

IN THE COUNTY COURT IN AND FOR
PINELLAS COUNTY, FLORIDA

CASE NO.: 18-006336 SC

CHIROPRACTIC & ACUPUNCTURE
MEDICAL CENTER a/a/o SABRINA
NGUYEN,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

ORDER ON PLAINTIFF'S VERIFIED MOTION FOR RECONSIDERATION

THIS CAUSE having come before the Court on Plaintiff's Verified Motion for Reconsideration and the Court having heard argument of counsel on October 24, 2019, and being otherwise advised in the Premises, the Court hereby finds as follows:

On August 7, 2019, this Court heard Plaintiff's Motion to Compel Discovery and denied the same finding that Plaintiff had ample opportunity to review the discovery documents provided by Defendant and that there were no outstanding Discovery Obligations. Defendant produced all Explanations of Benefits, Medical Bills and Non-Privileged discovery, including the PIP Payment Log to enable Plaintiff ample opportunity to prepare and review their case. This Court also heard Defendant's Motion for Summary Judgment on August 7, 2019 on the merits with each side having the opportunity to present its case. At the conclusion of the hearing, this Court ruled in favor of Defendant granting its Motion for Summary Judgment and an Order and Final Judgment was subsequently entered on August 28, 2019.

On August 23, 2019, Plaintiff filed its Verified Motion for Reconsideration seeking relief under Florida Rule of Civil Procedure 1.540(b) alleging excusable neglect for failure to open a May 1, 2019 and a June 13, 2019 email containing a Dropbox Link to

the requested discovery documents provided by Defendant. The Court has reviewed the record and no new evidence or case law was presented.

The Court finds that the Parties had an ample opportunity to complete discovery in this matter and had months to address any issues. Plaintiff brings its Motion under Florida Rule of Civil Procedure 1.540(b) which states:

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) that the judgment or decree is void; or (5) that the judgment or decree has been satisfied, released, or discharged, or a prior judgment or decree upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or decree should have prospective application. The motion shall be filed within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, decree, order, or proceeding was entered or taken. A motion under this subdivision does not affect the finality of a judgment or decree or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, decree, order, or proceeding or to set aside a judgment or decree for fraud upon the court.

This Court recognizes that sometimes a reconsideration is required; however, this is not one of those situations. The Parties in this matter are two entities, both represented by counsel. Both Parties have had months to complete discovery and have an obligation

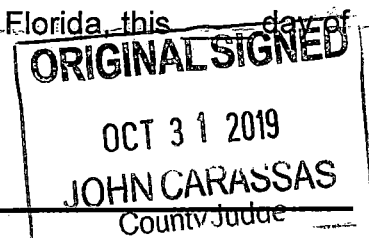
to each other to monitor their emails. The Courts have gone to electronic filing and this places the burden on the Parties to monitor their email and what is going on in the case. Both Parties were given an opportunity to present their case at the August 7, 2019 hearing and the opportunity to be heard was given at that time. To prevail on a Motion for Reconsideration, a party needs more than an allegation or conclusory statement. "The requirement that the defendant demonstrate excusable neglect requires more than a conclusory statement. A party moving to vacate...must set forth facts explaining or justifying the mistake or inadvertence by affidavit or other sworn statement. *Inter-Atlantic Inc. Services, Inv. V. Hernandez*, 632 So.2d 1069 (Fla. 3d DCA 1994). The Court having reviewed the Affidavit of T. Roger White, Jr. and the record in this matter and hearing the argument of counsel finds that Plaintiff has not met this burden.

No new evidence or case law has been provided that would warrant the reconsideration of this matter or alter the Court's decision.

THEREFORE, IT IS ORDERED AND ADJUDGED that Plaintiff's Verified Motion for Reconsideration be, and the same is hereby DENIED. The Order entered on August 28, 2019 Granting Defendant's Motion for Summary Judgment and Final Judgment in Favor of Defendant shall stand. The Court will consider no further Motions for Reconsideration. This Court reserves jurisdiction to tax fees and costs for the Defendant as the prevailing party.

DONE and ORDERED in Chambers at Pinellas County, Florida, this _____ day of _____, 2019.

JOHN CARASSAS
COUNTY COURT JUDGE



Copies furnished to:

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