

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

DR. GREGG N. BATTERSBY,)
)
Plaintiff,)

Civil Action No. 2017-CP-04-02502

vs.)

PAMELA REID, STATE FARM)
MUTUAL AUTOMOBILE)
INSURANCE COMPANY AND JOHN)
WILES,)
)
Defendant)

RECEIVED
MAY 21 2018
SC Court of Appeals

ORDER
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APR 24 2018
Richard M. Hester
CLERK OF COURT

On April 12, 2018 this Court heard the motion for summary judgment of State Farm Mutual Automobile Insurance Company and John Wiles, hereinafter collectively referred to as "State Farm". For the following reasons State Farm's motion for summary judgment is granted.

Construing the facts most strongly in favor of the non-moving party, the following facts are undisputed. These facts are gathered from the Plaintiff's deposition and from the allegations in his complaint.

On July 10, 2017 Pamela Reid was involved in an automobile accident with William Calcutt. Calcutt was insured by State Farm but Reid was not a State Farm insured. On the day after her accident, July 11, 2017, Reid commenced chiropractic treatment with the Plaintiff. At the commencement of her treatment Reid signed several forms with the Plaintiff which included an assignment of proceeds and a contractual lien. One of the documents signed by Reid and attached as an exhibit to the Plaintiff's complaint stated that:

I understand that if the insurance company chooses not to honor said lien and refuses to pay Dr. Gregg Battersby directly for the procedures performed that I give Dr. Gregg Battersby, or his assignee, full legal rights to settle my personal injury

claim on my behalf and direct payment for the services performed to Dr. Gregg Battersby. Dr. Gregg Battersby agrees to wait for payment as long as the insurance company agrees to pay him directly for the services performed.

While this Court cannot furnish legal advice, it does caution the Plaintiff who is not an attorney that his settlement of a third party's personal injury claim may constitute the unauthorized practice of law. It is also noteworthy that the language quoted above recognized that the insurance company might not honor the Plaintiff's lien on settlement proceeds and might refuse to pay the Plaintiff directly.

The Plaintiff's treatment of Reid was from July 11, 2017 to August 14, 2017 at which time the Plaintiff's treatment of Reid concluded. The Plaintiff's bill to Reid totaled \$5,010. After the Plaintiff's treatment of Reid concluded, the Plaintiff spoke with John Wiles of State Farm. Wiles told the Plaintiff that State Farm would pay him directly if that is what Reid wanted. Unfortunately, Reid apparently lied to the Plaintiff, requested that State Farm pay the settlement funds to her and she then failed to pay the Plaintiff out of the settlement funds she received from State Farm.

The Plaintiff's contracts with Reid did not vest the Plaintiff with any right to seek payment directly from State Farm. As noted by the South Carolina Court of Appeals in Trancik v. USAA Insurance Company, 581 S.E. 2d 858 (S.C. App. 2003), because the Plaintiff's patient had no contractual privity with the insurer, the healthcare provider (here, Dr. Battersby) received no greater right from the patient (here, Pamela Reid) through an assignment and, in spite of the obligations incurred by the patient pursuant to the assignment contract, "mere notification of the assignment was insufficient to contractually bind [the insurer]". 581 S.E. 2d at 861, 862 Trancik was cited in a previous, similar case by the Plaintiff against Allstate Insurance Company in an order dismissing that lawsuit.

The Plaintiff argues that, unlike Trancik and the Plaintiff's previous lawsuit against Allstate, this case is different because here the Plaintiff had an oral contract with State Farm.¹ The Plaintiff claims that his discussion on August 15, 2017 with John Wiles of State Farm, after the Plaintiff's treatment of Reid had concluded and after Reid had incurred bills of \$5,010 to the Plaintiff, established a contract requiring State Farm to pay Reid's bills. This alleged oral contract is, however, unenforceable because the South Carolina Statute of Frauds, § 32-3-10(2), requires that, to be legally enforceable, a promise to answer for the debt of another must be in writing and signed by the party to be charged. State v. McIntyre, 415 S.E. 2d 399, 400 (S.C. 1992). Additionally, the Plaintiff cannot claim that his treatment of Reid was based upon State Farm's oral agreement to pay directly to the Plaintiff Reid's bills because the Plaintiff's treatment of Reid had concluded before the Plaintiff ever spoke with Wiles.

State Farm has asserted a number of other grounds in support of its motion for summary judgment on all of the Plaintiff's causes of action. Because the reasons stated above are a sufficient basis to dismiss the Plaintiff's lawsuit, it is unnecessary for this Court to specifically address each ground in State Farm's motion for summary judgment. Accordingly, State Farm's motion for summary judgment is granted and this lawsuit is dismissed with prejudice.

ALL OF WHICH IS SO ORDERED.

The Honorable J. Cordell Maddox, Jr.
Presiding Judge, 10th Judicial Circuit

Anderson, South Carolina

April __, 2018

¹ The Plaintiff had no written contract with State Farm.



Anderson Common Pleas

Case Caption: Dr. Gregg N Battersby VS Pamela Reid , defendant, et al

Case Number: 2017CP0402502

Type: Order/Summary Judgment

So Ordered

s/ J. Cordell Maddox Jr.

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Richard X. Hines
CLERK OF COURT