

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-7725
Summary Calendar

JOHN McFADDEN, Doctor,

Plaintiff-Appellant,

versus

LIBERTY MUTUAL INSURANCE and
BENCH CRAFT, INC.,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Mississippi
(CA WC 91-91-D-D)

(March 12, 1993)

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Dr. John McFadden appeals from the summary judgment in favor of Liberty Mutual Insurance Company and Bench Craft, Inc. We **AFFIRM.**

Dr. McFadden treated James McCullough, who sustained a compensable work-related injury while employed by Bench Craft. Liberty Mutual, the workers' compensation insurer for Bench Craft, refused to pay Dr. McFadden's bills, because another physician who

* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

had previously treated McCullough had released him to return to work, finding that he had reached maximum medical improvement. McCullough petitioned the Mississippi Workers' Compensation Commission for such payment, and Liberty Mutual was eventually ordered to pay Dr. McFadden's bills. It complied.

Dr. McFadden then filed this action for compensatory and punitive damages, premised solely on a claimed bad faith refusal to pay his bills. The district court granted summary judgment for Liberty Mutual and Bench Mark on the alternative grounds that (1) under Mississippi law, Dr. McFadden lacks standing to bring this action; and (2) even if he has standing, there is no genuine issue of material fact with respect to the defendants' legitimate or arguable basis for denying payment. ***McFadden v. Liberty Mutual Ins. Co.***, 803 F. Supp. 1178 (N.D. Miss. 1992).

Dr. McFadden challenges both holdings by the district court. It is not necessary to reach standing, which is interwoven with unique state law and compensation scheme concerns. Instead, we will assume, *without deciding*, that Dr. McFadden has standing, because, for the reasons stated in the district court's detailed, comprehensive, and well-reasoned opinion, it is abundantly clear that there is no genuine issue of material fact on the denial of payment/bad faith issue and that the defendants are entitled to judgment as a matter of law. Fed. R. Civ. P. 56.

Accordingly, the judgment of the district court is

AFFIRMED.