

**In the United States District Court
for the Southern District of Georgia
Dublin Division**

MARYLAND CASUALTY COMPANY and
FOREMOST SIGNATURE INSURANCE
COMPANY,

Plaintiffs,

CV 315-81

v.

DUBLIN EYE ASSOCIATES, P.C.,
DR. ROGER D. SMITH
and DR. JAMES Y. JONES,


Defendants.

ORDER

Pending before the Court is Plaintiffs' Maryland Casualty Company and Foremost Signature Insurance Company's Motion for Partial Summary Judgment (Dkt. No. 27) and Defendant Dr. James Y. Jones' Partial Motion for Summary Judgment (Dkt. No. 29). The Supreme Court of Kentucky has recently changed the elements of malicious prosecution in Martin v. O'Daniel, ___ S.W.3d ___, ___, 2016 WL 5244518 (Ky. Sept. 22, 2016). Furthermore, in the same case, the Supreme Court of Kentucky has definitively ruled that an action for malicious prosecution applies to both civil and criminal actions. The Court recognizes that this holding very well may alter the arguments in this case, which

have been significantly based on the old elements of malicious prosecution and the question of whether the cause of action may also apply to civil cases. The Court notes that when the parties filed their original motions, this case had not yet been published. As such, it is hereby ordered that the Parties are permitted to re-submit supplemental briefs taking into account this change of law within 15 Days of this order.

SO ORDERED, this 13th day of January, 2017.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA