

IN THE COUNTY COURT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

CERTIFIED WINDSHEILD LLC
a/a/o FEMI OKUBOYE

Plaintiff,

Case No. 15-CC-008652
Division M

vs.

PROGRESSIVE ELECT INSURANCE
COMPANY

Defendant,

**ORDER ON PLAINTIFF'S MOTION TO CONFIRM APPRAISAL AWARD
AND FOR ENTRY OF SUMMARY JUDGMENT**

THIS CAUSE having come before the Court upon PLAINTIFF'S MOTION TO CONFIRM APPRAISAL AWARD AND FOR ENTRY OF SUMMARY JUDGMENT on November 4, 2015, and the Court having heard arguments of counsel and otherwise fully advised in the premises finds as follows:

1. On March 20, 2015, the Plaintiff filed its statement of claim regarding the reimbursement of windshield repair/replacement, and on April 22, 2015, the Defendant filed its Notice of Invoking Appraisal Provision of its insurance policy;
2. On May 28, 2015, an appraisal meeting occurred and the appraisers reached agreement pursuant to the appraisal provisions of the subject contract of insurance;
3. The appraisers determined the amount in questions was \$360.07 plus tax of \$25.20 for a total of \$385.27;
4. The Appraisal clause invoked by the Defendant specifically reserves to all parties any rights available to it, notwithstanding the invocations of appraisal.
5. The Defendant, in arguing against summary judgment and entitlement to attorney's fees for the Plaintiff challenges the underlying assignment of benefits and challenges Plaintiff's standing, arguing that the assignor was not an insured under the subject insurance contract;
6. The Defendant submitted its entire policy of insurance, but did not include the declarations page, thereto, and as a result, there is nothing in the court record that identifies or excludes the assignor as an insured. This is especially problematic as the assignment attached to the Complaint is executed by someone other than the named assignor in the Complaint.
7. The Defendant also contests the adequacy of the subject Assignment of Benefits, arguing that the language of the Assignment of Benefits does not convey to the assignee

the assignor's right to sue for the benefits assigned. However, upon review of the subject Assignment of Benefits, the Court finds that the said Assignment does confer to the assignee the right to bring suit.

It is therefore **ORDERED AND ADJUDGED** that;

- A. The appraisal award in the amount of \$385.27 be and the same is hereby CONFIRMED;
- B. The Court reserves ruling on the Plaintiff's Motion for Summary Judgment and entitlement to attorney's fees, pending proof of assignee's standing to execute the subject Assignment of Benefits.

DONE AND ORDERED in Chambers, Tampa, Hillsborough County, Florida this _____ day of November, 2015.

ORIGINAL SIGNED
CONFORMED COPY

NOV 30 2015

Herbert M. Berkowitz
County Court Judge

HERBERT M. BERKOWITZ
COUNTY JUDGE

Copies mailed to:

Anthony Prieto, Esquire
3705 N. Himes Avenue
Tampa FL 33607

Bryan Giribaldo, Esquire
4301 W. Boy Sout Boulevard #400
Tampa FL 33607