

IN THE COUNTY COURT IN AND FOR BROWARD COUNTY,  
FLORIDA

CASE NO. COCE-20-030781 DIV: 52

T.I.O. MEDICAL INTERVENTION, LLC, a/a/o  
MARY FAISON,

Plaintiff,

v.

LIBERTY MUTUAL FIRE INSURANCE  
COMPANY,

Defendant.  
\_\_\_\_\_ /

**FINAL JUDGMENT AND ORDER GRANTING DEFENDANT'S MOTION FOR FINAL  
SUMMARY JUDGMENT REGARDING OUT OF STATE COVERAGE**

THIS CAUSE having come before the Court for hearing on June 13, 2022 upon Defendant, LIBERTY MUTUAL FIRE INSURANCE COMPANY's Motion for Final Summary Judgment based upon Out of State Coverage. The Court, having read the submissions by the parties, having heard argument of counsel and being otherwise duly advised in the premises, makes the following findings of fact and conclusions of law:

**FACTUAL BACKGROUND**

1. The subject action involves a claim for personal injury protection insurance benefits filed by Plaintiff, T.I.O. MEDICAL INTERVENTION, LLC (hereinafter "Plaintiff") as assignee of MARY FAISON (hereinafter "Claimant") against Defendant, LIBERTY MUTUAL FIRE INSURANCE COMPANY (hereinafter "Liberty"), arising out of a motor-vehicle accident that occurred on December 19, 2018.

2. Plaintiff alleges that Liberty has issued a policy of insurance "which provided personal injury protection ("PIP") benefits coverage required by law to comply with Florida Statutes Sections 627.730

thru 627.7405.” [\[1\]](#)

3. Plaintiff seeks PIP Benefits under a policy Liberty issued to Johnice Clarrington, which was in effect from April 18, 2017-April 18, 2018. The insured was a Georgia Resident and the policy is a Georgia Policy. The policy was issued and delivered in Georgia. The vehicles were garaged at a Georgia address and registered in Georgia.

4. On October 2, 2017, Mary Faison was involved in an accident in Miami, FL involving the insured vehicle. Mary Faison was not the named insured, but was a listed driver under the policy.

5. Following the accident, Mary Faison sought treatment with the Plaintiff on December 19, 2018. The Plaintiff in turn submitted the bill to Liberty under a PIP Claim.

6. The Plaintiff’s claim was denied. Liberty asserted that the policy did not afford PIP or Medical Payments Coverage to Mary Faison.

7. Plaintiff later filed the instant suit seeking PIP Benefits under the Liberty Policy. Defendant’s only affirmative defense was

“The subject policy AO2-258-173207-40 was a Georgia policy which did not carry any Personal Injury Protection Benefits or Medical Payments coverage. The subject Georgia policy was not require to cover PIP benefits. As there was no coverage under the subject policy Defendant was proper in declining to pay the Plaintiff’s submitted bills and no benefits are due or owing.” [\[2\]](#)

8. Prior to the hearing, the parties stipulated that Defendant’s Affirmative Defenses do not involve factual issues and can be addressed by a Motion for Summary Judgment as to whether the claimant’s policy provides for Personal Injury Protection Benefits. [\[3\]](#)

9. The Parties filed their respective Motions for Final Summary Judgment as to coverage, which were argued by the Parties on June 13, 2022.

10. During the hearing, the Court confirmed there were no issues of fact. The issue before Court was the interpretation of the Liberty’s “Out of State Coverage”. Questions of insurance policy interpretation are questions of law. *Harrington v. Citizens Property Ins. Corp.*, 54 So. 3d 999 (Fla. 4th DCA 2010). Additionally, where the case turns on an interpretation of a statute, the issue presents a question of law for the Court. *See Geico Gen. Ins. Co. v. Virtual Imaging Svcs., Inc.*, 141 So. 3d 147,

151 (Fla. 2013);

11. Based on the foregoing, this Court has determined that Defendant's Motion for Final Summary Judgment should be granted.

## **LEGAL ANALYSIS**

### **A. LIBERTY'S POLICY**

The Parties' do not disagree that the subject policy was issued in the State of Georgia. This Georgia policy did not provide PIP or medical payment coverage ("MPC") benefits. The Plaintiff argues that the "Out of State Coverage" provision of the policy requires Liberty to afford PIP Coverage to the Claimant. However the plain language of the policy does not support the Plaintiff's conclusion. The subject policy states:

#### **OUT OF STATE COVERAGE**

If an auto accident to which this policy applies occurs in any state or province other than the one in which "your covered auto" is principally garaged, we will interpret your policy for that accident as follows:

A. If the state or province has:

1. A financial responsibility or similar laws specifying limits of liability for "bodily injury" or "property damage" higher than the limit shown in the Declarations, your policy will provide the higher specified limit
2. A compulsory insurance or similar law requiring a nonresident to maintain insurance whenever the nonresident uses a vehicle in that state or province, your policy will provide at least the required minimum amounts and types of coverage<sup>[4]</sup>.

