

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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KATHLEEN RUGGERIO,      :
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:           Plaintiff,   :
:                       :
v.                       :           Civ. No. 3:11CV760 (AWT)
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:                       :
HARLEYSVILLE PREFERRED :
INSURANCE COMPANY,      :
:                       :
:           Defendant.  :
:                       :
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ORDER RE MOTION FOR JUDGMENT ON THE PLEADINGS

For the reasons set forth below, the defendant's Motion for Dismissal of Plaintiff's Negligence Cause of Action (First Count) (Doc. No. 137) is hereby DENIED.

Defendant Harleysville Preferred Insurance Company ("Harleysville") moved to dismiss, pursuant to Fed. R. Civ. P. 12(c), the First Count of the Amended Complaint, which is the claim for negligence. The claim asserts that Harleysville "was negligent and careless in one or more of the following respects: a. It failed to properly investigate the loss; and b. It failed to properly adjust the loss." (Am. Compl., Doc. No. 20, ¶ 12.) The First Count recites that the plaintiff "suffered the loss of her home, personal possessions, household furniture, appliances and fixtures[,]" (*id.*, ¶ 13) and that she "has been required to obtain alternative housing and store her possessions in a rental

facility.” (Id. ¶ 14.) In addition, the First Count alleges that as a result of Harleystown’s conduct, the plaintiff “has suffered emotional distress and anxiety all to her further and continuing loss.” (Id. ¶ 15.)

Harleystown contends that the plaintiff’s negligence claim is precluded by the economic loss doctrine. In Aliki Foods, LLC v. Otter Valley Foods, Inc., 726 F. Supp. 2d 159 (D. Conn. 2010), the court observed that “[t]he economic loss doctrine is a judicially created doctrine which bars recovery in tort where the relationship between the parties is contractual and the only losses alleged are economic.” Id. at 164 (citations omitted). The court quoted, inter alia, Princess Cruises, Inc. v. Gen. Elec. Co., 950 F. Supp. 151, 156 (E.D. Va. 1996), for the proposition that “to permit a party to a broken contract to proceed in tort where only economic losses are alleged would eviscerate the most cherished virtue of contract law, the power of the parties to allocate the risks of their own transactions.” Aliki Foods, 726 F. Supp. 2d at 165 (internal brackets omitted).

Thus, two conditions must be satisfied for the economic loss doctrine to be applicable: first, there must be a contractual relationship between the parties, and second, the only losses alleged are economic.¹ In this case, the second

¹ Even if these conditions are satisfied, the economic loss doctrine may not be applicable because there are limits and exceptions to the economic loss

condition is not satisfied. Paragraph 15 of the First Count makes it clear that in addition to her economic losses, the plaintiff is seeking to recover for emotional distress.

Therefore, the motion for judgment on the pleadings should be denied.

It is so ordered.

Signed this 19th Day of December 2014, at Hartford, Connecticut.

/s/
Alvin W. Thompson
United States District Judge

doctrine. Those limits and exceptions are discussed in depth in Aliki Foods. See 726 F. Supp. 2d at 165-67.