

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

1 THE CIRCLE, SUITE 2
SUSSEX COUNTY COURTHOUSE
GEORGETOWN, DE 19947

November 9, 2010

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RE: ***Sammons v. Hartford Underwriters Insurance Co.***
C.A. No. S09C-12-026-RFS

Dear Counsel:

Despite the Court's denial of Hartford's Motion for Summary Judgment on August 23, 2010, no further discovery has taken place in this case. Instead, Hartford has renewed its Motion for Summary Judgment as to the two material fact questions identified by the Court. Plaintiff opposes. As explained below, the motion is granted in part and denied in part.

As to the PTS invoice paid on June 15, 2007 for treatment on April 9 and 12, 2007, Hartford submits the September 8, 2010 affidavit of Barbara Thompson, a PTS office assistant, stating that Hartford was billed for this treatment on June 14, 2007. In response, Plaintiffs submit Ms. Thompson's Corrected Affidavit (dated October 15, 2010), which states that Thompson signed an incorrect affidavit because she was concerned about the suggestion that if she did not sign she would be subject to subpoena. Thompson now asserts that the invoice in question was first sent to Hartford on April 17, 2007, and a requested facsimile invoice sent again on June 14, 2007. Thompson's supervisor, Patricia Stachecki, has signed an Affidavit confirming Ms. Thompson's statements. These affidavits raise a question of material fact as to whether payment was made within the 30-day period.

As to the KDRA invoice paid on January, 2007, Hartford submits the Affidavit of Judi Pierannunzio, account manager for KDRA. The affidavit states that Mrs. Sammons received treatment at KDRA on December 29, 2006 and that KDRA first submitted an invoice to Hartford on January 8, 2007. This invoice, which contained incorrect policy information, was denied on January 29, 2007. KDRA prepared a corrected invoice on January 30, 2007, and payment was timely received on February 12, 2007. This Affidavit, which resolves the fact question identified by the Court, is un rebutted by Plaintiffs. Summary judgment is granted to Hartford on this issue.

The Court notes that Hartford incorrectly states in its motion that this Court found that 22 of the 24 bills for Plaintiffs' treatment were timely paid. In fact, the Court found that two of the four examples detailed in Plaintiff's Brief raised questions of material fact. In light of the questions found to exist, and based on Plaintiffs' assertion that other inconsistencies existed in the pre-discovery record, the Court also found that further inquiry into the facts was necessary. Plaintiff has not raised additional examples of untimely payments, and the Court therefore assumes that no other inconsistencies have not been found.

Hartford's Renewed Motion for Summary Judgment is **DENIED** as to the disputed PTS invoice and **GRANTED** as to the disputed KDRA invoice.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

Original to Prothonotary