims of Patriot Bank, First Alliance Bank, First State Bank and OmniBank (the “Motion”)¹ (Adv. Dkt. 316). Accordingly, Opinion IV does not address those claims. To the extent there is any ambiguity, the Court grants OmniBank’s request

¹ The Motion “seeks judgment as a matter of law as to the remaining claims asserted by the Banks, including breach of contract under the title insurance policies, bad faith and attorneys fees.” Motion at 2.

for clarification by adding the following sentence to the end of Opinion IV:

All other relief requested by the Title Companies that is not specifically granted herein is denied.

SO ORDERED.



Neil P. Olack
United States Bankruptcy Judge
Dated: February 6, 2012