

STATE OF MICHIGAN
COURT OF APPEALS

PATRICIA PAYNE,

Plaintiff-Appellant,

v

STATE FARM INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED
October 16, 1998

No. 202711
Washtenaw Circuit Court
LC No. 95-004832 CK

Before: Whitbeck, P.J., and McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

Plaintiff appeals as of right the trial court's order dismissing her breach of contract action pursuant to MCL 500.3153(c); MSA 24.13153(c). We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

Defendant moved to dismiss plaintiff's action because plaintiff had refused to comply with MCL 500.3152; MSA 24.13152. MCL 500.3152; MSA 24.13152 requires plaintiff to "authorize the insurer to inspect and copy records of physicians, hospitals, clinics or other medical facilities relevant to the claim." MCL 500.3153(c); MSA 24.13153(c) authorizes a court to make such orders in regard to the refusal to comply with MCL 500.3152; MSA 24.13152 as are just, including an order "rendering judgment by default against the disobedient person as to his entire claim or a designated part of it."

Plaintiff's behavior during the prosecution of her action can best be described as uncooperative and obstructionist with regard to allowing defendant access to her medical records. Moreover, at the time of the motion hearing, trial was only one week away and defendant had not yet been allowed access to all plaintiff's medical records. Even were plaintiff to have signed releases on the date of the motion hearing, it is unlikely that defendant could receive the records, analyze their content, acquire expert review of the records and be prepared for trial within the six days that remained before trial. Under these circumstances, the trial court did not clearly err in granting defendant's motion to dismiss. *Phillips v Deihm*, 213 Mich App 389, 397; 541 NW2d 566 (1995).

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks