

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND
(Northern Division)

SPRINGFIELD FINANCIAL)
COMPANY, L.L.C.,)
d/b/a SFC, L.L.C.,)
)
8202 Greentree Manor Lane)
Fairfax Station)
Virginia 22039)
)
Plaintiff,)

v.)

Civil Action No. _____

)
FIRST AMERICAN TITLE)
INSURANCE COMPANY,)
)
One First American Way)
Santa Ana, California 92707,)
)
SERVE: CSC Lawyers Incorporating)
Service Company)
11 East Chase Street)
Baltimore, Maryland 21202,)
)

AND)

)
HOMEMAXX TITLE & ESCROW, L.L.C.,)
)
2728 Snydersburg Road)
Hampstead, Maryland 21074,)
)
SERVE: Daniel E. Fink, Jr.)
2728 Snydersburg Road)
Hampstead, Maryland 21074,)
)

AND)

)

DANIEL E. FINK, JR.,)
)
 2728 Snydersburg Road)
 Hampstead, Maryland 21074,)
)
 AND)
)
 J. SCOTT MORSE, ESQUIRE)
 6798 Ducketts Lane)
 Elkridge, Maryland 21074)
)
 Defendants.)
 _____)

COMPLAINT
(Diversity Jurisdiction; Breach Of Contract Of Insurance; Conversion; Fraud;
Detrimental Reliance; Breach Of Fiduciary Duty; Civil RICO; Breach Of Closing
Protection Letter; Legal Malpractice; Compensatory And Punitive Damages)

JURY TRIAL DEMANDED

Plaintiff, **SPRINGFIELD FINANCIAL COMPANY, L.L.C.**, d/b/a SFC,

L.L.C., by its undersigned lawyers, brings this diversity action against Defendant First American Title Insurance Company, Defendant Homemaxx Title & Escrow, L.L.C., Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse, Esquire alleging breach of contract, conversion, fraud, detrimental reliance, breach of fiduciary duty, civil RICO, breach of closing protection letter, and legal malpractice. In support of its claims, Plaintiff, Springfield Financial Company, L.L.C., d/b/a SFC, L.L.C., alleges as follows.

PARTIES

1. Plaintiff, Springfield Financial Company, L.L.C., d/b/a SFC, L.L.C. (hereinafter “Plaintiff SFC”), is a corporation organized and operating under the laws of the Commonwealth of Virginia with its principal place of business located in the Commonwealth of Virginia.

2. Defendant First American Title Insurance Company is a corporation organized and operating under the laws of the State of California with its principal place of business located in the State of California.

3. Defendant Homemaxx Title & Escrow, L.L.C., is a limited liability company organized under the laws of the State of Maryland with its principal place of business located in the State of Maryland. Defendant Homemaxx Title & Escrow, L.L.C. has had its charter revoked by the State of Maryland for failure to comply with the laws and regulations governing its operation.

4. Defendant Daniel E. Fink, Jr., is an adult citizen of the State of Maryland. He is a principal of Defendant Homemaxx Title & Escrow, L.L.C.

5. Defendant J. Scott Morse, Esquire is an adult citizen of the State of Maryland. He is a principal of Defendant Homemaxx Title & Escrow, L.L.C.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 in that Plaintiff is not a citizen of the same state as any Defendant and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

7. Venue is proper in this judicial district and this Division pursuant to 28 U.S.C. § 1391, in that acts and omissions of Defendant alleged below were committed within the State of Maryland and within the geographical limits of the Northern Division of this Court.

ALLEGATIONS OF FACT COMMON TO ALL CLAIMS

8. Plaintiff SFC is engaged in the business, among other things, of providing mortgages to the purchasers of property located in the State of Maryland.

9. Defendant First American Title Insurance Company is engaged in the business of issuing policies of title insurance in connection with the closings of real estate transactions to lenders whose interests in the properties so insured are secured by mortgages or other security instruments.

10. Defendant First American Title Insurance Company appointed Defendant Homemaxx Title & Escrow, L.L.C., as the agent of Defendant First American Title Insurance Company in connection with the issuing of policies of title insurance to lenders whose interests in the properties so insured are secured by mortgages or other security instruments in connection with the closings of real estate transactions in Maryland

11. Defendant Daniel E. Fink, Jr. owned and operated Defendant Homemaxx Title & Escrow, L.L.C., as the approved agent of Defendant First American Title Insurance Company in connection with the issuing of policies of title insurance to lenders whose interests in the properties so insured are secured by mortgages or other security instruments in connection with the closings of real estate transactions in Maryland.

