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Staten Is. Chiropractic Assoc., P.C. v Long Is. Ins. Co.
2006 NYSlipOp 50588(U)
Decided on April 7, 2006
Appellate Term, Second Department
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This opinion is uncorrected and will not be published in the printed Official Reports.

Decided on April 7, 2006

SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE TERM: 9th and 10th JUDICIAL DISTRICTS

PRESENT: : RUDOLPH, P.J., TANENBAUM and
LIPPMAN, JJ 2005-662 N C.

Staten Island Chiropractic Assoc., P.C., as Assignee of Regina Bellamy,

Appellant,

against

Long Island Insurance Company, Respondent.

Appeal from an order of the District Court of Nassau County, First District (Erica L. Prager, J.), entered December 14, 2004. The order denied plaintiff's motion for summary judgment.

Order affirmed without costs.

uIn this action to recover \$8,388.13 in first-party no-fault benefits for health care services provided plaintiff's assignor, plaintiff moved for summary judgment. The court below denied the motion and we affirm. Defendant denied receiving the instant claims and plaintiff's only proof that it submitted its claims was the provider's statement that "[e]ach of the claims for payment were [*sic*] timely submitted in the ordinary course of business to [defendant]." Such an assertion failed to prove a standard office practice or procedure designed to ensure that items are properly addressed and mailed (*see Residential Holding Corp. v Scottsdale Ins. Co.*, 286 AD2d 679, 680 [2001]). Although plaintiff proved a claim denial form used by defendant which denied "all" of plaintiff's claims, the form admitted receipt of no specific claim and cannot be construed to concede that defendant received the specific claims herein at issue.

Rudolph, P.J., Tanenbaum and Lippman, JJ.,
concr. Decision Date: April 7, 2006