

IN THE COUNTY COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR
OSCEOLA COUNTY, FLORIDA

Case No.: 2021 CC 779 CL

ELR RESTORATION INC
A/A/O DENNIS RUIZ,

Plaintiff,

v.

OLYMPUS INSURANCE COMPANY,

Defendant.

**ORDER ON DEFENDANT, OLYMPUS INSURANCE
COMPANY'S MOTION TO DISMISS COMPLAINT**

THIS CASE came before the Court for hearing on March 1, 2022 upon Defendant, Olympus Insurance Company's Motion to Dismiss ELR Restoration Inc.'s Complaint, and the Court having examined same, and being otherwise fully advised in the premises, it is thereupon:

- A. The contract at issue is a homeowner's insurance policy, policy number OL30156183-04, that Olympus issued to Dennis Ruiz for the property located at 106 Crescent Ct, Kissimmee, Florida 34758, for the relevant policy period of September 8, 2018 through September 8, 2019.
- B. On or about February 26, 2021, the Plaintiff filed this action alleging a loss occurred on or about August 14, 2019, and is relying on an alleged assignment of benefits entered into on August 16, 2019.
- C. Defendant argues Plaintiff lacks standing to bring forth this suit because the assignment agreement fails to comply with requirements imposed by Florida Statute 627.7152 (2019), making them invalid and unenforceable.
- D. Plaintiff argues that Florida Statute 627.7152 (2019) cannot be applied retroactively to this suit when the subject insurance policy was issued prior to the law's effective date pursuant to Menendez v. Progressive Express Ins. Co., 35 So. 3d 873, 876 (Fla. 2010)

- E. The Court having reviewed the motion, Plaintiff's response, and section 627.7152, which regulates assignment agreements, finds that the statute is clear. The statute applies to assignment agreements executed on or after July 1, 2019 and mandates that an assignment agreement such as Plaintiff's must strictly comply with the statute in order to be enforceable.
- F. The Court disagrees with Plaintiff's argument and finds that Menendez is not applicable to 627.7152.
- G. The Court finds that the Plaintiff's assignment agreement is devoid of a written, itemized, per unit cost estimate of services to be performed which is a violation of subsection 627.7152(2)(a)(4). The assignment agreement did not include an estimate that reflected the total cost or potential cost, number of labor hours, or detailed line items of work to be performed or intended to be performed. The assigned contained a generic price list which does not place the Insured/homeowner on notice of services to be performed.
- H. An assignment agreement that does not comply with the specific requirements is "invalid and unenforceable." Fla. Stat. Section 627.7152(2)(d). Thus, the Court finds that Plaintiff does not have standing to file this lawsuit.

IT IS ORDERED AND ADJUDGED THAT:

DEFENDANT, OLYMPUS INSURANCE COMPANY'S MOTION TO DISMISS IS GRANTED WITH PREJUDICE.

DONE AND ORDERED in Kissimmee, Osceola County, Florida, on this 14th day of March, 2022.


eSigned by ARENDAS, CHRISTINE E
on 03/14/2022 18:11:23 NdLOBqTK

Honorable Christine Arendas

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