

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WENDY BLAIR : CIVIL ACTION
v. :
REPUBLIC UNDERWRITERS :
INSURANCE COMPANY : NO. 99-2436

MEMORANDUM AND ORDER

FULLAM, Sr.J. JUNE , 1999

Plaintiff Wendy Blair was injured in 1983 when a Trailways bus in which she was a passenger was involved in an accident. She obtained a judgment against Edwards Trailways, Inc., a bankrupt, as well as the bus driver, in the Court of Common Pleas of Philadelphia County. She has spent the years since attempting to collect that judgment.

This latest action has been brought against Edwards' second-tier excess insurance carrier, Republic Insurance Company. The complaint consists of two counts: the first is a direct action pursuant to 40 P.S. §117; the second asserts that defendant's denial of plaintiff's claim constitutes attempted fraud. Defendant has moved to dismiss the second count.

The complaint alleges that Republic's denial of Ms. Blair's claim amounts to "an attempted fraud upon Plaintiff." Appended to the complaint is a letter from Republic's counsel setting forth the carrier's reasons for believing that coverage does not exist and inviting

plaintiff's counsel to respond. The mere fact that Republic issued a preliminary statement of its reasons for denying a claim will not support an action for fraud. An Order follows.

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O R D E R

AND NOW, this day of June, 1999, IT IS ORDERED:

1. Defendant's motion to dismiss is GRANTED.
2. Count II of the complaint -- plaintiff's fraud claim ONLY -- is

DISMISSED WITH PREJUDICE.

Fullam, Sr.J.