

IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA

CASE NO.: 2020-CA-005940

SFR SERVICES, L.L.C.
(a/a/o Douglas Pals and
Diana Pals),

Plaintiff,

vs.

AMERICAN INTEGRITY INSURANCE
COMPANY OF FLORIDA,

Defendant.

ORDER

THIS MATTER having come before the Court on **Defendant's Motion to Dismiss (filed October 16, 2020)**, and the Court having considered same, after hearing the arguments of the parties, and after being otherwise advised in the premises and/or via Zoom Conference on December 14, 2020, it is hereby, **ORDERED AND ADJUDGED** that:

Defendant's Motion to Dismiss is DENIED.

The Court finds that both pre-suit requirements and attorney's fees and costs are substantive rights pursuant to *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873 (Fla. 2010). Substantive rights cannot be changed retroactively. This Court notes that the date of the loss at issue in this litigation occurred on a date prior to the date that Fla. Stat. 627.7152 became effective. The Court notes that the law that was in effect when the Policy was entered into would apply to the assignment of benefits contract at issue in this litigation. As such, Fla. Stat. 627.7152 is not applicable to the assignment of benefits contract attached to Plaintiff's Complaint.

The Court notes that as a party not in privity with the assignment contract, Defendant has a limited ability to challenge the validity of the assignment of benefits contract, or whether there was adequate consideration supporting the assignment contract. This Court disagrees with Defendant's argument concerning certain isolated language within the assignment of benefits contract as to the

“scope of work approved or paid for by the Carrier,” and also disagrees with Defendant’s argument that as a result of that language coupled with no final approved scope of work Plaintiff allegedly lacks standing to maintain this litigation. The Court finds that when the assignment of benefits contract is considered as a whole, the intent of the parties to the assignment of benefits contract is clearly to “assign any and all insurance rights, benefits, and *causes of action* under [the Policy]” to Plaintiff. The Court notes that there is no language in the assignment contract that voids the assignment of benefits contract if Plaintiff and Defendant cannot agree to a scope of work and/or estimate.

Defendant shall file its Answer to Plaintiff’s Complaint within 20 days of the date of entry of this Order.

DONE AND ORDERED in Lee County, Florida,



eSigned by Michael McHugh 12/16/2020 11:20:51 416rZquv

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