

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

COMBINED INSURANCE COMPANY
OF AMERICA

PLAINTIFF

VS.

NO. 3:12-CV-254 KGB

DAVID W. THOMAS and
DEBBIE L. THOMAS

DEFENDANTS

COMBINED INSURANCE COMPANY
OF AMERICA

PLAINTIFF

VS.

NO. 3:14-CV-166 KGB

DEBORAH L. THOMAS

DEFENDANT

CONSENT JUDGMENT

Before the Court is the complaint of Combined Insurance Company of America ("Combined"), against David W. Thomas (referred to herein as "Mr. Thomas") and Deborah Thomas (referred to herein as "Ms. Thomas") (in case no. 3:12-cv-254 SWW) seeking a money judgment and other equitable relief. Also pending before the Court is the adversary proceeding complaint to determine the dischargeability of Combined's claims against Ms. Thomas in accordance with 11 U.S.C. § 523, which was originally filed in the chapter 7 bankruptcy proceeding of Ms. Thomas (Bankruptcy case no. 3:13-bk-15016). The bankruptcy reference in that proceeding was then withdrawn by this Court, and the dischargeability action was consolidated with the action seeking a money judgment. Upon consideration of the

pleadings, statements of counsel, agreement of the parties, and other evidence and proof, the Court, being fully advised, finds and orders as follows:

1. Combined is a corporation organized and existing under the laws of the State of Illinois, with its principle place of business in Glenview, Illinois, and is authorized to and does conduct business in the State of Arkansas.

2. Ms. Thomas is a natural person residing in Jonesboro, Craighead County, Arkansas. Ms. Thomas filed her Chapter 7 bankruptcy petition on September 9, 2013.

3. The Court has jurisdiction over the subject matter and parties to this action.

4. On March 21, 2005, Combined issued a Sickness Hospital Confinement Indemnity Policy, No. R6286252-12880 ("the Policy") to Mr. and Ms. Thomas, husband and wife (collectively referred to as the "Thomases"). Mr. Thomas was the insured under the policy, and Ms. Thomas was the beneficiary.

5. The Thomases submitted numerous fraudulent claims for benefits under the Policy. Specifically, they fraudulently submitted eighteen (18) claims representing to Combined that Mr. Thomas was hospitalized as an inpatient, visited the Emergency Room or was recovering from the hospitalization or a surgical procedure and seeking benefits for fifty (50) separate periods of time.

6. To facilitate their fraud, the Thomases submitted falsified billing documentation from St. Bernard's Medical Center in Jonesboro, Arkansas, and Methodist Hospital in Memphis, Tennessee, supporting their claims. The Thomases

presented falsified attending physician's statements to verify the insured's claimed hospitalization, ER visit or surgical procedure. Specifically, they alternatively used a prior physician's statement which bore Dr. Brad Moore's signature or forged Dr. Moore's signature onto a new attending physician's statement. The majority of the attending physician's statements submitted by them as originating from Dr. Moore were dated and purportedly signed by Dr. Moore after September 21, 2007, the date on which Dr. Moore died. Each of Mr. and Ms. Thomas committed fraud upon Combined, and Ms. Thomas aided and abetted Mr. Thomas in committing fraud on Combined.

7. As a result of the Thomases' fraud, Combined paid the Thomases \$446,340.00 in benefits under the Policy.

8. On or about November 8, 2012, Combined filed a complaint against the Thomases in the United States District Court for the Eastern District of Arkansas (Case No. 3:12-cv-254 SWW).

9. On September 9, 2018, Ms. Thomas filed a chapter 7 bankruptcy petition in the United States Bankruptcy Court for the Eastern District of Arkansas (Case No. 3:13-bk-15016). On or about May 9, 2014, Combined filed a complaint in the bankruptcy proceeding to determine the dischargeability of the debt owed by Ms. Thomas to Combined pursuant to 11 U.S.C. § 523(a)(2), (4), and (6) and to object Ms. Thomas's general discharge pursuant to 11 U.S.C. § 727, and that complaint was assigned case number 3:14-AP-00145.

10. On or about July 7, 2014, the United States District Court for the Eastern District of Arkansas granted Combined's motion in Case No. 4:14-MC-7 to withdraw the bankruptcy reference as to the dischargeability and discharge complaint in case no. 3:14-AP-01045. As a result of that order, Case No. 4:14-MC-7 was terminated, a civil case number (Case No. 3:14-CV-166) was issued in its place, and Case No. 3:14-CV-166 was consolidated with Case No. 3:12-CV-254, with the older case serving as the lead case.

11. On August 28, 2014, the Bankruptcy Court entered an Order in Debtor's bankruptcy proceeding which modified the automatic stay of 11 U.S.C. § 362, so as to permit Combined to continue to pursue its complaint against the Ms. Thomas for a money judgment in the District Court case (Case No. 3:12-cv-254 SWW)

12. With the consent of Ms. Thomas as acknowledged by her attorneys' approval of the form of this judgment, Combined is hereby granted a judgment against Deborah L. Thomas in the amount of \$446,340.00 plus interest from the date of the judgment until paid at the federal court judgment interest rate.

13. Based on the findings of fact and conclusions of law contained in this judgment, the judgment in favor of Combined shall be non-dischargeable pursuant to 11 U.S.C. section 523(a)(2), (4) and (6) in Ms. Thomas' current bankruptcy proceeding (Case No. 3:13-bk-15016) or in any subsequent bankruptcy proceedings.

14. Combined shall be permitted to file a copy of this judgment, including the finding that it is non-dischargeable pursuant to 11 U.S.C. section 523(a)(2), (4) and (6) in the pending bankruptcy proceeding.

15. This action shall remain pending as to Combined's objection to Ms. Thomas's general discharge pursuant to 11 U.S.C. § 727 (pending in Case No. 3:14-CV-166) and Combined's claims against David W. Thomas (pending in Case No. 3:12-CV-254) until those claims are disposed of by a subsequent judgment and/or order.

IT IS SO ORDERED.


Kristine H. Pommer

UNITED STATES DISTRICT JUDGE

Date: Dec. 23, 2014

APPROVED BY:

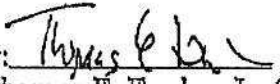
Wright, Lindsey & Jennings LLP
200 W. Capitol Ave., Suite 2300
Little Rock, Arkansas 72201
(501)212-1276, ccoleman@wlj.com

By: 
Charles T. Coleman (80030)
Kyle R. Wilson (89118)
Michael A. Thompson (2010146)
*Attorneys for Combined Insurance
Company of America*

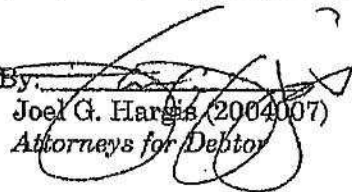
IN RE: DEBORAH L. THOMAS
USBC CHAPTER 7
CASE NO. 3:13-BK-15016
ORDER

And

FOWLER LAW FIRM
601 S. Church St.
Jonesboro, AR 72401
(870) 931-3828, swyatt@suddelinkmail.com

By: 
Thomas E. Fowler, Jr. (99005)
Attorneys for Debtor

Joel G. Hargis, P.A.
588 West Washington
Jonesboro, AR 72401
(870) 972-1127, joel@crawleydeloache.com

By: 
Joel G. Hargis (2004007)
Attorneys for Debtor