

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff
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SUPERIOR COURT OF NEW JERSEY
SPECIAL CIVIL PART - MONMOUTH COUNTY
DOCKET NO.

MARLENE CARIDE,)	
COMMISSIONER OF THE)	<u>Civil Action</u>
NEW JERSEY DEPARTMENT OF)	
BANKING AND INSURANCE,)	COMPLAINT
)	
Plaintiff,)	SPECIAL CIVIL PART: STATUTORY
)	PENALTIES
v.)	
)	AMOUNT IN CONTROVERSY: \$6,000.00
HARMONY B. HEFFERNAN,)	
)	
Defendant.)	

Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance ("Commissioner" or "Plaintiff"), with offices at 20 West State Street, Trenton, New Jersey, by way of Complaint states:

1. Defendant, Harmony B. Heffernan ("Defendant"), made a written statement intended to be presented to an insurance company for the purpose of obtaining an insurance policy knowing that the statement contained false information concerning facts material to

the insurance application, in violation of the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 ("Fraud Act"). Specifically, Defendant falsely stated that he had not been injured between the time he applied for an individual disability policy and the issuance of the policy, in violation of N.J.S.A. 17:33A-4(a)(4)(b).

2. The Fraud Act was enacted in order "to confront aggressively the problem of insurance fraud in New Jersey." N.J.S.A. 17:33A-2.

3. The Commissioner is authorized to institute suit for civil penalties and other relief against any person who violates the Fraud Act. N.J.S.A. 17:33A-5.

4. It is a violation of the Fraud Act to prepare or make any written or oral statement, intended to be presented to any insurance company for the purpose of obtaining an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application. N.J.S.A. 17:33A-4(a)(4)(b).

5. Violations of the Fraud Act subject the violator to a civil penalty not to exceed \$5,000.00 for the first offense, not to exceed \$10,000.00 for the second offense, and not to exceed \$15,000.00 for each subsequent offense. N.J.S.A. 17:33A-5(b).

6. The court shall also award court costs and reasonable attorneys' fees. N.J.S.A. 17:33A-5(b).

7. In addition to any other penalty, fine, or charge imposed pursuant to law, a person who is found in any legal proceeding to have committed insurance fraud shall be subject to a surcharge in the amount of \$1,000.00. N.J.S.A. 17:33A-5.1.

FACTUAL ALLEGATIONS

8. Upon information and belief, at all relevant times, Defendant resided at 76 Alexander Drive, Red Bank, New Jersey 07701.

9. On March 28, 2017, Defendant applied to Mutual of Omaha Insurance Company ("Mutual of Omaha") for an individual disability policy.

10. On April 5, 2017, Defendant was injured at his place of employment.

11. On April 6, 2017, Defendant ceased working due to disability.

12. On April 11, 2017, in order to obtain the individual disability policy, and as a prerequisite for the policy to be effective, Defendant signed a "Policy Delivery Receipt and Statement of Good Health," representing, among other things, between the application date, March 28, 2017, and the effective date of the policy, that: there had been no change in Defendant's occupational status; there had been no change in Defendant's health; and Defendant had not suffered any illness or injury.

13. The policy was issued with an effective date of April 11, 2017.

14. Had Defendant disclosed his injury and change in occupational status on the Statement of Good Health, Mutual of Omaha would not have made the policy effective.

15. Mutual of Omaha rescinded the policy on April 6, 2018 due to the above misrepresentations.

COUNT I

16. Plaintiff repeats and realleges the foregoing allegations as if fully set forth herein.

17. By making a false written statement to Mutual of Omaha concerning the date of his injury and the date his employment ceased, Defendant made a written statement intended to be presented to an insurance company for the purpose of obtaining an insurance policy knowing that the statement contained false information about material facts, in violation of N.J.S.A. 17:33A-4(a)(4)(b).

WHEREFORE, Plaintiff requests entry of judgment against Defendant as follows:

- a. Finding that Defendant violated the Fraud Act;
- b. Imposing a civil penalty pursuant to N.J.S.A. 17:33A-5(b);
- c. Assessing court costs and reasonable attorney fees, pursuant to N.J.S.A. 17:33A-5(b);

d. Imposing a \$1,000.00 surcharge, in accordance with N.J.S.A. 17:33A-5.1;

e. Ordering the payment of restitution to Mutual of Omaha, or any other person who has suffered a loss as a result of Defendant's actions in accordance with N.J.S.A. 17:33A-26; and

f. Granting such other relief as the court may deem just.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff



By:

Brian R. Fitzgerald
Deputy Attorney General

Dated: June 26, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, Brian R. Fitzgerald, Deputy Attorney General, is hereby designated as trial counsel.

CERTIFICATION

I certify in accordance with R. 4:5-1 that I am not aware of any other civil proceedings either pending or contemplated with respect to the matter in controversy herein, and that there are no other parties who should be joined in this action.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff



By:

Brian R. Fitzgerald
Deputy Attorney General

Dated: June 26, 2019

CERTIFICATION

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff



By: _____

Brian R. Fitzgerald
Deputy Attorney General

Dated: June 26, 2019



Court's Address and Phone Number:
 MONMOUTH Special Civil Part
 71 MONUMENT PARK, P.O. BOX 1270
 FREEHOLD, NJ 07728-1270
 732-677-4270

Superior Court of New Jersey
Law Division, Special Civil Part
MONMOUTH County
 Docket No: **MON-DC-006241-19**
Civil Action
TORT-OTHER

YOU ARE BEING SUED!

Person or Business Suing You (Plaintiff)

Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance

Plaintiff's Attorney Information

BRIAN RICHARD FITZGERALD
 ATTORNEY GENERAL LAW
 25 MARKET ST PO BOX 112
 TRENTON, NJ 08625-0106
 609-984-3900

Person or Business Being Sued (Defendant)

Harmony B. Heffernan

The Person or Business Suing You Claims You Owe the Following:

Demand Amount	\$6000.00
Filing Fee	\$.00
Service Fee	\$.00
Attorney's Fees	<u>\$0.00</u>
TOTAL	\$6000.00

FOR JUDICIARY USE ONLY

In the attached complaint, the person or business suing you briefly tells the court his or her version of the facts of the case and how much money he or she claims you owe. **If you do not answer the complaint, you may lose the case automatically and the court may give the plaintiff what the plaintiff is asking for, plus interest and court costs. You have 35 days from the date of service to file your answer or a signed agreement.** If a judgment is entered against you, a Special Civil Part Officer may seize your money, wages or personal property to pay all or part of the judgment. The judgment is valid for 20 years.

IF YOU DISAGREE WITH THE PLAINTIFF'S CLAIMS, A WRITTEN ANSWER OR SIGNED AGREEMENT MUST BE RECEIVED BY THE COURT ABOVE, ON OR BEFORE 08/05/2019, OR THE COURT MAY RULE AGAINST YOU. IF YOU DISAGREE WITH THE PLAINTIFF, YOU MUST DO ONE OR BOTH OF THE FOLLOWING:

- Answer the complaint.*** An answer form that will explain how to respond to the complaint is available at any of the New Jersey Special Civil Part Offices or on the Judiciary's Internet site njcourts.gov under the section for Forms. If you decide to file an answer to the complaint made against you:
 - Fill out the Answer form AND pay the applicable filing fee by check or money order payable to: **Treasurer, State of New Jersey**. Include **MON-DC-006241-19** (your Docket Number) on the check.
 - Mail or hand deliver the completed Answer form and the check or money order to the court's address listed above.
 - Hand deliver or send by regular mail a copy of the completed Answer form to the plaintiff's attorney. If the plaintiff does not have an attorney, send your completed answer form to the plaintiff by regular and certified mail. This **MUST** be done at the same time you file your Answer with the court on or before **08/05/2019**.
- Resolve the dispute.*** Contact the plaintiff's attorney, or contact the plaintiff if the plaintiff does not have an attorney, to resolve this dispute. The plaintiff may agree to accept payment arrangements. If you reach an agreement, mail or hand deliver the **SIGNED** agreement to the court's address listed above on or before **08/05/2019**.

Please Note - You may wish to get an attorney to represent you. If you cannot afford to pay for an attorney, free legal advice may be available by contacting Legal Services at 732-866-0020. If you can afford to pay an attorney but do not know one, you may call the Lawyer Referral Services of your local County Bar Association at 732-431-5544. Notify the court now if you need an interpreter or an accommodation for a disability for any future court appearance.

/s/ **Michelle M. Smith**

Clerk of the Superior Court



Dirección y teléfono del tribunal
 Parte Civil Especial de MONMOUTH
 71 MONUMENT PARK, P.O. BOX 1270
 FREEHOLD, NJ 07728-1270
 732-677-4270

El Tribunal Superior de Nueva Jersey
División de Derecho, Parte Civil Especial
 Condado de MONMOUTH
 Número del expediente **MON-DC-006241-19**
Demanda de Acción Civil
NOTIFICACIÓN DE DEMANDA
TORT-OTHER

¡LE ESTÁN DEMANDANDO!

