

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JOHN SHIPLEY,

)

) **NO. 06-261-JJF**

Plaintiff,

)

)

) **JURY OF 12 DEMANDED**

COREY SHAW, SEPTA, AND

)

TRAVELERS' INSURANCE COMPANY)

)

Defendant,

**MOTION TO RECONSIDER THE COURT
ORDER DATED FEBRUARY 16TH**

NOW COMES, the plaintiff John S. Shipley, asking that the court reconsider the order dated February 16, 2007 to dismiss the case against the defendants.

I. BACKGROUND

The plaintiff, John S. Shipley, was pushed off of a moving train on April 22, 2004 by the defendant Corey F. Shaw and there is a police report to uphold the allegations placed by the plaintiff, John S. Shipley. One of the witnesses has testified to the fact that John S. Shipley was pushed from the moving train. John S. Shipley never hired an attorney to represent the matter. SEPTA and Traveler's Insurance Company indicated that Traveler's was the insurance company representing SEPTA. Now, John S. Shipley finds out that SEPTA is their own insurance carrier. Travelers' insurance Company committed fraud against Shipley by making him believe that they were the insurance company for SEPTA and had the authority to settle the matter on behalf of

SEPTA and themselves. Discovered by inspection of the documents produced by SEPTA and Travelers' Insurance Company there are two different claim numbers in the file and one file from SEPTA and one file from Traveler's Insurance Company. They also conspired against John. S. Shipley by unlawfully claiming to represent SEPTA for which they were not the insurance carrier for. They also refused to have John S. Shipley treated for all the injuries that he sustained. John S. Shipley still is in need of medical attention. True, John S. Shipley was going to agree to allow Travelers' Insurance Company to stand on the sideline of the case until judgment was obtained but not with prejudice. But now, since neither SEPTA or Travelers will allow Shipley to be treated for his sustained injuries, he is not willing to allow SEPTA or Travelers Insurance Company go on their conspiratory relationship because Shipley's non-treatment is causing further irreversible harm due to lack of needed medical attention. The reason that Shipley did not respond to the court's order advising parties thirty days to respond to the December 13th order was because of Shipley's illness and other problems that Shipley is having with his property and forgetfulness from the head trauma sustained when Shipley was pushed from a moving train. The plaintiff objects to the motion based on the fact that Travelers acted in bad faith and committed fraud against Shipley in an attempt to settle the claim. Travelers and SEPTA's conspiratory relationship was just brought to the attention of Shipley and has caused him undue harm.

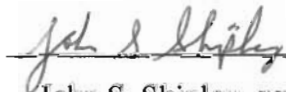
II. DISCUSSION

Shipley has filed a claim upon which relief can be granted by Travelers Insurance Company. Review the defendants' production of documents. A settlement was discussed with Travelers Insurance Co. for an amount for which relief can be granted. However, all allegations are supported through the police report and through current and future discovery. Shipley will be filing a request for the court to subpoena a copy of the videotape of the events taking place on April 22, 2004 of Shipley being pushed from a moving train. The police, the

videotape, and Travelers production of documents support Shipley's allegations. Travelers Insurance Company stated that they were the insurance company for SEPTA and they were not, this can be construed as fraud. Although Delaware law does not permit a direct action against an insurance company based upon the negligence of the insured, Travelers Insurance Company committed fraud against John S. Shipley by falsely identifying themselves as the insurance company for SEPTA. Although Delaware State law has never held a bad faith claim against the insurer, Federal law will uphold a bad faith claim against an insurer under violation of federal statutes such as conspiring against the plaintiff in making a bad faith claim. The actions of the defendants are against Shipley's constitutional rights which make them in violation of federal law.

III. CONCLUSION

Wherefore for the aforementioned reasons stated above, John S. Shipley begs the court to reconsider the Motion to Dismiss the case against the defendants, Travelers' Insurance Company, SEPTA and Corey Shaw.

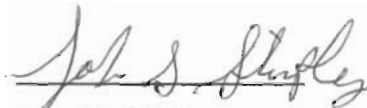


John S. Shipley, **pro se**
609 Wildel Ave
New Castle, DE 19720
(610) 872-7338

Date: February 27, 2007

Affidavit

I, John S. Shipley, do swear that on April 22, 2007, I was pushed from a moving SEPTA train by the conductor Corey F. Shaw. I, John S. Shipley, do swear that I have not received any compensation for this matter from any of the defendants. I, John S. Shipley, do swear that all information is true and accurate to the best of my knowledge.



John S. Shipley, **pro se**

609 Wildel Ave.

New Castle, DE 19720

(610) 872-7338

SWORN TO AND SUBSCRIBED before me, Della Z. Swarter, a Notary Public of the State of Delaware, this 27th day of February, 2007.



Notary Public

Date: February 27, 2007

DELLA Z. SWARTER
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Dec. 14, 2007

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JOHN SHIPLEY,)
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Plaintiff,)
)
) JURY OF 12 DEMANDED
COREY SHAW, SEPTA, AND)
TRAVELERS' INSURANCE COMPANY))
)
Defendant,)

ORDER

AND NOW, this _____ day of _____,
2007, upon consideration of the plaintiff's, **MOTION TO RECONSIDER THE
ORDER DATED FEBRUARY 16TH**, and all responses thereto IT IS HEREBY
Ordered that the plaintiff's Motion is GRANTED and the claims be upheld.


J.

CERTIFICATE OF SERVICE

I, John S. Shipley, hereby certify that on February 27, 2007, that I caused two copies of the foregoing **MOTION TO RECONSIDER THE COURT ORDER DATED FEBRUARY 16TH** to be served by first class U.S. Mail on the party at the following address:

MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN

KEVIN J. CONNORS (DE 2135)
ELIZABETH A. SAURMAN (DE 3217)
1220 North Market Street, 5th Flr.
P.O. Box 8888
Wilmington, DE 19899-8888
(302) 552-4324
Attorneys for Travelers Insurance Company


John S. Shipley, **pro se**
609 Wildel Ave
New Castle, DE 19720

Date: February 27, 2007