Where language is clear and unambiguous, judicial interpretation of statutes, regulations and insurance contracts requires that Courts construe said language according to its plain meaning. *Allstate Ins. Co. v. Holy Cross Hospital*, 961 So.3d 328 (Fla. 2007). Here, Paragraph 2 of the relevant policy language provides coverage when "a compulsory insurance or similar law **requires a nonresident** to maintain insurance **whenever the nonresident uses** a vehicle in that state or province..." (emphasis added). However, Florida PIP insurance is not compulsory for all non-residents. *See Fla Stat. 627.733.*

### **B. FLORIDA STATUTE 627.733**

Florida Statute 627.733 titled "Required Security" states in pertinent part under subsection (2):

“Every nonresident owner or registrant of a motor vehicle which, whether operated or not, has been physically present within this state for more than 90 days during the preceding 365 days shall thereafter maintain security as defined by subsection (3) in effect continuously throughout the period such motor vehicle remains with this state.”

Florida doesn't require a non-resident to maintain insurance whenever she uses a vehicle in the state. Rather, Florida only requires a non-resident obtain PIP insurance if she operates a vehicle in this state for more than 90 days during the preceding 365. There is no evidence that the Claimant, 1) was the owner of a motor vehicle; 2) that she was driving that vehicle at the time of the loss or 3) that she had been operating this vehicle for more than 90 days in Florida of the preceding 365.

Even had the Claimant met all three of the requirements, the law would simply require the non-resident to obtain her own PIP insurance or be deemed a self-insured. These hypothetical facts do not change the interpretation of the policy. Florida law simply does not require every nonresident to maintain insurance whenever the nonresident uses a vehicle in Florida. Accordingly, paragraph 2 of Liberty's policy is inapplicable to Florida PIP.

Plaintiff relies on *Meyer v. Hutchinson*, 861 So.2d 1185, 1186 (Fla. 5th DCA 2003) and *Jimenez v. Faccone*, 98 So. 3d 621, 626 (Fla. 2d DCA 2012) in support of this position that the policy provides compulsory PIP Coverage to the Claimant. However, the Court finds both the facts and policies of both cases factually distinguishable from the instant case and policy.

Both *Meyer* and *Jimenez* dealt with whether defendant was entitled to threshold injury instruction, not whether PIP Coverage was afforded to the Claimant's medical provider.

In the Liberty policy, the “Out of State Coverage” provision is positioned under “PART A - LIABILITY COVERAGE” which is dissimilar from both the *Meyer* and *Jimenez* provisions. More importantly, the placement of the conformity clause is clearly listed in the policy index under the “PART A - LIABILITY COVERAGE.” The strategic placement of the clause Liability supports this

Court's conclusion that the provision was intended to apply to Liability coverage, rather than Medical Payments, or PIP. "If the language used in an insurance policy is plain and unambiguous, a court must interpret the policy in accordance with the plain meaning of the language used so as to give effect to the policy as it was written." *State Farm Mut. Auto. Ins. Co. v. Menendez*, 70 So. 3d 566, 569-70 (Fla. 2011) [36 Fla. L. Weekly S469a] (citing *Travelers Indem. Co. v. PCR Inc.*, 889 So. 2d 779, 785 (Fla. 2004) [29 Fla. L. Weekly S774a]).

Furthermore, the Courts in *Meyer* and *Jimenez* determined that the policies' broad language incorporated the compulsory insurance laws of the jurisdiction. This Court finds Liberty's to be more precise and narrowly written than those policies.

### **CONCLUSION**

The Court finds that Liberty's policy of insurance is not ambiguous as to the "Out of State Coverage" provision, nor has the Plaintiff articulated any ambiguities. The "Out of State Coverage" provision is clearly and purposefully placed under the Liabilities portion of the policy. The "Out of State Coverage" provision is not applicable to the policy at large and is not specifically applicable to the PIP Statute. The case law presented by the Plaintiff are factually distinct from the instant case and pertain to different policy language.


Fla. Stat. 627.733 does not require every non-resident vehicle driving in the state of Florida to obtain compulsory coverage. Accordingly, Liberty was not contractually obligated to provide out-of-state no-fault coverage based upon the clear language and context of the policy provisions at issue.

Based on the foregoing, it is hereby ORDERED and ADJUDGED, as follows:

1. That the Defendant's Motion for Summary Judgment is GRANTED.
2. Final Judgment is entered in favor of Defendant, LIBERTY MUTUAL FIRE INSURANCE COMPANY. Plaintiff, T.IO. MEDICAL INTERVENTION, LLC a/a/o MARY FAISON, takes nothing by this action and that Defendant, LIBERTY MUTUAL FIRE INSURANCE COMPANY, go hence without day.
3. The Court reserves jurisdiction to determine entitlement to attorney's fees and costs.

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- [1] See Paragraph 9 of the Plaintiff's Complaint  
[2] See Defendant's Answer and Affirmative Defenses  
[3] See Court Order on Case Management Conference on Order Setting Hearing on Defendant's Motion for Summary Judgment entered on March 2, 2022.  
[4] Page 3 of Liberty's Policy Form , attached to both Plaintiff and Defendant's Motions for Summary Judgment

**DONE AND ORDERED** in Chambers at Broward County, Florida on 3rd day of July, 2022.

  
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Hon. Giuseppina Miranda

**COUNTY JUDGE**

Electronically Signed by Giuseppina Miranda

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