Persona o entidad comercial que le está demandando (el demandante)

Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance

Información sobre el abogado del demandante

BRIAN RICHARD FITZGERALD
 ATTORNEY GENERAL LAW
 25 MARKET ST PO BOX 112
 TRENTON, NJ 08625-0106
 609-984-3900

Persona o comercial ser demandada (el demandado)

Harmony B. Heffernan

La persona o comercial que le está demandando afirma que usted le debe lo siguiente:

Cantidad a la vista	\$6000.00
Tasa judicial	\$.00
Cargo del emplazamiento	\$.00
Honorarios del abogado	\$0.00
TOTAL	\$6000.00

PARA USO EXCLUSIVO DEL PODER JUDICIAL

En la demanda adjunta la persona o entidad comercial que le está demandando le informa brevemente al juez su versión de los hechos de la causa y la suma de dinero que afirma que usted le debe. **Si usted no responde a la demanda puede perder la causa automáticamente y el juez puede dar al demandante lo que está pidiendo más intereses y los costos legales. Usted tiene 35 días a partir de la fecha del emplazamiento para presentar su respuesta o un acuerdo firmado.** Si se dicta un fallo en su contra, un Oficial de la Parte Civil Especial puede embargar su dinero, sueldo o sus bienes muebles (personales) para pagar todo el fallo o una parte del mismo. El fallo es válido por 20 años.

SI USTED NO ESTÁ DE ACUERDO CON LAS ALEGACIONES DEL DEMANDANTE, EL TRIBUNAL TIENE QUE RECIBIR UNA RESPUESTA POR ESCRITO O UN ACUERDO FIRMADO PARA EL 08/05/2019 O ANTES DE ESA FECHA, O EL JUEZ PUEDE EMITIR UN FALLO EN SU CONTRA. SI USTED NO ESTÁ DE ACUERDO CON EL DEMANDANTE, DEBE HACER UNA DE LAS SIGUIENTES COSAS O LAS DOS:

- 1. Responder a la demanda.** Un formulario de respuesta que le explicará cómo responder a la demanda está disponible en cualquiera de las Oficinas de la Parte Civil Especial de Nueva Jersey o en el sitio Internet del Poder Judicial njcourts.gov bajo la sección de formularios (Forms). Si usted decide presentar una respuesta a la demanda que se hizo en su contra:
 - Llene el formulario de Respuesta Y pague la tasa judicial de presentación que corresponda mediante un cheque o giro bancario o postal acreditable al: "**Treasurer, State of New Jersey**" (Tesorero del Estado de Nueva Jersey). Incluya **MON-DC-006241-19** (el número de su expediente) en el cheque.
 - Envíe por correo el formulario de Respuesta llenado y el cheque o giro bancario o postal a la dirección del tribunal que figura más arriba, o entréguelos personalmente en dicha dirección.
 - Entregue personalmente o envíe por correo común una copia del formulario de Respuesta llenado al abogado del demandante. Si el demandante no tiene abogado, envíe su formulario de respuesta llenado al demandante por correo común y por correo certificado. Esto SE TIENE que hacer al mismo tiempo que presente su Respuesta al tribunal a más tardar el **08/05/2019**.
- 2. Resolver la disputa.** Comuníquese con el abogado del demandante, o con el demandante si éste no tiene abogado, para resolver esta disputa. El demandante puede estar de acuerdo con aceptar arreglos de pago. **Si llegara a un acuerdo, envíe por correo o entregue personalmente el acuerdo FIRMADO** a la dirección del tribunal que figura más arriba, o entréguelo personalmente en dicha dirección a más tardar el **08/05/2019**.

Nota - Puede que usted quiera conseguir que un abogado para que lo represente. Si usted no puede pagar a un abogado, podría obtener consejos legales gratuitos si se comunica con Legal Services (Servicios Legales) llamando al 732-866-0020. Si usted puede pagar a un abogado, pero no conoce a ninguno, puede llamar al Lawyer Referral Services (Servicios de Recomendación de Abogados) del Colegio de Abogados (Bar Association) de su condado local al 732-431-5544. Notifique al tribunal ahora si usted necesita un intérprete o un arreglo por una discapacidad para cualquier comparecencia futura en el tribunal.

/s/ Michelle M. Smith

Subsecretario(a) del Tribunal Superior