

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STATE FARM MUTUAL AUTOMOBILE : CIVIL ACTION  
INSURANCE COMPANY, et al. :  
 :  
 :  
v. :  
 : No. 06-2048  
STEPHEN M. RIOS, D.C., et al. :

**ORDER - MEMORANDUM**

AND NOW, this 23rd day of October, 2006, “Defendants Stephen M. Rios and Rios Chiropractic Centers Motion to Dismiss Plaintiffs’ Complaint” is denied. Fed. R. Civ. 12(b)(6).<sup>1</sup>

The complaint in this insurance fraud action alleges that defendants participated in a scheme to defraud plaintiffs by submitting for payment “fraudulent medical and/or chiropractic reports, bills and other documents which were intended to assist in obtaining payment from State Farm.” Complaint, ¶¶ 1-4. More specifically, defendants, a chiropractor and the members of his practice, examined patients insured by plaintiffs or injured by plaintiffs’ insureds, diagnosed injuries and rendered services, and subsequently billed plaintiffs for their alleged services. *Id.*, ¶¶ 17-32. According to the complaint, however, the examinations and treatments were not performed and the related bills were fraudulent. *Id.* Plaintiff estimates its damages to be in excess of \$300,000. *Id.*, ¶ 33. The complaint includes claims for common law fraud (Count I), statutory insurance fraud under 18 Pa.C.S.A. §§ 4117(a)(2) and 4117(a)(6) (Counts II and III), and unjust enrichment (Count IV).

Defendants urge federal court abstention under (1) Colorado River Conservation District v. United States, 424 U.S. 800 (1976), because parallel proceedings are pending in state court; (2) Burford v. Sun Oil,

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<sup>1</sup> “A motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) should be granted only if, ‘accepting as true the facts alleged and all reasonable inferences that can be drawn therefrom,’ there is no reasonable reading upon which the plaintiff may be entitled to relief.” Vallies v. Sky Bank, 432 F.3d 493, 494 (3d Cir. 2006), quoting Colburn v. Upper Darby Twp., 838 F.2d 663, 665-66 (3d Cir. 1988).

319 U.S. 315 (1943), because a state regulatory scheme is in place; and (3) Younger v. Harris, 401 U.S. 37 (1971), because a decision here could interfere with the administration of Pennsylvania’s criminal justice system. Plaintiffs counter that, quoting Colorado River, “[a]bstention from the exercise of federal jurisdiction is the exception, not the rule.” 424 U.S. at 813. In support of their position, they note that the pending state actions to which defendants refer are the underlying personal injury actions that gave rise to the disputed payments. Plaintiffs are not parties to these cases, nor are defendants, and, therefore, the issues raised in the complaint are not pending before a state court. No criminal charges are pending, so resolution of the issues raised by plaintiffs will not interfere with the administration of Pennsylvania’s criminal justice system. Further, the case does not involve unsettled questions of state law involving substantial state interests more appropriately left to a state court to resolve.

This action does not present the exceptional circumstances warranting abstention.<sup>2</sup>

Defendants also assert the complaint does not plead fraud with particularity, Fed. R. Civ. P. 9(b)<sup>3</sup>. The allegations in the complaint are sufficient to satisfy the requirements of the rule, and this portion of defendants’ motion is also denied.

BY THE COURT:

/s/ Edmund V. Ludwig  
Edmund V. Ludwig, J.

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<sup>2</sup> “The doctrine of abstention, under which a district court may decline to exercise or postpone the exercise of its jurisdiction, is an extraordinary and narrow exception to the duty of a District Court to adjudicate a controversy properly before it. Abdication of the obligation to decide cases can be justified under this doctrine only in exceptional circumstances where the order to the parties to repair to state court would clearly serve an important countervailing interest.” Colorado River, 424 U.S. at 813, quoting County of Allegheny v. Frank Mashuda Co., 360 U.S. 185, 188-89 (1959).

<sup>3</sup> “In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity.” Fed. R. Civ. P. 9(b).