

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

ANNA MARIE GARGIULO : CIVIL ACTION
 :
 v. :
 :
 ALLSTATE INSURANCE COMPANY :
 TRAVELERS INSURANCE COMPANY :
 TRAVELERS INDEMNITY COMPANY : NO. 96-8179

MEMORANDUM AND ORDER

Fullam, Sr. J. August , 1997

Plaintiff asserts that the defendant Allstate Insurance Company wrongfully rejected her claims for first-party medical benefits under an insurance policy covering two separate accidents (in June 1991 and December 1992); and that the defendant Travelers Insurance Company wrongfully rejected her first-party claim for medical benefits under an insurance policy covering a third accident (in January of 1994). The defendants have moved to dismiss certain counts of plaintiff's complaint.

My rulings are as follows:

1. Joinder of all these claims in a single action was patently improper. But since neither defendant has objected, the defect will be ignored.

2. Under the holding of the Third Circuit Court of Appeals in Gemini Physical Therapy & Rehabilitation, Inc. v. State Farm Mut. Auto. Ins. Co., 40 F.3d 63 (3d Cir. 1994), plaintiff cannot prevail on her bad-faith claims under 42 Pa. C.S. § 8371; her sole remedy is under 75 Pa. C.S. § 1797. Counts II and V of

the complaint will be dismissed.

3. Plaintiff's allegations do not make out a claim of fraud against either defendant. Counts II and VI of the complaint will be dismissed.

An Order follows.

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ORDER

AND NOW, this day of August, 1997, IT IS ORDERED that
Counts II, III, V and VI of the complaint are DISMISSED WITH
PREJUDICE.

John P. Fullam, Sr. J.