

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

REBECCA CLARK and JAMES)	
SMITH, on behalf of themselves)	
and all others similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 14C-02-188-JRJ CCLD
)	
STATE FARM MUTUAL)	
AUTOMOBILE INSURANCE)	
COMPANY,)	
)	
Defendant.)	

Date Submitted: March 30, 2015
Date Decided: June 23, 2015

ORDER

Before the Court is Defendant State Farm Mutual Automobile Insurance Company’s (“State Farm”) Motion for Summary Judgment on Count I (Declaratory Judgment) of Plaintiffs’ Complaint.

1. On February 20, 2014, Plaintiffs Rebecca Clark and James Smith, and and others similarly situated (“Plaintiffs”), filed a Proposed Class Action Complaint (“Complaint”) against State Farm, which included four counts: (1) Declaratory Judgment; (2) Breach of Contract; (3) Bad Faith Breach of Contract; and (4) Statutory Consumer Fraud.¹ All four counts were based on Plaintiffs’

¹ Compl. (Trans. ID. 55029446).

allegations that State Farm had improperly deducted statutory interest payments from Plaintiffs' Personal Injury Protection ("PIP") coverage limits in their automobile policies, in violation of 21 *Del. C.* § 2118B.²

2. On June 19, 2014, State Farm filed a Motion for Summary Judgment ("June 19 Motion for Summary Judgment").³

3. On August 20, 2014, Plaintiffs filed a Motion for Leave to Amend their Complaint pursuant to Superior Court Civil Rule 15(a).⁴ Count I of Plaintiffs' Proposed Amended Complaint ("PAC") sought a declaratory judgment against State Farm for improperly deducting statutory interest payments, a claim identical to Count I of the Complaint.⁵ In Count II of the PAC, Plaintiffs sought a declaratory judgment that State Farm violated 21 *Del. C.* § 2118B by adopting an improper practice of delaying processing, payment, and denial of claims for PIP.⁶

4. On October 14, 2014, the Court granted State Farm's June 19 Motion for Summary Judgment on all four counts of the Complaint ("October 14 Order")⁷ because Plaintiffs advised the Court that they would not contest State Farm's

² *See id.*

³ *See* Defendant State Farm Mutual Automobile Insurance Company's Motion for Summary Judgment (Trans. ID. 55616863) ("Def.'s Mot. Sum. J.").

⁴ *See* Plaintiffs' Motion for Leave to Amend the Complaint (Trans. ID. 55914810). *See also* Plaintiffs' Brief in Support of Their Motion for Leave to Amend the Complaint (Trans. ID. 55914810) ("Pls.' Op. Br.").

⁵ Pls.' Op. Br., Ex. A ¶¶ 26–33.

⁶ *Id.* ¶¶ 34–43.

⁷ *See* Oct. 14, 2014 Order Granting Summary Judgment (Trans. ID. 56191706).

motion.⁸ On October 15, 2014, however, the Court modified the October 14 Order by deferring ruling on Count I (Declaratory Judgment) until after the pending Motion for Leave to Amend was resolved.⁹

5. On March 30, 2015, the Court denied Plaintiffs' Motion for Leave to Amend, finding that Plaintiffs failed to plead an immediate, or about to be immediate, controversy between the parties.¹⁰ The Court found Plaintiffs' claim for declaratory relief amounted to a request for an advisory or hypothetical opinion.¹¹

6. Thus, State Farm's Motion for Summary Judgment on Count I of the original Complaint is now ripe. In reviewing a motion for summary judgment pursuant to Rule 56, the Court must determine whether any genuine issues of material fact exist.¹² The moving party bears the burden of showing that there are no genuine issues of material fact so that he is entitled to judgment as a matter of law.¹³ The Court must view all factual inferences in a light most favorable to the non-moving party.¹⁴ Summary judgment will not be granted if it appears that there

⁸ Plaintiffs' Oct. 8, 2014 Letter to the Court (Trans. ID. 56163554).

⁹ See Oct. 15, 2014 Modified Order Granting Summary Judgment (Trans. ID. 56201342).

¹⁰ *Clark v. State Farm Mut. Auto. Ins. Co.*, 2015 WL 1518662, at *4 (Del. Super. 2015).

¹¹ *Id.*

¹² Super. Ct. Civ. R. 56(c); *Wilm. Trust Co. v. Aetna*, 690 A.2d 914, 916 (Del. 1996).

¹³ *Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979).

¹⁴ *Alabi v. DHL Airways, Inc.*, 583 A.2d 1358, 1361 (Del. 1990).

is a material fact in dispute or that further inquiry into the facts would be appropriate.¹⁵

7. As noted above, Count I of the Complaint seeks a declaratory judgment that State Farm was deducting statutory interest payments from PIP limits in violation of 21 *Del. C.* § 2118B.¹⁶ Count I of the Complaint relies on a theory the Plaintiffs are no longer pursuing.¹⁷ Consequently, the Court finds that there is no genuine issue of material fact in dispute with regard to Count I of the Complaint.

WHEREFORE, State Farm's Motion for Summary Judgment on Count I of the Complaint is **GRANTED**.

IT IS SO ORDERED.

Jan R. Jurden, President Judge

¹⁵ *Ebersole v. Lowengrub*, 180 A.2d 467, 470 (Del. Super. 1962), *rev'd in part* on procedural grounds and *aff'd in part*, 208 A.2d 495 (Del. 1965).

¹⁶ Compl. ¶¶ 26–33.

¹⁷ Plaintiffs' counsel confirmed this at oral argument on October 15, 2014, by advising the Court that they were no longer pursuing Count I of the PAC, which was based on the theory that State Farm deducted statutory interest payments from Plaintiffs' PIP benefits, which is identical to Count I of the Complaint. *See* Oral Arg. Tr. at 46–47 (Trans. ID. 56313425). *See also* Plaintiffs' Oct. 8, 2014 Letter to the Court (Trans. ID. 56163554).