

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

ESURANCE INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 3:08cv363HTW-LRA

SHANN MARTIN, TAMMY MARTIN, SHERRY WHITAKER,
STACEY THURMAN, TONI NEUMANN,
BLUE CROSS BLUE SHIELD OF ALABAMA,
BLUE CROSS BLUE SHIELD OF MISSISSIPPI,
ACS RECOVERY SERVICES, CIGNA HEALTH CARE
OF TENNESSEE, INC., METLIFE AUTO AND HOME
INSURANCE AGENCY, INC., ST. DOMINIC HOSPITAL,
RIVER REGION HEALTH SYSTEM, INC.,
AND MISSISSIPPI BAPTIST MEDICAL CENTER, INC.

DEFENDANTS

FINAL DECREE OF INTERPLEADER

This cause comes before the Court on plaintiff's motion for the entry of a Final Decree of Interpleader, and the Court, having considered the same, noting that all remaining parties have agreed to this Final Decree of Interpleader and otherwise being fully advised in the premises, finds as follows:

1. Esurance Insurance Company ("Esurance") is an insurance company duly qualified to do business in Mississippi. Esurance issued to Jeffrey Evans an automobile insurance policy with effective dates from September 26, 2006, to March 25, 2007, which provided bodily injury liability limits of \$25,000.00 per person and \$50,000.00 per accident.

2. On or about March 17, 2007, Jeffrey Evans was involved in a motor vehicle accident with a vehicle being driven by Toni Neumann. Sherry Whitaker, Tammy Martin, Shann Martin and Stacey Thurman were passengers in the Neumann vehicle. As a result of the automobile accident, Toni Neumann, Sherry Whitaker, Tammy Martin, Shann Martin and Stacey

Thurman all sought medical treatment and alleged to have sustained personal injuries and damages. These individuals allege that the subject accident was due to Jeffrey Evans' negligence and/or other conduct.

3. Blue Cross Blue Shield of Alabama, Blue Cross Blue Shield of Mississippi, Cigna Healthcare of Tennessee, Inc., ACS Recovery Services, Metlife Auto and Home Insurance Agency, Inc., St. Dominic Hospital, River Region Health System and Mississippi Baptist Medical Center all notified Esurance of potential liens they may have in favor of the above individuals as a result of the subject accident.

4. Esurance avers that its insured, Jeffrey Evans, is not liable in whole or in part to any or all of the defendants. However, due to the allegations of negligence and/or other conduct made against its insured, Esurance recognizes that defendants may have claims to the subject insurance proceeds. Because of these potential conflicts and claims, Esurance recognizes that it may be exposed to double and multiple liability and Esurance was unable to determine if and to whom it was obligated to pay the limited insurance proceeds or what portion thereof.

5. Esurance filed this interpleader action to avoid multiple liability or litigation or both.

6. Toni Neumann, Sherry Whitaker, Tammy Martin, Shann Martin and Stacey Thurman all filed answers to the complaint for interpleader and asserted that they were entitled to the interpled funds. Blue Cross Blue Shield of Alabama, Blue Cross Blue Shield of Mississippi, MetLife Auto and Home Insurance Agency, Inc., St. Dominic Hospital and Mississippi Baptist Medical Center, Inc. waived their rights to said interpled funds and have been dismissed from this suit. The remaining lienholders, ACS Recovery Services/Cigna Healthcare of Tennessee,

Inc. and River Region Health System, Inc. failed to answer or otherwise plead and default judgments have been entered against them.

7. In an effort to avoid further litigation in this matter, the remaining defendants, Toni Neumann, Sherry Whitaker, Tammy Martin, Shann Martin and Stacey Thurman have agreed to divide the \$50,000.00 interpled funds equally with each to receive \$10,000.00. These parties have further agreed to dismiss any claims they may have against Esurance.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

A. This Court has personal jurisdiction of the parties to this interpleader action, has subject matter jurisdiction over this lawsuit, and venue is proper in this Court.

B. The \$50,000.00 in interpled funds shall be divided equally between Shann Martin, Tammy Martin, Sherry Whitaker, Stacey Thurman and Toni Neumann, and Esurance is authorized to pay these funds directly to these individuals.

C. Blue Cross Blue Shield of Alabama, Blue Cross Blue Shield of Mississippi, ACS Recovery Services, Cigna Healthcare of Tennessee, Inc., Metlife Auto and Home Insurance Agency, Inc., St. Dominic Hospital, River Region Health System, Inc. and Mississippi Baptist Medical Center, Inc. are not entitled to receive any of the interpled funds.

D. Esurance has discharged its full and total liability under the subject automobile insurance policy issued to Jeffrey Evans with effective dates from September 26, 2006, to March 25, 2007, and shall have no further liability to the defendants, and any of them, and each and any person or entity claiming through or for the benefit of the defendants, or any of them, arising under the subject policy.

E. Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, this decree is a

final judgment and this Court expressly finds and determines that there is no just reason to delay enforcement or appeal of this Order.

SO ORDERED, this the 20th day February, 2009.

s/ HENRY T. WINGATE
CHIEF UNITED STATES DISTRICT JUDGE

AGREED TO:

s/ George E. Abdo, III
GEORGE E. ABDO, III - BAR # 9782

s/ B. Blake Teller
B. BLAKE TELLER - BAR #9044

s/ B. Geoffrey Harrison
B. GEOFFREY HARRISON - BAR # _____

s/ Toni Neumann
TONI NEUMAN

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Final Decree of Interpleader