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|----------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | |
| COUNTY OF FLORENCE |) | C/A NO.: 2023-CP-21-00483 |
| |) | |
| NATIONAL GENERAL INSURANCE |) | |
| COMPANY, |) | |
| |) | ORDER DENYING MOTION FOR |
| Plaintiff, |) | RECONSIDERATION |
| |) | RECEIVED |
| vs. |) | Sep 18 2023 |
| |) | SC Court of Appeals |
| STATE FARM AUTOMOBILE INS. |) | |
| CO., |) | |
| Defendant. |) | |
| _____ |) | |

This matter came before me on July 27, 2023. The Court previously issued an Order Denying the Plaintiff’s Motion for Confirmation of Arbitration Award and Entry of Judgment. The Plaintiff subsequently filed a Motion for Reconsideration asserting that the Court failed to apply the requirements of the South Carolina Uniform Arbitration Act and the Federal Arbitration Act to the facts of this case and further asserting that the Court’s findings were not supported by sufficient facts to establish a record for appellate review. During the hearing, counsel for the Plaintiff conceded that the Federal Arbitration Act does not apply to this dispute.

This action arises out of a fire which occurred on May 9, 2020 at a warehouse in Florence, South Carolina. It is alleged that the fire originated from a motorhome of a State Farm insured stored at the warehouse and the fire damaged a motorhome of the insured of Plaintiff National General Insurance Company. The Plaintiff paid its insured for the loss of the motorhome and initiated seeking subrogation from Defendant State Farm. Both the Plaintiff and Defendant are signatories to an automobile subrogation arbitration agreement thus this matter was submitted to Arbitration Forums, Inc., on or about April 26, 2021. On July 19, 2021, Arbitration Forums issued an award to the Plaintiff in the amount of \$70,120.06. At that point, State Farm, consistent with

the applicable arbitration rules (Rule 3-9), timely raised the defense of having limited policy limits and having additional exposures. Arbitration Forums considered the defense and, consistent with the applicable rules, amended its decision.

On August 24, 2021, Arbitration Forums, Inc. issued its final arbitration decision and found that the matter was out of its jurisdiction (*See* Exhibits A and B filed by the Defendant on May 18, 2023). The final arbitration decision also shows no award being owed to the Plaintiff. This Court previously held that a finding of no award (\$0.00) and a finding that the matter was placed out of jurisdiction is evident that there is no arbitration award to be confirmed pursuant to §15-48-120 of the *South Carolina Code of Laws*. First, there is simply no award to be confirmed. Secondly, jurisdiction is the power of a court or body to decide a matter in controversy. It is the power and authority of a court or body to hear and determine a matter and the power to render a particular judgment. *See Black's Law Dictionary*, 6th Ed. In reviewing the final decision of Arbitration Forums, Inc., it is evident that body acknowledged it ultimately did not have jurisdiction to render an award in this matter which is evidenced in its arbitration decision stating that the matter was placed out of jurisdiction and that the ultimate award being nothing. No party has challenged the final arbitration decision of Arbitration Forums, Inc. of August 24, 2021.

In its Motion for Reconsideration, Plaintiff asserts that the court failed to apply the requirements of the South Carolina Uniform Arbitration Act. §15-48-120 of the *South Carolina Code of Laws* governs the court confirming an arbitration award after a timely application of a party. §15-48-130 S.C. Code Ann. governs when a court should vacate an award. Lastly, §15-48-140 S.C. Code Ann. addresses when an award can be modified or corrected. In the present circumstance, these statutes are not beneficial to the Plaintiff as there is no award to be confirmed,

vacated, or modified. The final arbitration decision of Arbitration Forums, Inc. showed an award of \$0.00 and that its ultimate finding was the matter was placed out of jurisdiction.

The Court further finds that there are sufficient facts that establish a record for appellate review. In addition to the Court's orders, each party has filed exhibits/documents in support of their position and the Plaintiff has submitted a memorandum in support of its Motion for Confirmation of Arbitration Award and Entry of Judgment with supporting documents asserting its legal theory.

In essence, the Plaintiff seeks confirmation of intermediate decision of Arbitration Forums, Inc. That decision was ultimately amended, consistent with the arbitration rules, which lead to a final arbitration decision adverse to the Plaintiff. The Court simply cannot ignore the final decision of Arbitration Forums, Inc. and confirm a previous decision that was later overturned according to the applicable rules. Accordingly, the Plaintiff's Motion for Reconsideration is denied.

IT IS SO ORDERED.

THE HONORABLE MICHAEL G. NETTLES
CHIEF ADMINISTRATIVE JUDGE FOR THE
TWELFTH JUDICIAL CIRCUIT

August _____, 2023



Florence Common Pleas

Case Caption: National General Insurance Company VS State Farm Automobile Ins
Co
Case Number: 2023CP2100483
Type: Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

CASE INFORMATION

Date Filed: 5/19/2021 Location of Loss: FLORENCE, SC
 Date of Loss: 5/9/2020 Negligence Law: 50% Comparative
 Coverage Group: Collision, Comprehensive/OTC



Parties:

01004-0010 NATIONAL GENERAL INS CO (GEORGE STOKES)
 Claim Number: 200172291
 Representative:
 PRISCILLA MARTINEZ
 254-228-5442

1610 S 31st St
 102 - 140
 Temple, TX 76504-6788

00750-0002 STATE FARM FIRE & CASUALTY CO (JOSEPH CARTER)

Claim Number: 4006S904T
 Representative:
 BARRY STUART
 1-844-292-8615

12222 State Farm Blvd
 Tulsa, OK 74146-5400

ARBITRATOR INFORMATION

JEREMY MCCOY

Above Arbitrators have acknowledged the AF Neutrality, Privacy and Confidentiality Statement.

AWARD SUMMARY

Award for NATIONAL GENERAL INS CO's (GEORGE STOKES) damages

| Comprehensive/Other than Collision (OTC) - 2008 TIFFIN | | | | | | Claim Number: 200172291 |
|---|--------------------|-------------------|------------|-----------------|------------|-------------------------|
| Owing Party | Damages | Deductible | Legal Fees | Recoverable Amt | Payments | Award Owed |
| STATE FARM FIRE & CASUALTY CO JOSEPH CARTER, 100% liable | \$70,120.06 | \$1,000.00 | --- | \$0.00 | --- | \$0.00 |
| Totals | \$70,120.06 | \$1,000.00 | --- | --- | --- | \$0.00 |

Remit Payment To:
 Recovering Company: NATIONAL GENERAL INS CO
 ATTN: Reliance Arbitration
 1610 S 31st St
 102 - 140
 Temple, TX 76504-6788

FINDINGS

STATE FARM FIRE & CASUALTY CO (JOSEPH CARTER) raised: Liability Policy Limits: Combined Single Limits - Comprehensive/Other than Collision (OTC)

Finding: Out of Jurisdiction (OOJ) Finding \$100,000.00

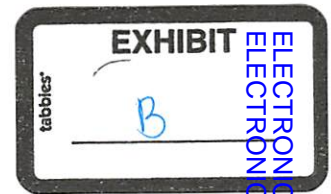
Justification: A jurisdictional exclusion that falls within the authority of Rule 3-9 was raised by this party.

LIABILITY DECISION

Liability for NATIONAL GENERAL INS CO's (GEORGE STOKES) damages

| Party | Admitted | Proven | Duties Breached |
|---|----------|--------|--|
| STATE FARM FIRE & CASUALTY CO (JOSEPH CARTER) | 0% | 100% | Failure to properly act upon a known mechanical issue. |

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Subject: FW: [EXTERNAL] Your File Number: 4006S904T; Post Decision Inquiry - Closed; Your Insured: JOSEPH CARTER; AF Case Number: A2100DB63E2-C1. id[51e3aea0-54f9-460a-a29d-219e646c0898]

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Subject: Your File Number: 4006S904T; Post Decision Inquiry - Closed; Your Insured: JOSEPH CARTER; AF Case Number: A2100DB63E2-C1

The decision has been amended.

Under rule 3-9 State Farm is raising that they have policy limits of \$100,000. State Farms RV caught on fire in a storage building. The fire did spread throughout the building. Nationals damages are \$71,120.06. News articles confirmed that the fire caused extensive damage to the building and other RVs stored in the building. The additional exposures puts State Farms limits at risk. The decision is amended to add the limits exclusion and place out of jurisdiction.

Case Information:

AF Case Number: A2100DB63E2-C1
Your File Number: 4006S904T
Your Insured: JOSEPH CARTER
Date of Loss: 05/09/2020
Loss State: SC

You can view additional case details using the following link:
<https://trs.arbfile.org/trs/web/overview/14371654>

You can also access the case details via your company intranet using the following link:
<http://sfeuc.opr.statefarm.org/EUCNET00451/?Command=trsCaseOverview&caselId=14371654>

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Sincerely,
Arbitration Forums, Inc.
Industry Created. Membership Driven.

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