12. Defendant J. Scott Morse was a principal of Defendant Homemaxx Title & Escrow, L.L.C., as the approved agent of Defendant First American Title Insurance Company in connection with the issuing of policies of title insurance to lenders whose interests in the

properties so insured are secured by mortgages or other security instruments in connection with the closings of real estate transactions in Maryland.

13. Defendant J. Scott Morse is an attorney licensed to practice law in the State of Maryland and acted in his capacity as an attorney in connection with the conduct of the Defendant First American Title Insurance Company in connection with the issuing of policies of title insurance to lenders whose interests in the properties so insured are secured by mortgages or other security instruments in connection with the closings of real estate transactions in Maryland.

14. Plaintiff SFC requires borrowers to purchase title insurance policies to protect SFC.

15. Commencing in or about October, 2002, title insurance was purchased on behalf of Plaintiff SFC from Defendant First American Title Insurance Company in connection with closings on real estate transactions in the State of Maryland as to which Plaintiff SFC held a security interests, by way of a mortgage, deed of trust or otherwise.

16. Over that time, such title insurance policies were purchased on behalf of Plaintiff SFC from Defendant First American Title Insurance Company for approximately One Hundred One (101) properties as to which Plaintiff held a security interest, by way of a mortgage, deed of trust, or otherwise.

17. In the case of each of these properties, Defendant First American Title Insurance Company named Defendant Homemaxx Title & Escrow, L.L.C, Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse as the approved and authorized agents of Defendant First American Title Insurance Company to handle the issuance of title insurance on behalf of

Defendant First American Title Insurance Company and to handle the closings on these properties in accordance with the instructions provided by Plaintiff SFC.

18. With regard to each of these approximately One Hundred One (101) properties, Defendant First American Title Insurance Company and its approved and authorized agents, Defendant Homemaxx Title & Escrow, L.L.C, Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse failed to record deeds or mortgages; failed to protect the status of the title to the interest of Plaintiff SFC in these properties and the validity, enforceability, and priority of the lien of the interest of Plaintiff SFC in these properties; failed to protect the security interests of Plaintiff SFC; failed to collect and pay funds owed to Plaintiff SFC; failed to comply with the written closing instructions issued by Plaintiff SFC; engaged in fraud and dishonesty in handling funds and documents in connection with such closings; and engaged in such other acts and omissions as impaired and destroyed the security interests of Plaintiff SFC in these properties.

CLAIM ONE
(Breach of Contract of Insurance;
Defendant First American Title Insurance Company)

19. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

20. As the direct and proximate result of the acts and omissions of Defendants, jointly and severally, Plaintiff SFC has suffered losses of its secured interests in properties as to which Defendant First American Title Insurance Company has issued policies of title insurance, which losses exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00).

21. Plaintiff SFC has made demand of Defendant First American Title Insurance Company under the policies of title insurance applicable to these properties.

22. Defendant First American Title Insurance Company has failed and refused to pay the losses incurred on these properties by reason of the acts and omissions of Defendants, jointly and severally.

23. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, including compensatory damages in an amount to be determined at trial but believed to exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00), plus its costs in this action, its reasonable attorney's fees; and such further relief as justice requires.

**CLAIM TWO
(Conversion;
Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse)**

24. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

25. The acts and omissions of Defendants as alleged in this Complaint, jointly and severally, constituted the conversion of funds due to Plaintiff SFC at the closing of the properties at issue.

26. As a direct and proximate result of the acts and omissions of Defendants, jointly and severally, Plaintiff SFC has suffered compensatory damages in an amount to be determined at trial but believed to exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00).

27. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, Defendant Homemaxx Title & Escrow, L.L.C., Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse, jointly and severally, including compensatory damages in an amount to be determined at trial but believed to exceed Two

Million, Five Hundred Thousand Dollars (\$2,500,000.00); punitive damages in an amount to be determined at trial, but believed to exceed Ten Million Dollars (\$10,000,000.00); its costs in this action; its reasonable attorney's fees; and such further relief as justice requires.

CLAIM THREE

(Fraud;

Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse)

28. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

29. The acts and omissions of Defendants, jointly and severally, as alleged in this Complaint, constituted fraud, in that Defendants represented to Plaintiff SFC that they had, with regard to each of these approximately One Hundred One (101) properties, properly prepared and recorded the necessary deeds and other paperwork; taken all steps necessary to protect the status of the title to the interest of Plaintiff SFC in these properties and the validity, enforceability and priority of the lien of the interest of Plaintiff SFC in these properties; taken the steps necessary to protect the security interests of Plaintiff SFC; collected and paid the funds owed to Plaintiff SFC; complied with the written closing instructions issued by Plaintiff SFC; and took all other steps reasonably necessary to protect the security interest of Plaintiff SFC in the One Hundred One (101) properties and to procure a valid policy of title insurance as to each property protecting the full extent of the security interest of Plaintiff SFC in such properties.

30. These representations by Defendants were false.

31. These representations by Defendants concerned matters of material fact.

32. Defendants made these representations with the intent of inducing Plaintiff SFC to rely upon such representations.

33. Plaintiff SFC in fact relied on Defendants' representations.

34. Plaintiff SFC's reliance was reasonable.

35. Plaintiff SFC's reliance was justified.

36. The acts and omissions of Defendants were willful, intentional, purposeful, and taken for the purpose of deceiving Plaintiff SFC.

37. As a direct and proximate result of the reliance by Plaintiff SFC on the representations of Defendants as alleged herein, Plaintiff SFC has suffered compensatory damages in excess of Two Million, Five Hundred Thousand Dollars (\$2,500,000.00).

38. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, Defendant Homemaxx Title & Escrow, L.L.C., Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse, jointly and severally, including compensatory damages in an amount to be determined at trial but believed to exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00); punitive damages in an amount to be determined at trial, but believed to exceed Ten Million Dollars (\$10,000,000.00); its costs in this action; its reasonable attorney's fees; and such further relief as justice requires.

CLAIM FOUR
(Detrimental Reliance;
Defendant First American Title Insurance Company)

39. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

40. Defendant First American Title Insurance Company knew or should have known that Plaintiff SFC would rely on its actions of naming Defendant Homemaxx Title & Escrow, LLC, Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse as the approved and authorized agents of Defendant First American Title Insurance Company to handle the issuance

of title insurance on behalf of Defendant First American Title Insurance Company and to handle the closings on these properties in accordance with the instructions provided by Plaintiff SFC.

41. Plaintiff SFC relied on the actions of First American Title Insurance Company's naming of Defendants Homemaxx Title & Escrow, LLC, Daniel E. Fink, Jr., and J. Scott Morse as approved the approved and authorized agents.

42. Plaintiff SFC's reliance was reasonable.

43. Plaintiff SFC's reliance was justified.

44. As a result of Plaintiff SFC's reliance on First American Title Insurance Company's naming of Defendants Homemaxx Title & Escrow, LLC, Daniel E. Fink, Jr., and J. Scott Morse as approved the approved and authorized agents, Plaintiff SFC has suffered compensatory damages in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

45. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, Defendant Homemaxx Title & Escrow, L.L.C., Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse, jointly and severally, including compensatory damages in an amount to be determined at trial but believed to exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00); its costs in this action; its reasonable attorney's fees; and such further relief as justice requires.

CLAIM FIVE
(Breach of Fiduciary Duty;
Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse)

46. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

47. Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse acted as the closing agent for the settlement of One Hundred One (101) properties in which Plaintiff SFC was the lender. As the closing agent, Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse were acting as escrow agents. As such, they owed a duty to Plaintiff SFC to follow the closing instructions of SFC and to ensure that the funds delivered to them as closing agent by SFC were properly disbursed so that SFC would have its security in a first-lien position.

48. Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse breached their duty to Plaintiff SFC by failing to record documents, failing to make payoffs to prior lenders, and failing to ensure that SFC's closing instructions were followed.

49. The failure of Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse to follow the closing instructions of Plaintiff SFC was a breach of their fiduciary duties to Plaintiff SFC.

50. By virtue of the breach of their fiduciary duties by Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse, Plaintiff SFC suffered compensatory damages in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

51. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, Defendant Homemaxx Title & Escrow, L.L.C., Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse, jointly and severally, including compensatory damages in an amount to be determined at trial but believed to exceed Two

Million, Five Hundred Thousand Dollars (\$2,500,000.00); its costs in this action; its reasonable attorney's fees; and such further relief as justice requires.

CLAIM SIX
(Civil RICO;
Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse)

52. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

53. Acting as closing agent for the properties as to which Plaintiff SFC was the lender, the Defendants Homemaxx Title & Escrow, L.L.C., Daniel E. Fink, Jr., and J. Scott Morse engaged in a scheme to defraud SFC which constituted a "pattern of racketeering activity" within the meaning of 18 U.S.C. §1961(5), including numerous acts indictable under 18 U.S.C. § 1344, 18 U.S.C. §1341, and 18 U.S.C. §1443.

54. The Civil RICO Defendants devised and engaged in a series of schemes and artifices to defraud, and for the purposes of executing such schemes and artifices to defraud, the Civil RICO Defendants caused matters to be mailed and delivered by the United States Postal Service.

55. In addition, for the purpose of executing such schemes and artifices to defraud, the Civil RICO Defendants caused writings to be transmitted by means of wire communications in the interstate commerce.

56. The Civil RICO Defendants, individually and collectively, constitute an "enterprise" within the meaning of 18 U.S.C. §1961(4).

57. The Civil RICO Defendants received income directly from the pattern of racketeering activity and used the income or its proceeds to operate themselves in violation of the 18 U.S.C.S §1961(3).

58. The enterprise and the pattern of racketeering activity directly affected interstate commerce.

59. The Civil RICO Defendants conspired with and amongst themselves and others to violate the provisions of 18 U.S.C. §1962(a), and that conspiracy by the Civil RICO Defendants violated 18 U.S.C. §§1962(c) and 1962(d).

60. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, Defendant Homemaxx Title & Escrow, L.L.C., Defendant Daniel E. Fink, Jr., and Defendant J. Scott Morse, jointly and severally, including compensatory damages in an amount to be determined at trial but believed to exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00); additional or multiple damages as permitted by the RICO statute; its costs in this action; its reasonable attorney's fees; and such further relief as justice requires.

CLAIM SEVEN
(Breach of Closing Protection Letter;
Defendant First American Title Insurance Company)

61. Plaintiff SFC re-alleges the averments of all the preceding paragraphs of this Complaint and incorporates them herein.

62. To induce Plaintiff SFC to approve Defendant First American Title Insurance Company as the title insurer with respect to each of the mortgage loan transactions originated by Plaintiff SFC in which the settlement or closing agent was Defendant Homemaxx Title & Escrow, L.L.C., Defendant First American Title Insurance Company agreed to issue Closing Protection Letters ("CPL") to Plaintiff SFC.

63. Pursuant to the terms of the CPL, First American Title Insurance Company agreed to reimburse Plaintiff SFC for actual losses incurred by it in connection with closings of

mortgage loan transactions conducted by Defendant Homemaxx Title & Escrow, L.L.C. under the following specified conditions:

A. The failure of Defendant Homemaxx Title & Escrow, L.L.C. to comply with Plaintiff SFC's written closing instructions relating to title issues and collection of required documents; or

B. The fraud or dishonest of Defendant Homemaxx Title & Escrow, L.L.C. in handling Plaintiff SFC funds or documents in connection with closings of the Plaintiff SFC's loan transactions.

64. Defendant Homemaxx Title & Escrow, L.L.C. was the settlement agent on all the mortgage loan transactions at issue, and in all of those transactions Defendant Homemaxx Title & Escrow, L.L.C. engaged in the following fraud or dishonesty in regard to Plaintiff SFC's loan fund and documents in order to obtain Plaintiff SFC's loan funds and improperly disburse such funds:

A. Defendant Homemaxx Title & Escrow, L.L.C. participated in a scheme to obtain Plaintiff SFC's funds and conduct the closing/settlement of the loan and communicating with Plaintiff SFC as if the transactions were legitimate, when in fact, Defendant Homemaxx Title & Escrow, L.L.C. knew they were sham transactions;

B. Defendant Homemaxx Title & Escrow, L.L.C. obtained signatures on Plaintiff SFC's Note and Deed of Trust and/or mortgage that purported to be the signature of the borrower who had applied to Plaintiff SFC for the loan, or was a person with a true and authentic power of attorney from that borrower, when in fact the Closing Agent Defendants were aware that the person signing was not the proper person to do so.

C. As part of the scheme to create these sham transactions to obtain Plaintiff SFC's funds, Defendant Homemaxx Title & Escrow, L.L.C. returned to Plaintiff SFC executed Notes and Deeds of Trust and/or mortgage, and other completed loan closing documents, thus representing that the transactions were legitimate sales/loan transactions completed by authorized borrower/buyers;

D. Defendant Homemaxx Title & Escrow, L.L.C. affirmatively warranted on the Deeds of Trust and/or mortgage that the deeds were signed by the actual borrower or by a person acting under authority of a legitimate power of attorney from the borrower, when in fact the Closing Agent Defendants knew that the signatures were not from the borrowers and that the powers of attorney were designed to further a fraudulent scheme;

E. Defendant Homemaxx Title & Escrow, L.L.C. completed HUD-1 settlement statements that reflected purported cash payments from the borrowers to hide the fact that: (1) there were no funds from the borrower submitted at closing, (2) various Defendants were extorting loan proceeds out of these sham transactions, and (3) the true purchase price of the property was significantly lower than represented to SFC;

F. Defendant Homemaxx Title & Escrow, L.L.C. completed the HUD-1 settlement statements in the manner described in subparagraph E to disguise the lack of borrower funds applied to the purchase price, thus masking from Plaintiff SFC the fact that the seller's credits far exceed 3% of the purchase price, which was expressly prohibited by the closing instructions;

G. During the pendency of the loan transaction escrows, Defendant Homemaxx Title & Escrow, L.L.C. communicated and instructed Plaintiff SFC to deliver loan

proceeds into the escrow as if the transactions were in conformance with the closing instructions; and

H. Defendant Homemaxx Title & Escrow, L.L.C. purposely did not disclose to Plaintiff SFC any of the above facts in order to induce Plaintiff SFC to continue to approve and fund future loans that were part of the scheme following the closing of the loan transaction escrows.

I. Defendant Homemaxx Title & Escrow, L.L.C. knowingly disbursed the Plaintiff SFC's funds at closing to third parties who had provided no real services to either the seller or the borrower.

65. As a consequence of the acts and/or omissions of Defendant Homemaxx Title & Escrow, L.L.C. in connection with the mortgage loan transactions at issue, Plaintiff SFC has sustained actual losses in excess of Two Million Dollars (\$2,000,000.00).

66. Plaintiff SFC made demand on Defendant First American Title Insurance Company for reimbursement for its actual losses in connection with the closings conducted by Defendant Homemaxx Title & Escrow, L.L.C. To date, Defendant First American Title Insurance Company has not paid or tendered a commitment to pay Plaintiff SFC's actual losses in connection with the mortgage loan transactions at issue here.

67. WHEREFORE Plaintiff SFC demands judgment against Defendant First American Title Insurance Company, including compensatory damages in an amount to be determined at trial but believed to exceed Five Million Dollars (\$5,000,000.00); its costs in this action; its reasonable attorney's fees; and such further relief as justice requires.

**CLAIM EIGHT
(Legal Malpractice;
Defendant J. Scott Morse)**

68. Defendant J. Scott Morse, held himself out to Plaintiff SFC as an attorney with knowledge and experience in preparing loan documents.

69. At the request of Plaintiff SFC, Defendant J. Scott Morse prepared the loan documents, thus representing the Plaintiff in the closings.

70. As Plaintiff SFC's attorney, Defendant J. Scott Morse had a duty to supervise the closing by Defendant Homemaxx Title & Escrow, L.L.C. and Defendant Daniel E. Fink, Jr. and to insure that the SFC's closing instructions were complied with.

71. Defendant J. Scott Morse failed in his duty of supervision to Plaintiff SFC in that he allowed the Defendant Homemaxx Title & Escrow, L.L.C. and Defendant Daniel E. Fink, Jr. to convert the funds provided by Plaintiff to uses other than what was intended.

72. By virtue of the failure of Defendant J. Scott Morse, Plaintiff to properly supervise the closings, Plaintiff SFC suffered compensatory damages in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

73. WHEREFORE Plaintiff SFC demands judgment against Defendant J. Scott Morse, including compensatory damages in an amount to be determined at trial but believed to

exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000.00); its costs in this action;
its reasonable attorney's fees; and such further relief as justice requires.

Respectfully submitted,

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