

IN THE COUNTY COURT OF THE 4TH  
JUDICIAL CIRCUIT IN AND FOR DUVAL  
COUNTY, FLORIDA

Case No.: 2022-CC-000434

THE KIDWELL GROUP, LLC D/B/A AIR  
QUALITY ASSESSORS OF FLORIDA a/a/o  
SADIE WILLIAMS,

Plaintiff,

v.

STATE FARM FLORIDA INSURANCE  
COMPANY,

Defendant.

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THIS CAUSE came to be heard on:

- (1) Defendant's *MOTION TO DISMISS PLAINTIFF'S COMPLAINT WITH PREJUDICE FOR FAILURE TO COMPLY WITH FL. STAT. §627.7152 AND INCORPORATED MEMORANDUM OF LAW*, filed May 3, 2022; and
- (2) Defendant's *MOTION TO STAY DISCOVERY*, filed May 3, 2022.

A hearing was conducted on both motions August 15, 2022. The Court, having heard the argument of counsel, having reviewed the court file and being otherwise advised in the premises, finds as follows:

1. As a preliminary matter, Plaintiff filed an Amended Complaint on August 12, 2022. At the August 15, 2022 hearing, counsel for both Parties agreed to argue both of Defendant's Motions as if they applied to Plaintiff's Amended Complaint.

2. This is a breach of contract action stemming from a first-party property homeowners insurance claim dispute wherein the Plaintiff claimed to be the assignee of the homeowners/insureds pursuant to a purported assignment of benefits ("AOB") attached to Plaintiff's Amended Complaint.

3. Defendant argues that Plaintiff does not have standing, as an assignee of the named insured, to bring the instant Action against Defendant because the AOB attached to Plaintiff's Amended Complaint does not fully comply with the statutory requirements set forth under Fla. Stat. §627.7152(2)(a), and that Plaintiff's AOB is, therefore, "invalid and unenforceable" per Fla. Stat. §627.7152(2)(d).

4. This Court recognizes the recently decided case of *The Kidwell Group LLC d/b/a Air Quality Assessors of Florida a/a/o Ben Kivovitz v. United Prop. & Cas. Ins. Co.*, 2022 WL 2136705 (Fla. 4<sup>th</sup> DCA 2022), in which the Fourth District Court of Appeals affirmed a trial court's order granting a motion to dismiss in a similar action brought by the same Plaintiff and upon an AOB identical in form to the one attached to the Amended Complaint in this Action.

5. Defendant's Motion to Dismiss is premised on the same statutory defects identified discussed by the Fourth District Court of Appeals in *The Kidwell Group LLC a/a/o Kivovitz*, 2022 WL 2136705, at \*1 ("...the trial court properly concluded the assignment did not contain a written, itemized, per-unit cost estimate of the services to be performed by [Plaintiff] as required by sections 627.7152(2)(a)1. and 627.7152(2)(a)4.").


6. As such, this Court feels bound to rule in a similar fashion to the Fourth District Court of Appeals in *The Kidwell Group LLC a/a/o Kivovitz*. See *Pardo v. State*, 596 So.2d 665, 666 (Fla. 1992)("[I]n the absence of interdistrict conflict, district court decisions bind all Florida trial courts.").

**WHEREFORE**, it is hereby **ORDERED AND ADJUDGED** that:

- Defendant's *MOTION TO DISMISS PLAINTIFF'S COMPLAINT WITH PREJUDICE FOR FAILURE TO COMPLY WITH FL. STAT. §627.7152 AND INCORPORATED MEMORANDUM OF LAW* is **GRANTED with prejudice**.
- Defendant's *MOTION TO STAY DISCOVERY* is rendered **MOOT**.
- The Court hereby dismisses Plaintiff's Amended Complaint with prejudice and instructs the clerk to close this file. Plaintiff shall take nothing in this action, and the Defendant may go hence without day. The court reserves jurisdiction on Defendant's entitlement to recover its reasonable attorney fees and costs from and against the Plaintiff, pursuant to applicable Florida law.

**DONE and ORDERED** in Chambers, at Duval County, Florida on this 20<sup>th</sup> day of

August, 2022.

  
Hon. Eleni Derke  
COUNTY JUDGE

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