

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-13784
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT AUGUST 14, 2008 THOMAS K. KAHN CLERK
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D. C. Docket No. 04-00445-CV-FTM-29-DNF

LEE MEMORIAL HEALTH SYSTEM,

Plaintiff-Appellant,

versus

MEDICAL SAVINGS INSURANCE COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

(August 14, 2008)

Before BIRCH, DUBINA and WILSON, Circuit Judges.

PER CURIAM:

Lee Memorial Health System (“LMHS”) appeals the district court’s denial

of its Motion for Attorney's Fees. LMHS prevailed in its lawsuit against Medical Savings Insurance Company ("MSIC") and recovered a total of \$246, 277.16 in damages. LMHS then sought to recover an additional \$533,798.70 in attorney's fees pursuant to Fla. Stat. § 627.6698. The district court denied LMHS's motion on the ground that Fla. Stat. § 627.6515(2) exempts MSIC from attorney's fees that it would otherwise be liable for under § 627.6698.

On appeal, LMHS argues that § 627.6515(2) does not exempt MSIC from attorney's fees because (1) MSIC did not present evidence at trial that any group insurance policies were issued or delivered outside Florida; (2) MSIC did not present evidence at trial that each insured was a member of an association or group through which MSIC offered a group health insurance policy; and (3) the certificates entered into evidence do not contain the statement required by § 627.6515(2)(b) in contrasting color.

Upon review of the record and the parties' briefs, we conclude that the district court did not err in specifically finding that the policies in question were issued or delivered outside Florida, to persons enrolled in the associations, and in compliance with the requirements of § 627.6515(2)(b). Accordingly, we affirm.

AFFIRMED.