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Insurance -- Homeowners -- Standing -- Insured's action against insurer -- Because assignment of benefits to remediation company was invalid as matter of law under section 627.7152, insured retained all rights under policy and has standing to pursue claim against insurer -- Insurer's partial payment to remediation company under emergency services cap does not extinguish its obligation to pay remainder of appraisal award -- Moreover, insurer is equitably estopped from denying insured's right to pursue claim where insurer sent letter saying that it would be paying money to insured, not to remediation company, and insured paid company to settle work with them in reliance on that letter -- Further, many services for which insured seeks reimbursement were not emergency services for which insurer paid remediation company directly -- Insurer's motion for summary judgment is denied

SHERRY CARNEY, Plaintiff, v. CITIZENS PROPERTY INSURANCE CORPORATION, Defendant. County Court, 17th Judicial Circuit in and for Broward County. Case No. COINX24025303. Division 62. July 3, 2025. Woody Clermont, Judge. Counsel: Isha Kumar and Daniela Coy, Milber, Makris, Plousadis & Seiden, LLP, for Plaintiff. Karina Rios, The Professional Law Group, PLLC, for Defendant.

ORDER DENYING DEFENDANT'S

MOTION FOR SUMMARY JUDGMENT

THIS MATTER came before the Court on Defendant, CITIZENS PROPERTY INSURANCE CORPORATION'S, Motion for Summary Judgment. The Court has reviewed the motion, the response, the pleadings and their attachments, the insurance policy, the assignment, the sworn affidavits, the response to request for admissions, the correspondence, the photographs, diagrams, and other attachments, and writes this detailed order regarding how it decided the summary judgment. *See Rkhub Logistics LLC v. Eastern Auto Motor Corp.,* 344 So. 3d 485, 486, 2022 WL 3050346, at *1 (Fla. 4th DCA 2022) [47 Fla. L. Weekly D1628a] ("it will not be enough for the court to make a conclusory statement that there is or is not a genuine dispute as to a material fact."). This Court reviewed the applicable law, the file, and being otherwise duly advised in the premises, hereby FINDS and ORDERS as follows:

This action arises from a homeowner's insurance policy issued by Defendant, under which Plaintiff submitted a claim related to a 2022 loss. Plaintiff, the named insured under the policy, initially executed an Assignment of Benefits (AOB) in favor of a remediation company for services rendered post-loss. The Defendant disputed the validity of the AOB under section 627.7152, Florida Statutes (2022), and asserted that the AOB was invalid and unenforceable due to noncompliance with statutory requirements, including the failure to provide a written, itemized, per-unit cost estimate as required under section 627.7152(2)(a)4. Despite contesting the AOB's validity, Defendant paid $3,000 to the remediation company, citing the emergency services cap under §627.7152(2)(c), but refused to pay the remaining balance of the appraisal award for this portion of the claim directly to Plaintiff. Defendant now argues that Plaintiff lacks standing to recover the remaining $9,108.85 of the appraisal award, having partially paid the remediation company under the AOB. However, Florida courts have held that when an AOB is invalid under section 627.7152, the claim brought by the assignee must be dismissed. *See Kidwell Group, LLC v. United Prop. & Cas. Ins. Co.,* 343 So. 3d 97 (Fla. 4th DCA 2022) [47 Fla. L. Weekly D1295b]; *Gables Ins. Recovery, Inc. v. Citizens Prop. Ins. Corp.,* 261 So. 3d 613 (Fla. 3d DCA 2018) [43 Fla. L. Weekly D2178a].

