

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 01-10606  
Summary Calendar

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SUZANNE M. TOLBERT, M.D.,

Plaintiff,

VERSUS

UNUMPROVIDENT CORPORATION; ET AL.,

Defendants.

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SUZANNE M. TOLBERT, M.D.,

Plaintiff-Appellant,

VERSUS

CHARLES H. JONES, ET AL.,

Defendants,

CHARLES H. JONES,

Defendant-Appellee.

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Appeal from the United States District Court  
For the Northern District of Texas  
CV-1513-A  
CV-1692-A

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November 29, 2001

Before DAVIS, BENAVIDES and STEWART, Circuit Judges.

PER CURIAM:\*

The appellant challenges the district court's determination that it had diversity jurisdiction over this suit because joinder of the non-diverse insurance agent to her suit against the insurer was fraudulent. Essentially, appellant, the insured seeking recovery on a disability policy, made conclusory allegations that the insurance agent misled her about the coverage that was afforded under the policy. However, appellant specifically alleged in her complaint filed in the district court that the agent advised her that the insurance company "would continue to pay the Plaintiff disability if she were unable to perform the task of her usual occupation-that is of a physician." This is not materially different from the policy language, which affords coverage if the appellant becomes "unable to perform the important duties of [her] occupation." Thus, the facts plaintiff alleged in her petition belie her claim that the defendant agent misrepresented facts to her or misled her about coverage afforded by the policy.

For the reasons stated above and also for the reasons stated by the district court in its Memorandum Opinion of December 21, 2000, the judgment of the district court is affirmed.

AFFIRMED.

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\*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.