SUPERIOR COURT OF THE STATE OF DELAWARE

RICHARD R. COOCH RESIDENT JUDGE NEW CASTLE COUNTY COURTHOUSE 500 North King Street, Suite 10400 Wilmington, Delaware 19801-3733 (302) 255-0664

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Re: Wigsonett Cruz-Miranda v. State Farm Mutual Automobile Insurance Co.

C.A. No. N12C-08-139 RRC

Submitted: April 2, 2014 Decided: April 21, 2014

On Defendant's Motion for Summary Judgment. **DENIED.**

Dear Counsel:

I. INTRODUCTION

Defendant automobile insurance company ("State Farm") has moved for summary judgment against Plaintiff Wigsonett Cruz-Miranda's declaratory judgment claim. The Court concludes that the conflicting deposition testimony as to whether or not a misrepresentation occurred creates a question of material fact that must be resolved by a jury. Defendant's Motion for Summary Judgment is therefore **DENIED**.

II. FACTUAL AND PROCEDURAL HISTORY

Plaintiff claims he was injured in a motor vehicle accident with Cipriano Piñeda-Ayala ("Ayala"). Ayala was driving a car registered and insured, under a State Farm policy, to Norma Bedolla ("Bedolla"). State Farm denied Plaintiff's claim based on Bedolla's representations that Ayala did not have permission to drive the vehicle. 3

Plaintiff subsequently obtained a default judgment against Ayala regarding liability and then filed suit against State Farm via an assignment of Ayala's rights.⁴ Plaintiff's current declaratory judgment claim against State Farm is based upon Ayala's testimony during the default judgment inquisition hearing in which he testified he was permitted to drive the vehicle.⁵

During initial depositions for the current claim, Ayala stated that he had permission to operate Bedolla's vehicle while Bedolla stated that he did not. After further questioning, Bedolla later changed her testimony to state that the vehicle was actually Ayala's, but registered and insured under her name. Bedolla stated all payments for the vehicle and insurance were from money given to her by Ayala. In Ayala's re-deposition, he also then somewhat ambiguously claimed that the vehicle was purchased, at least partially, for his use, but was titled and insured in Bedolla's name because he was not able to have it in his own name.

Based on the depositions and the fact that Ayala and Bedolla's testimony was, at the conclusion of discovery, each consistent with the other's testimony, State Farm now takes the position that the insurance coverage is void *ab initio* due to the

¹ Ex. 1 to Def.'s Mot. for Summ. J.

² Def.'s Mot. for Summ. J. at 2.

 $^{^{3}}$ Id.

⁴ *Id*.

⁵ Pl.'s Response to Def.'s Mot. for Summ. J. at 2.

⁶ Ex. 5 to Def.'s Mot. for Summ. J. ("The time that the accident happened I had borrowed the car from this girl Norma, and sometimes I would borrow it from her or sometimes from friends.").

⁷ Ex. G to Pl.'s Response ("Q. Ma'am, I read a recorded statement in this case that you gave to State Farm where you said you never gave Mr. Pineda-Ayala permission to drive your vehicle. A. Right. Q. Is that still your testimony today? A. Yes.").

⁸ *Id.* ("Q. You gave him permission to drive the vehicle, because, in fact, it was his vehicle, it was just registered under your name? A. Yeah. Q. So what you told State Farm in this recorded statement, that's not true, is it? That he didn't have permission to drive the vehicle? A. That he didn't have permission? No. That's not true.")

⁹ Def.'s Mot. for Summ. J. at 3.

¹⁰ Ex. 7 to Def.'s Mot. for Summ. J. ("Q. Okay. She testified that the Volkswagen Passat was purchased for your use; is that correct? A. Yes, that is true. I had been given that car. I was going to borrow it, so I could use it.").

fraudulent arrangement between Bedolla and Ayala.¹¹ Plaintiff, to the contrary, asserts that the conflicting depositions of Bedolla and Ayala create a question of material fact as to whether fraud occurred which must be resolved by a jury.¹²

III. STANDARD OF REVIEW

Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Once a moving party establishes that no material facts are disputed, the non-moving party bears the burden to demonstrate a material fact issue by offering admissible evidence. The non-moving party must do "more than simply show that there is some metaphysical doubt as to material facts." The Delaware Supreme Court describes the restrictions on summary judgment as follows:

Under no circumstances, however, will summary judgment be granted when, from the evidence produced, there is a reasonable indication that a material fact is in dispute. Nor will summary judgment be granted if, upon an examination of all the facts, it seems desirable to inquire thoroughly into them in order to clarify the application of the law to the circumstances. ¹⁶

In considering a motion for summary judgment, the Court must view the facts in the light most favorable to the non-moving party. ¹⁷

IV. DISCUSSION

This Court finds that in this case that there is still a "reasonable indication that a material fact is in dispute." This claim relies heavily on the relationship of the parties and their understanding of the ownership of the vehicle. The jury, as finder of fact, must resolve whether or not a misrepresentation to State Farm occurred based on the pretrial testimony of Bedolla and Ayala in their depositions and any trial testimony that they may offer. Although Bedolla and Ayala's testimony ultimately evolved to the point where they currently both appear to be asserting a

¹¹ Def.'s Mot. for Summ. J. at 3. Bedolla and Ayala's changes in testimony do, at one level, suggest that a jury might find that there was collusion by Ayala and Bedolla in an attempt to defraud State Farm. However, because this Court finds that there are unresolved issues of material fact as to whether or not fraud occurred, this Court does not now reach the arguments that the alleged fraud voids State Farm's coverage.

¹² Pl.'s Response at 3.

¹³ Super. Ct. Civ. R. 56(e).

¹⁴ See Super. Ct. Civ. R. 56(e); Phillips v. Del. Power & Light Co., 216 A.2d 281, 285 (Del. 1966).

¹⁵ Brzoska v. Olson, 668 A.2d 1355, 1364 (Del. 1995) (quoting Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986)).

¹⁶ Ebersole v. Lowengrub, 180 A.2d 467, 470 (1962).

¹⁷ Moore v. Sizemore, 405 A.2d 679, 680 (Del. 1979).

similar narrative, their testimony could possibly change again at trial. "[T]rial courts should act ... with caution in granting summary judgment [and] the trial court may ... deny summary judgment in a case where there is reason to believe that the better course would be to proceed to a full trial." In the case at bar, material facts relating to the use or ownership of the motor vehicle are not locked in at this juncture. This Court adopts a "cautio[us]" approach and finds "upon an examination of all the facts, it seems desirable to inquire thoroughly into them in order to clarify the application of the law to the circumstances" in this case. The best course of action would be to proceed to a full trial so that the factual dispute as to whether fraud occurred can be resolved by a jury.

CONCLUSION

For the foregoing reasons, Defendant's Motion for Summary Judgment is **DENIED**.

IT IS SO ORDERED.

Richard R. Cooch, R.J.

oc: Prothonotary

¹⁸ Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986).