The effect of an invalid assignment is that the insured (assignor) retains all rights under the policy, including standing to pursue any benefits owed. Defendant cannot simultaneously maintain that the AOB is invalid and then use the invalid assignment to shield itself from paying the appraisal award to the insured. Such a position is internally inconsistent and unsupported by applicable law. The Court finds that the AOB is invalid

as a matter of law under section 627.7152, and that Plaintiff, as the insured, has standing to pursue the claim. Defendant's partial payment to the remediation company under a statutorily capped provision does not extinguish its obligation to satisfy the remainder of the appraisal award, because the right to pursue the action belongs to the insured when standing is not transferred due to an invalid and unenforceable AOB. Citizens understood this rule, because that is precisely what its September 5, 2023, and October 4, 2023, letters were doing: telling Direct Dry Up it could not pay them directly because the assignment was invalid. Citizens changed its course, and yet nothing changed legally about its position -- it still maintains the AOB is invalid.

Unenforceable Contracts

In general courts are not permitted to give validity to or enforce illegal contracts or that violate public policy. *See McMullen v. Hoffman,* 174 U.S. 639, 19 S.Ct. 839, 43 L.Ed. 1117 (1899) (holding that no court will lend its assistance in any way towards carrying out the terms of an illegal contract). For example, when a party filed a motion to stay arbitration on the grounds that the contract was usurious, the trial court denied it, and the Fifth District Court of Appeal reversed because sending a case based on arbitration when the contract itself is illegal would breathe life into a contract that should not be enforced by the court. *Party Yards, Inc. v. Templeton,* 751 So.2d 121, 124 (Fla. 5th DCA 2000) [25 Fla. L. Weekly D248a].

Where the contract contains a clause that is illegal, a court ought not to enforce the illegal term, as a contract cannot give validity to an otherwise illegal act. *Brumby v. City of Clearwater,* 108 Fla. 633, 149 So. 203 (1933); *Nizzo v. Amoco Oil Co.,* 333 So. 2d 491 (Fla. 3d DCA 1976). This rule is based on the rationale that no legal remedy exists for an illegal agreement. *D. & L. Harrod, Inc. v. U.S. Precast Corporation,* 322 So. 2d 630 (Fla. 3d DCA 1975); *Gonzalez v. Trujillo,* 179 So. 2d 896 (Fla. 3d DCA 1965).

The Fourth District Court of Appeal likewise follows this rule. *Katz v. Woltin,* 765 So. 2d 279, 280 (Fla. 4th DCA 2000) [25 Fla. L. Weekly D1960a]. “The contract being illegal, no action may be brought on it, whether in law or in equity.” *Id*. The Florida Supreme Court has held that party to the contract suspected of being illegal may raise its illegality as an issue. *Local No. 234 of United Ass'n of Journeymen and Apprentices of Plumbing v. Henley & Beckwith, Inc.,* 66 So.2d 818, 823 (Fla. 1953). “This is so for the reason that one who has entered into a contract or undertaking which is violative of public policy owes to the public the continuing duty of withdrawing from such an agreement.” *Id*.

Not every contract that violates a statute is illegal, but where a particular provision is violated and the statute indicates the agreement is not enforceable for this violation, then courts should not enforce it. *See Well Done Mitigation, LLC v. Citizens Property Insurance Corporation,* 2025 WL 1774727, at *3 (Fla. 2d DCA 2025) [50 Fla. L. Weekly D1397d]; *Gale Force Roofing & Restoration, LLC v. Am. Integrity Ins. Co. of Fla.,* 380 So. 3d 1242, 1246 (Fla. 2d DCA 2024) [49 Fla. L. Weekly D387a] (affirming dismissal of complaint with prejudice where the assignment agreement violated section 627.7152(2)(a)2). In essence, the framework of section 627.7152, Florida Statutes does exactly this: it takes an assignment which is a contract, and it tests it for legal validity as to whether it complies with subsection (2). § 627.7152(2), Fla. Stat. (2022) (“An assignment agreement that does not comply with this subsection is invalid and unenforceable.”) (emphasis added); *see also Ellis v. Titan Restoration Construction, Inc.,* 408 So. 3d 776, 779 (Fla. 4th DCA 2025) [50 Fla. L. Weekly D622c].

Standing

Standing is a legal doctrine that determines whether a party has the right to bring a lawsuit in court based on being the real party in interest. Fla. R. Civ. P. 1.210(b) (“All persons having an interest in the subject of the action and in obtaining the relief demanded may join as plaintiffs and any person may be made a defendant who has or claims an interest adverse to the plaintiff ”). “Standing is a legal concept that requires a would-be litigant to demonstrate that he or she reasonably expects to be affected by the outcome of the proceedings, either directly or indirectly.” *Hayes v. Guardianship of Thompson,* 952 So. 2d 498, 505 (Fla. 2006) [31 Fla. L.

Weekly S763a]. To have standing, a party must show that they have suffered a concrete, particularized injury that is actual or imminent, not hypothetical. "In its broadest sense, standing is no more than having, or representing one who has, 'a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy.' " *Kumar Corp. v. Nopal Lines, Ltd.,* 462 So. 2d 1178, 1182 (Fla. 3d DCA 1985) (quoting *Sierra Club v. Morton,* 405 U.S. 727, 731, 92 S.Ct. 1361, 31 L.Ed.2d 636 (1972)). The injury must be traceable to the conduct of the defendant and likely to be redressed by a favorable court decision. Without standing, the court lacks jurisdiction to hear the case. This is so that a defendant might be protected "from facing a subsequent similar action brought by one not a party to the present proceeding and to ensure that any action taken to judgment will have its proper effect as res judicata . . . ." *Kumar,* 462 So. 2d at 1182 (quoting *Prevor-Mayorsohn Caribbean, Inc. v. Puerto Rico Marine Mgmt., Inc.,* 620 F.2d 1, 4 (1st Cir. 1980)).

In the instant case, the Defendant is seeking double the protection. Defendant is maintaining that the Direct Dry Up's assignment is invalid and unenforceable. On this issue, both parties agree -- when asked on the record on July 2, 2025, counsel for Defendant represented that it still maintains that the assignment is invalid and unenforceable. This aligns with Citizens' September 5, 2023 letter from Adjuster Jason Watkins, where it wrote "its provisions do not comply with the requirements necessary to make it valid" and ". . .the agreement does not contain the requirements necessary to make it compliant with the applicable statute, any reimbursement for services related to the agreement will be mailed directly to the insured if the claim is determined to be a covered loss". A carbon copy of this letter was sent to "The Professional Law Group, PLLC, Sherry Carney". An email communication was sent by Contingent Worker Sherrice Baines, on October 4, 2023, indicating to Direct Dry Up that "Your water services are being included in the appraisal (which is still open and in the process of being completed) due to the non-compliant AOB received."

Citizens' argument is that it does not owe this reimbursement of this portion of the claim to Direct Dry Up, because the assignment is invalid and unenforceable. Citizens equally argues that it does not owe this reimbursement of this portion of the claim to Sherry Carney either. In effect, taken to its logical conclusion, Citizens feels that neither Sherry Carney nor Direct Dry Up LLC have standing to bring a lawsuit against it for this portion of the claim. With all due respect, this argument is internally inconsistent, because the effective end result is that Citizens is arguing that no one has standing to sue it over a dispute for this portion of the claim. That is not the state of the law, and the courts cannot ratify this kind of position.

Citizens' argument is however, that it voluntarily paid Direct Dry Up LLC on the grounds that even though the assignment is invalid and unenforceable, that Sherry Carney is still bound by it, so it is protecting her by paying $3,000 to Direct Dry Up LLC as a good insurer should, as opposed to paying her $12,108.85 because it is paying in accordance with its policy in good faith -- no harm, no foul. The Court understands that the argument is that Citizens is contending it is an invalid assignment but still "an assignment". An invalid assignment, however, is essentially "invalid" and this Court can take no part in giving that invalid assignment force.

The Court does not believe that Citizens is paying $3,000 to Direct Dry Up out of the kindness of its heart. If it had not owed $12,108.85 under the Appraisal Award, it would likely contend Direct Dry Up is entitled to nothing Citizens is taking a statute which was designed to protect an insured and using it to bypass paying the full $12,108.85. This action works to the insured's detriment by claiming the insured is still bound to Direct Dry Up, knowing that the Legislature's statutory language deems their assignment "invalid and unenforceable" to protect the insured from it.

While general contracts are assignable, the general rule does not apply when the assignment violates a statute. *Gables Ins. Recovery Inc. v. Citizens Prop. Ins. Corp.,* 261 So. 3d 613, 619 (Fla. 3d DCA 2018) [43 Fla. L. Weekly D2178a] (citing *Hall v. O'Neil Turpentine Co.,* 56 Fla. 324, 47 So. 609, 612 (1908)); *see also Park v. Wausau Underwriters Ins. Co.,* 547 So. 2d 213, 215 (Fla. 4th DCA 1989) (noting the general rule that where a contract is violative of a statute or public policy it will not be enforced by the courts). To accept Citizens'

position, this Court would have to give enforcement validity to an invalid assignment in denying Carney the right to go forward with this action; the Court ruling this way forces the Court to enforce an invalid assignment, which goes against *Park,* which provides that an agreement like this which violates a statute, is in fact an 'illegality'. *Park,* 547 So. 2d at 215 (citing *Talco Capital Corp. v. Canaveral International Corp.,* 225 F.Supp. 1007, 1013 (S.D.Fla. 1964), aff'd, 344 F.2d 962 (5th Cir. 1965)).

Contracts which are void or invalid in this way ought not to be enforced in the courts. *See Bond v. Koscot Interplanetary, Inc.,* 246 So. 2d 631, 634 (Fla. 4th DCA 1971) ("The foregoing citations indicate the broad general rule that an agreement which violates a statute or is contrary to public policy is illegal, void and unenforceable as between the parties."). As the Third District held in *Gables Insurance Recovery,* "The Matusow assignment violated a state statute, section 626.854(11)(b), because it agreed to give Gables Recovery more than twenty percent of what is collected on the insurance claim. Thus, Matusow did not validly assign her claim, and without the assignment, Gables Recovery did not have standing to sue Citizens." *Gables Ins. Recovery,* 261 So. 3d at 627. It seems puzzling now that Citizens having pushed for this result in *Gables Ins. Recovery* and other cases it pursued appeals on this issue, now believes that an invalid assignment can effectively now transfer standing from the insured as assignor to the assignee even if the assignment violates the statute. It is not even as if Citizens is claiming the assignment is valid -- which would lend credence to the standing argument.

Insurers have argued in the district courts that when the trial courts dismiss the remediation companies' claims based on invalid assignments, that it is the law, because an invalid assignment cannot grant standing to the assignee. *Holding Insurance Companies Accountable, LLC v. American Integrity Insurance Company of Fla.*, 399 So. 3d 1232, 1235 (Fla. 5th DCA 2025) [50 Fla. L. Weekly D111a]. "And without a valid assignment, HICA has no standing to sue American Integrity for its alleged breach of Caruso's insurance policy." *HICA,* 399 So. 3d 1235 (citing *Gables Ins. Recovery, Inc. v. Citizens Prop. Ins. Corp.,* 261 So. 3d 613, 627 (Fla. 3d DCA 2018) [30 Fla. L. Weekly D2622b]. Standing is in the policyholder or insured initially, and an assignment seeks to *transfer* standing from the insured (assignor) to the remediation company (assignee). If the assignment is invalid, which Citizens continue to argue, the right to bring the cause of action does not transfer, and thus standing remains with the insured. *Progressive Exp. Ins. Co. v. McGrath Community Chiropractic,* 913 So. 2d 1281 (Fla. 2d DCA 2005) [30 Fla. L. Weekly D2622b]. As *McGrath Community Chiropractic* noted in a case where a provider obtained an assignment after it had filed a lawsuit that:

> Thus the assignment of PIP benefits is not merely a condition precedent to maintain an action on a claim held by the person or entity who filed the lawsuit. Rather, it is the basis of the claimant's standing to invoke the processes of the court in the first place. If the insured has assigned benefits to the medical provider, the insured has no standing to bring an action against the insurer. *Livingston v. State Farm Mut. Auto. Ins. Co.,* 774 So.2d 716, 718 (Fla. 2d DCA 2000) [25 Fla. L. Weekly D533c]. In this case, the converse is true. If on the date the Provider filed the original statement of claim Mr. Joseph had not assigned benefits to the provider, only Mr. Joseph had standing to bring the action. It follows that the Provider would have lacked standing under these circumstances, and the case should have been dismissed.

Id. at 1285 (emphasis added).

In *Progressive Exp. Ins. Co. v. Hartley,* an assignment in a Personal Injury Protection (PIP) case was found to be invalid, because it was made out to a fictitious business entity that had not renewed its fictitious name registration. 21 So. 3d 119 (Fla. 5th DCA 2009) [34 Fla. L. Weekly D2229c]. Progressive to avoid being found not having to pay certain benefits to the insured directly, adamantly argued that the assignment was still valid despite being made to a business no longer recognized under Florida law. *Hartley,* 21 So. 3d at 120-121. The Fifth District found otherwise and additionally observed, "Furthermore, if we were to accept Progressive's argument, no party could bring an action against Progressive for the alleged unpaid PIP

benefits." *Id*. at 120-121. The trial court had "concluded that Hartley had retained his right to claim PIP benefits due under his insurance policy" and the Fifth District affirmed the decision of the circuit court. *Id*. at 120.

Equitable estoppel

The Court equally sees an equitable estoppel problem.

To satisfy the reliance prong of equitable estoppel, the party asserting the defense must prove that he or she made a detrimental change of position based on a belief in the misrepresented fact. *Schroeder v. Peoplease Corp.,* 18 So. 3d 1165, 1168 (Fla. 1st DCA 2009) [34 Fla. L. Weekly D1960a]. Thus, the elements of equitable estoppel are "(1) a representation as to a material fact that is contrary to a later-asserted position; (2) reliance on that representation; and (3) a change in position detrimental to the party claiming estoppel, caused by the representation and reliance thereon." *Id*. (citations omitted).

The letters from Citizens on September 5, 2023, and October 4, 2023, made it very clear that Citizens would be paying the money to the insured and that Citizens would not make any payments to Direct Dry Up, directly, because the assignment violated the statute in numerous different ways. Plaintiff relied on these representations to her detriment. Citizens then changed its position, and sent money to Direct Dry Up, after it sent a letter to the Plaintiff indicating that it would give her $7,885.86 for water mitigation services and $4,222.99 for tarp services. This is indicated in the Affidavit of Sherry Carney dated May 17, 2025. This is in Exhibit 4, attached to the Affidavit, where Stephan McMillan signed off on behalf of Citizens. This was the Appraisal Award decision, which was signed off by two people, the Appraiser on December 27, 2023, and the Adjuster on December 29, 2023 (which by its terms, makes it binding on both sides). After promising those amounts in the Award, Citizens took the position that it would honor Direct Dry Up's invoice and cap the payment at $3,000. The letter attached indicated that water mitigation and tarp services would be paid for separately. Plaintiff paid $12,000 to Direct Dry Up to settle the work with them. This is the harm, the change in position detrimental to Plaintiff.

At the hearing on July 2, 2025, Citizens suggested that Plaintiff get its money back, because the statute forces Direct Dry Up to be limited to the $3,000 cap and that its invalid assignment should prevent Direct Dry Up from going after Plaintiff for the rest. Section 627.7152, Florida Statutes provides at subsection (7)(a):

> Notwithstanding any other provision of law, and except as provided in paragraph (b), acceptance by an assignee of an assignment agreement is a waiver by the assignee and its subcontractors of claims against a named insured for payments arising from the assignment agreement. The assignee and its subcontractors may not collect or attempt to collect money from an insured, maintain any action at law against an insured, claim a lien on the real property of an insured, or report an insured to a credit agency for payments arising from the assignment agreement. Such waiver remains in effect after the assignment agreement is rescinded by the assignor or after a determination that the assignment agreement is invalid.

§ 627.7152(7)(a), Fla. Stat. (2022). The damage is done already, however, as the insured negotiated with Direct Dry Up, to avoid Direct Dry Up from coming after the insured for nonpayment.

Emergency Services and Scope

Plaintiff also argues that even were the assignment valid (which it is not by agreement of Plaintiff and Defendant), that it is a qualified assignment, because many of the services are not what qualifies for Citizens to apply the $3000 cap to. Section 627.7152, Florida Statutes provides at subsection (2)(c):

> If an assignor acts under an urgent or emergency circumstance to protect property from damage

> and executes an assignment agreement to protect, repair, restore, or replace property or to mitigate against further damage to the property, an assignee may not receive an assignment of post-loss benefits under a residential property insurance policy in excess of the greater of $3,000 or 1 percent of the Coverage A limit under such policy. For purposes of this paragraph, the term "urgent or emergency circumstance" means a situation in which a loss to property, if not addressed immediately, will result in additional damage until measures are completed to prevent such damage.

§ 627.7152(2)(c), Fla. Stat. (2022).

An assignment is a contract, and contracts "should receive a construction that is reasonable, practical, sensible, and just." *Universal Prop. & Cas. Ins. Co. v. Johnson,* 114 So. 3d 1031, 1036 (Fla. 1st DCA 2013) [38 Fla. L. Weekly D950a] (quoting *State Farm Mut. Auto. Ins. Co. v. Fischer*, 16 So. 3d 1028, 1031 (Fla. 2d DCA 2009) [34 Fla. L. Weekly D1833b]). A contract should be interpreted in a manner consistent with reason and probability. *BKD Twenty-One Mgmt. Co. v. Delsordo,* 127 So. 3d 527, 530 (Fla. 4th DCA 2012) [37 Fla. L. Weekly D2541c] (citing *King v. Bray,* 867 So. 2d 1224, 1227 (Fla. 5th DCA 2004) [29 Fla. L. Weekly D632a]). "In construing the language of a contract, courts are to be mindful that 'the goal is to arrive at a reasonable interpretation of the text of the entire agreement to accomplish its stated meaning and purpose.' " *Murley v. Wiedamann,* 25 So. 3d 27, 29 (Fla. 2d DCA 2009) [34 Fla. L. Weekly D2332a] (quoting *Taylor v. Taylor,* 1 So. 3d 348, 350 (Fla. 1st DCA 2009) [34 Fla. L. Weekly D229a]).

Defendant attached to its Motion for Summary Judgment a copy of the Direct Dry Up Contract for Non-Emergency Services, Assignments of Benefits, Direct Payment Authorization, and Hold Harmless Agreement dated July 30, 2023, and which had a date of loss of September 28, 2022, and which indicated the inspection had not taken place until nearly eleven months later. This is a genuine dispute of fact that if these were not emergency services, even assuming arguendo the finder of fact was told to treat the assignment as valid, that Plaintiff could in fact obtain a verdict in its favor whether the statutory cap was properly applied or not. Plaintiff's response to the request for admission to state that the work was to prevent further damage to the property is not an admission it was done for urgent or emergency circumstances. A finder of fact could find it was not urgent or an emergency.

In a case where the assignment is qualified, and limited in scope, it may be wrong to take away standing from the insured to bring claims for matters outside of the scope of what was contemplated for reimbursement under section 627.7152(2)(c), i.e. non-emergency services.

Florida recognizes that "[a]n assignment of benefits can be tailored to the work that a contractor performs." *Salyer v. Tower Hill Select Ins. Co.*, 367 So. 3d 551, 554 (Fla. 5th DCA 2023) [48 Fla. L. Weekly D1118a] (citing *Brown v. Omega Ins. Co.,* 322 So. 3d 98 (Fla. 4th DCA 2021) [46 Fla. L. Weekly D1694b]; *Sidiq v. Tower Hill Select Ins. Co.*, 276 So. 3d 822 (Fla. 4th DCA 2019) [44 Fla. L. Weekly D1969a]; and *Nicon Constr., Inc. v. Homeowners Choice Prop. & Cas. Ins. Co.*, 249 So. 3d 681 (Fla. 2d DCA 2018) [43 Fla. L. Weekly D1076a]. "These cases show that an assignment of benefits to a third-party contractor does not foreclose a homeowner's standing to sue his or her insurer when the assignment is limited to work the contractor performs, and the contractor performs either a specific category of work (*Sidiq*) or no work at all (*Brown*)" *Id*. at 555. "The question . . . is the scope of that assignment." *Sidiq*, 276 So. 3d at 825. The scope of the assignment is determined by the intent of the parties. *Sidiq*, 276 So. 3d at 827; *Nicon*, 249 So. 3d at 682.

"Consistent with *Nicon* and *Sidiq*, when the entire contract is reviewed together with its purpose, we conclude that this AOB did not deprive the insureds of standing to assert their claim for breach of contract and the right to sue for damages." *Brown*, 322 So.3d at 102. In this case, considering that many of the services could be interpreted as not being urgent services (they were done months and months later after Hurricane Ian) within the meaning of the subsection concerning the $3,000 cap, that this would not limit Plaintiff from pursuing

recovery from amounts that clearly were not emergency services, i.e. the tarping services, etc. A finder of fact could find that some services sought by Plaintiff on the water remediation and tarp services were not part the services Citizens reimbursed Direct Dry Up LLC subject to the cap.

Appraisal Award

Litigation may indeed still sometimes be necessary, when an insurer refuses to pay what even its own adjusters determine to the amount of an insured's loss. *See, e.g.,Wilson v. Federated Nat. Ins. Co.*, 969 So. 2d 1133 (Fla. 2d DCA 2007) [32 Fla. L. Weekly D2679f] ("Wilson was compelled to file suit against Federated when Federated refused to pay what even its own adjusters determined to be the amount of Wilson's loss. Then, after the appraisal process resulted in an award to Wilson of significantly more than the adjusters had estimated, Federated continued to fail to pay the full amount of his loss."). It is true that a court should not confirm an appraisal of an award, where the insurer has paid in full, to therefore create a basis for an award of attorney's fees. *See State Farm Florida Ins. Co. v. Silber,* 72 So. 3d 286, 290. However, there is a dispute over the $9,108.85 because Citizens insists it did nothing wrong to just pay the $3,000 cap amount to Direct Dry Up on an invalid and unenforceable assignment. Yet there are numerous genuine conflicts over facts, that do not conclusively determine that Citizens has fulfilled all its obligations as a matter of law. The parties also disagree on the state of the law. The only thing they do agree on is that Direct Dry Up's assignment was invalid and unenforceable.

Summary Judgment

Under *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), summary judgment must be granted unless the nonmoving party produces evidence on which a reasonable jury could return a verdict in their favor. Plaintiff is the nonmovant here, which bears that burden after Citizens has made its initial showing. This Court finds that the evidence brought forth by Plaintiff is probative enough that a reasonable jury could find in her favor in satisfaction of the requirement of the Celotex trilogy which precludes there being a genuine issue for trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); *Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986); and *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.,* 475 U.S. 574, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986).

It is ORDERED AND ADJUDGED:

Defendant's Motion for Summary Judgment is DENIED.

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