

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT, IN AND FOR
SARASOTA COUNTY, FLORIDA

Case No.: 2021 CA 001281 NC

SFR SERVICES L.L.C. A/A/O WAYNE
WELSH AND IDA MAE WELSH,

Plaintiff,

v.

UNITED PROPERTY & CASUALTY
INSURANCE COMPANY,

Defendant.

_____ /

ORDER ON DEFENDANT’S MOTION FOR FINAL SUMMARY JUDGMENT

THIS CAUSE came to be heard on Defendant, UNITED PROPERTY & CASUALTY INSURANCE COMPANY’s (“UPC”), Motion for Final Summary Judgment filed January 11, 2022. A hearing was conducted on July 6, 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. On March 22, 2021, SFR SERVICES LLC (“SFR”), filed the instant Action seeking to recover in excess of \$30,000 for the construction consulting, restoration, and build-back services for UPC’s insureds, WAYNE AND IDA MAE WELSH.

2. SFR filed suit against UPC claiming to be an assignee of post-loss insurance benefits due under a policy issued by UPC to UPC’s insured.

3. Both Parties agree that the contract relied upon by SFR to claim standing to file this action was executed by UPC’s insured on August 11, 2020.

4. In order for SFR to have received a valid assignment of post-loss insurance benefits, the underlying assignment contract between SFR and UPC’s insured must have complied with all of the requirements set forth in Florida Statutes § 627.7152.

5. As set forth under Florida Statutes § 627.7152(2)(a), those requirements include, but are not limited to, the following:

Fl. Stat. §627.7152 Assignment agreements. -

...
(2)(a) *An assignment agreement must:*

...
4. *Contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee.*

6. The contract upon which SFR claims to have received a post-loss assignment of insurance benefits from UPC's insured does not "[c]ontain a written, itemized, per-unit cost estimate of the services to be performed by the assignee."

7. Rather, SFR points to a separate invoice authored by Elite Claim Consultants of the services allegedly provided to UPC's insured.

8. According to the undisputed deposition testimony of the insured, said invoice was not provided to the insured until ten (10) days after signing the contract, as such the invoice was not contained in the contract as of the date and time of execution.

9. The carrier has the right to challenge the validity and enforceability of an assignment of benefits contract under Fla.Stat. 627.7152 (the "Statute"), as the Statute clearly contemplates the existence of an insurance contract and requires compliance.

10. Additionally, any purported assignment of benefits contract must be assessed according to the Statute, as was the legislature's intent.

11. Further, any company in the business of accepting assignments of insurance benefits is required to comply with the Statute.

12. The evidence is clear that SFR failed to comply with the requirements of 627.7152(2)(a)(4).

13. Therefore, the purported assignment agreement executed between SFR and UPC's insured is "*invalid and unenforceable,*" according to Florida Statutes § 627.7152(2)(d).

14. SFR, therefore, does not have standing to sue UPC for breach of contract with respect to the underlying insurance policy.

15. The second issue raised in UPC's Motion for Final Summary Judgment, late notice, is an issue for the jury as there is a material issue of fact if the knowledge of the occasion for reporting a claim was sufficient.

It is therefore **ORDERED AND ADJUDGED** that Defendant, UNITED PROPERTY & CASUALTY INSURANCE COMPANY's Motion for Final Summary Judgment is GRANTED.

The Court hereby enters Full and Final Judgment in favor of Defendant, UNITED PROPERTY & CASUALTY INSURANCE COMPANY, based on non-compliance with

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Fla.Stat. 627.7152.

Plaintiff, SFR Services LLC, a/a/a WAYNE AND IDA MAE WALSH, shall take nothing by this action and Defendant shall go hence without day.

The Court reserves jurisdiction on attorney fees and costs.

DONE AND ORDERED in Sarasota County, Florida, on this ____ day of _____,
2022.

Honorable Judge Bruning

Copies furnished to:
Katherine Koener, Esq., klkeservice@kklaw.com
Jonathan Drake, Esq., jdrake@drakelawpa.com

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_____ /


ORDER GRANTING MOTION FOR ENTITLEMENT OF FEES

THIS CASE came before the Court without a hearing upon Defendant's Motion for Entitlement to Fees, and the Court having examined same, and being otherwise fully advised in the premises, it is thereupon:

ORDERED AND ADJUDGED

1. Defendant's Motion for Entitlement to Fees is hereby **GRANTED**.
2. The parties will agree to and set an evidentiary hearing to determine fees and costs within sixty (60) days of this order.

DONE AND ORDERED in Sarasota County, Florida


1/13/2023 1:18 PM 2021 CA
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e-Signed 1/13/2023 1:18 PM 2021 CA 001281 NC

Copies furnished to:

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