

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

ROBERT E. DONNELLY : CIVIL ACTION

v. :

STATE FARM INSURANCE COMPANY : NO. 01-425

ROBERT F. KELLY, J. FEBRUARY 27, 2001

MEMORANDUM

Presently before the Court is Defendant State Farm Mutual Automobile Insurance Company's ("State Farm") Motion to Dismiss Plaintiff's Complaint.

The record papers indicate that a Complaint in the above-captioned action was filed in the Court of Common Pleas of Philadelphia County on January 5, 2001 and removed to this Court on January 25, 2001. The pro se complaint alleges that on "December 01, 1994, while a resident of Philadelphia, Pennsylvania, Mr. Donnelly was passing through Pasadena, Maryland on West Bound Route 100 and was involved in a serious automobile accident and, as a result, had sustained perpetual anxiety disorder." Complaint at ¶ 2. The Complaint further asserts that State Farm "purposefully [gave] him an inadequate amount of money for his injury while Mr. Donnelly was mentally incapacitated." Complaint at ¶¶ 2-3.

The Complaint goes on to allege that Plaintiff is filing suit against State Farm for bad faith as State Farm "acted in an unprofessional way." Complaint at ¶ 4.

Even taking into consideration the lower scrutiny that federal courts are required to extend to pro se complaints, I find that the present action should be dismissed because it fails to state a valid cause of action against State Farm.

It is clear from the Complaint that no contract of insurance existed between Plaintiff and State Farm. Plaintiff has no standing to bring this lawsuit. See Brown v. Candelora, 708 A.2d 104 (Pa. Super.1998). In that case, the Court specifically stated that an injured driver is not the third-party beneficiary of the insurance contract between the other driver and that driver's insurance company.

Furthermore, the Pennsylvania Bad Faith Statute, 42 Pa. C.S.A. § 8371, specifically requires that a bad faith claim be based on an act of bad faith by an insurer towards an insured. There is no such showing in this case.

The Complaint also indicates that the motor vehicle accident that caused Plaintiff's "perpetual anxiety disorder" occurred in 1994. Although Pennsylvania's Appellate Courts have not yet addressed the issue, the prevailing viewpoint is that the applicable Statute of Limitations period is two years. See Nelson v. State Farm Mutual Auto Insurance Company, 988 F. Supp. 526 (E.D. Pa. 1997). Therefore, in addition to failing to state a cause of action, the Complaint should be dismissed as having been filed beyond the period of the Statute of Limitations. I, therefore, enter the following Order.

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O R D E R

AND NOW, this        day of FEBRUARY, 2001, upon consideration of the Motion to Dismiss filed by the Defendant, State Farm Insurance Company, and the Plaintiff's Response thereto, it is

ORDERED that said Motion is GRANTED, and the above-captioned case is DISMISSED, With Prejudice.

BY THE COURT:

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ROBERT F. KELLY,        J.