

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-1993

BECKY L. LUKOSUS,

Plaintiff - Appellant,

versus

FIRST TENNESSEE BANK NATIONAL ASSOCIATION,
d/b/a First Tennessee Bank; FIRST HORIZON HOME
LOAN CORPORATION, d/b/a First Horizon Home
Loans,

Defendant & Third Party Plaintiff - Appellees,

and

FNIS FLOOD SERVICES, L.P., formerly known as
Fidelity National Flood Services,

Third Party Defendant.

Appeal from the United States District Court for the Western
District of Virginia, at Big Stone Gap. James P. Jones, District
Judge. (CA-02-84-2)

Submitted: January 21, 2004

Decided: March 15, 2004

Before LUTTIG and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

John H. Qualls, Gate City, Virginia, for Appellant. Joseph Britt Lyle, HALE & LYLE, Bristol, Tennessee, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Becky L. Lukosus appeals the district court's judgment granting the Appellees' motion to dismiss for failing to state a claim. Lukosus filed a motion for judgment in state court charging First Tennessee Bank National Association, First Tennessee Bank, First Horizon Home Loans and JC Johnson City with various common law offenses based on their failure to provide proper flood certification in accordance with the National Flood Insurance Act ("NFIA"), 42 U.S.C. §§ 4001-4129 (2000). The Appellees removed the motion for judgment to federal district court claiming diversity jurisdiction.

We review a motion to dismiss de novo. See Mylan Labs., Inc. v. Matkari, 7 F.3d 1130, 1134 (4th Cir. 1993). Dismissal under Rule 12(b)(6) is inappropriate unless it appears beyond doubt that the plaintiff can prove no set of facts to support his allegations. Revene v. Charles County Comm'rs, 882 F.2d 870, 872 (4th Cir. 1989) (citations omitted). Thus, when considering the propriety of a dismissal, we accept the factual allegations in the complaint as true and afford the plaintiff the benefit of all reasonable inferences that can be drawn from those allegations. Mylan Labs., 7 F.3d at 1134.

We have reviewed the record and the district court's opinion and find that Lukosus has failed to state a claim. Accordingly, we affirm the district court's judgment. We dispense

with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED