

STATE OF MAINE
CUMBERLAND, ss.

BUSINESS & CONSUMER DOCKET
DOCKET NO. BCD-CV-19-37

CORINTH PELLETS, LLC,)
)
 Plaintiff,)
)
 v.)
)
 ARCH SPECIALTY INSURANCE CO.,)
 et al.,)
)
 Defendants,)
)
 and)
)
 ATTORNEY GENERAL, STATE OF)
 MAINE, and MAINE)
 SUPERINTENDENT OF INSURANCE,)
)
 Intervenor.)

ORDER DENYING ARCH SPECIALTY
INSURANCE CO.'s MOTION TO
DISMISS BASED ON
CONSTITUTIONAL GROUNDS

In response to the Second Amended Complaint dated June 11, 2019 (the “Complaint”), Defendant Arch Specialty Insurance Co. (“Arch”) brought a Motion to Dismiss on statutory interpretation and constitutional grounds. This Court granted the Motion based on statutory interpretation and did not address the constitutional void-for-vagueness argument. In due course the Law Court vacated this Court’s judgment based on statutory interpretation grounds and remanded for further proceedings on the constitutional issue. *Corinth Pellets, LLC v. Arch Specialty Insurance Co., et al.*, 2021 ME 10, __ A.3d __. The Law Court cautioned, however, that “Arch’s constitutional void-for-vagueness argument may implicate matters outside the current record, such as how Arch and other insurers have in fact interpreted the statute.” *Id.* ¶ 39.

STANDARD OF REVIEW

In reviewing a motion to dismiss under Rule 12(b)(6), courts “consider the facts in the complaint as if they were admitted.” *Bonney v. Stephens Mem. Hosp.*, 2011 ME 46, ¶ 16, 17 A.3d 123. The complaint is viewed “in the light most favorable to the plaintiff to determine whether it sets forth elements of a cause of action or alleges facts that would entitle the plaintiff to relief pursuant to some legal theory.” *Id.* (quoting *Saunders v. Tisher*, 2006 ME 94, ¶ 8, 902 A.2d 830). “Dismissal is warranted when it appears beyond a doubt that the plaintiff is not entitled to relief under any set of facts that he might prove in support of his claim.” *Id.* “The legal sufficiency of a complaint challenged pursuant to M.R. Civ. P. 12(b)(6) is a question of law” and thus subject to de novo appellate review. *Marshall v. Town of Dexter*, 2015 ME 135, ¶ 2, 125 A.3d 1141.

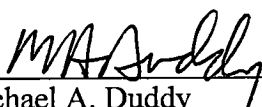
DISCUSSION

The factual background of this case, based on the allegations contained in the Second Amended Complaint, is described in the Law Court’s decision, 2021 ME 10, ¶¶ 4 – 9. The facts alleged are insufficient for the Court to decide the constitutional issue as a matter of law. The Court has denied Arch’s request for additional briefing in light of the Law Court’s decision. What is needed is not additional briefing and oral argument, but rather factual development of the record. Viewing the Second Amended Complaint in the light most favorable to Plaintiff Corinth Pellets, LLC, dismissal is not warranted at the Motion to Dismiss stage. Accordingly, Arch’s Motion to Dismiss on constitutional grounds is denied.

Pursuant to M.R. Civ. P. 79(a), the Clerk is instructed to incorporate this Order by reference on the docket for this case.

So Ordered.

Dated: 4-12-2021



Michael A. Duddy
Judge, Business and Consumer Docket