UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

STATE AUTO PROPERTY AND CASUALTY INSURANCE COMPANY, Plaintiff, v. CLASSIC DINING GROUP LLC, et al., Defendants.	Case No. 20-cv-4434 Judge John Robert Blakey

ORDER

Defendants' motion to dismiss [11] is granted. This case is dismissed without prejudice based upon the *Wilton-Brillhart* abstention doctrine. Civil case terminated.

STATEMENT

Defendants own and operate franchised Denny's and Ruby Tuesday restaurants in Illinois, Indiana, and Wisconsin. [1] at ¶ 9. At all relevant times, Plaintiff insured Defendants under two commercial property policies. *Id.* at ¶ 3. In the wake of the COVID-19 global pandemic, in March 2020, Defendants presented coverage claims for business losses to Plaintiff. *Id.* at ¶¶ 67, 73. Plaintiff responded that "there did not appear to be coverage for the insureds' business interruption claim." *Id.* at ¶¶ 68, 74.

As a result, in June 2020, Defendants filed a three-count complaint in the Court of Common Pleas in Franklin County, Ohio, seeking a declaratory judgment that Plaintiff owes coverage under the policies (Count I) and damages for breach of contract (Count II) and bad faith denial of insurance (Count III) against Plaintiff. [1-1]. About a month later, Plaintiff filed a complaint in this Court, seeking a declaratory judgment that it owes no coverage under the policies. [1] at ¶¶ 95–98. Defendants now move to dismiss, or in the alternative, to stay based upon the *Wilton-Brillhart* doctrine. [11].

The federal Declaratory Judgment Act provides only that courts "*may* declare the rights and other legal relations of any interested party, not that it *must* do so." *Amling v. Harrow Indus. LLC*, 943 F.3d 373, 379 (7th Cir. 2019) (quoting *Haze v. Kubicek*, 880 F.3d 946, 951 (7th Cir. 2018)); 28 U.S.C. § 2201. The Act thus confers

upon courts "unique and substantial discretion" in deciding whether to grant declaratory judgment. *Amling*, 943 F.3d at 379 (quoting *Haze*, 880 F.3d at 951). Under *Wilton v. Seven Falls Company*, 515 U.S. 277 (1995) and *Brillhart v. Excess Insurance Company of America*, 316 U.S. 491 (1942), abstention applies when "a federal court [is called upon] to proceed in a declaratory judgment suit where another suit is pending in state court presenting the same issues, not governed by federal law, between the same parties." *Arnold v. KJD Real Estate, LLC*, 752 F.3d 700, 707 (7th Cir. 2014) (quoting *Brillhart*, 316 U.S. at 495). Although no set criteria exist for determining when *Wilton-Brillhart* abstention applies, the "classic example" of proper abstention occurs where a plaintiff seeks solely declaratory relief while an action pending in a state court between the same parties will answer "the same precise legal question." *Amling*, 943 F.3d at 380 (quoting *Envision Healthcare, Inc. v. PreferredOne Ins. Co.*, 604 F.3d 983, 986 (7th Cir. 2010)).

This case qualifies as such a "classic example." Both this case and the Ohio state court case involve the same parties. Additionally, the Ohio case requires the court there to consider the "same precise legal question" as this Court would here in adjudicating Plaintiff's declaratory claims: whether Plaintiff owes Defendants coverage under the relevant policies. Given these circumstances, allowing this case to proceed would "be indulging in gratuitous interference." *Arnold*, 752 F.3d at 707 (quoting *Wilton*, 515 U.S. at 283). For this reason, this Court exercises its discretion to dismiss this case without prejudice under the *Wilton-Brillhart* abstention doctrine. Civil case terminated.

Dated: November 3, 2020

Entered:

John Robert Blakey
United States District Judge