

STATE OF MAINE  
YORK, ss.

162

LINDA E. DAVISON, )  
)  
Petitioner, )  
)  
v. )  
)  
MAINE SCHOOL MANAGEMENT )  
ASSOCIATION INSURANCE TRUST, )  
)  
Defendant. )

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-12-162  
JON - YORK 2/17/2013

ORDER

I. Background

This case is brought *pro se* by Plaintiff in order to recover life insurance held by her husband, Kenneth J. Davison, who died of terminal cancer. She believed that her husband had life insurance coverage because of a letter he received from an Aetna Consultant on July 18, 2008, confirming his policy. Shortly after Mr. Davison's passing, Plaintiff called Aetna and spoke with a representative who confirmed that Mr. Davison had an "ACTIVE" policy. Since then, Plaintiff has been told that her husband did not have coverage and that the insurance was not offered for employees in his job. Plaintiff has been unable to recover from either Aetna or the policyholder. Plaintiff is suing the policyholder of the group life insurance policy.

II. Standard of Review

When a Defendant moves for Summary Judgment, "the plaintiff must establish a prima facie case for each element of [the] cause of action that is properly challenged in

the defendant's motion." *Flaherty v. Muther*, 2011 ME 32, ¶38, 171 A.3d 640, 652-653.

The burden then shifts to the Defendant to show that there is no genuine issue of material fact. Summary Judgment is appropriate where no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Beal v. Allstate Ins. Co.*, 989 A. 2d 733, 738 (Me. 2010); *Dyer v. Department of Transportation*, 951 A.2d 821, 825 (Me. 2008). When reviewing a Motion for Summary Judgment, the Court reviews the parties' statements of material facts and the cited record evidence in the light most favorable to the non-moving party. *Id.*

A genuine issue of material fact exists where the fact finder must make a determination between differing versions of the truth. *Reliance National Indemnity v. Knowles Industrial Services Corp.*, 2005 ME 29, ¶7, 868 A.2d 220, 224, citing *Univ. of Me. Found. V. Fleet Bank of Me.*, 2003 ME 20, ¶20, 817 A.2d 871, 877. Furthermore, "a fact is material if it could potentially affect the outcome of the case." *Id.*

### III. Discussion

In order to move beyond summary judgment Plaintiff must make a showing of each challenged element of each of her claims that D has challenged. Plaintiff has not done so. Plaintiff has raised claims of Breach of Implied Duty of Good Faith and Fair Dealing, Misrepresentation and Reliance by Insured, or Unfair Business Practices, Negligence, Extra-Contractual Breach of Duty of Good Faith, Tortious Interference with Contractual Relations. These claims are based on allegations of misrepresentations that caused Plaintiff and her husband to believe that her husband had insurance coverage. However, at no point does Plaintiff claim that Defendant made the misrepresentations

that caused her and her husband to believe that he had insurance coverage. Plaintiff has failed to make a showing that Defendant acted in a way that caused Plaintiff's reliance or that Defendant breached a duty towards Plaintiff that caused Plaintiff injury. Therefore, Defendant's Motion for Summary Judgment is Granted.

IV. Conclusion

Defendant's Motion for Summary Judgment is GRANTED.

DATED:



2/7/13

John O'Neil, Jr.  
Justice, Superior Court

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