

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. :

MEMORANDUM

Ludwig, J.

January 22, 2010

This is an insurance fraud case. Jurisdiction is diversity. 28 U.S.C. § 1331. Plaintiffs move for partial summary judgment. Defendants have not responded to the motion. The motion will be granted.

In 2006, plaintiffs State Farm Mutual Automobile Insurance Company and State Farm Fire & Casualty Insurance Company commenced this action against defendants Stephen M. Rios, M.D. and Rios Chiropractic Center. The complaint alleged that, beginning in 1997, defendants submitted bills to plaintiffs for treatment rendered to more than 250 individuals who were either insured by State Farm or involved in accidents with State Farm insureds. Further, however, defendants billed for examinations that were not performed and treatments not rendered. Also, the diagnoses given by defendants were untrue or were exaggerated for the purpose of justifying defendants' billings. The complaint makes claim for common law fraud (Count I), statutory insurance fraud (Counts II and III, and unjust enrichment (Count IV). It requests damages in excess of \$1.7 million - representing payments plaintiffs made in reliance on reports, notes and bills generated by defendants.

The evidence submitted consists of the expert reports of Joseph R. Verna, D.C., a chiropractic auditing professional, who reviewed more than 250 claim files involving State Farm insureds and third-party claimants examined and treated by defendants between 1997 and 2009. Motion, ¶ 7, and Exhibits B and C. The record also includes the deposition testimony and treatment files of eight former patients of defendants, Exhibits F through S, and investigative reports based on surveillance videos of four additional former patients, plus their treatment files, Exhibits T through Z. Billing statements for the foregoing 12 patients also substantiate plaintiffs' claims.

The evidence of record is undisputed. There is no genuine issue of material fact, and plaintiffs are entitled to judgment as a matter of law on all claims.

An assessment of damages hearing will be scheduled by separate order.

BY THE COURT:

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

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ORDER

AND NOW, this 22nd day of January, 2010, Plaintiffs State Farm Mutual Automobile Insurance Company and State Farm Fire & Casualty Company's Motion for Partial Summary Judgment" (docket no. 42), to which plaintiffs have filed no opposition¹, is granted. An assessment of damages hearing will be scheduled by separate order. A memorandum accompanies this order.

BY THE COURT:

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

¹ By order dated October 14, 2009 defendants were granted an extension of time until October 15, 2009 in which to respond to plaintiffs' motion for summary judgment. Docket no. 43. To date, no response has been filed, and no further request for extension has been made.