

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

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| DANIEL DONATELLI, |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| vs. |) | Civil No. 04-1-P-S |
| |) | |
| UNUMPROVIDENT CORP., |) | |
| |) | |
| Defendant |) | |

AFFIDAVIT OF DANIEL DONATELLI

NOW COMES Daniel Donatelli and hereby states as follows under oath:

1. My name is Daniel Donatelli. I am 18 years of age or older and believe in the obligation of an oath. The facts stated below in this Affidavit are based on my personal knowledge.

2. I was hired by Unum as a Disability Benefit Specialists to process long-term disability claims. Disability Benefit Specialists at Unum had authority to make decisions on claims.

3. After Unum's merger with Provident, I became a Customer Care Specialist and later was transferred to the Cardiac Psych Unit. Customer Care Specialists at UnumProvident did not have authority to make decisions on claims including approval, denial and settlement. Our role became primarily processing and not managing.

4. I did not begin working in the Cancer Unit until after February 25, 2002.

5. While working in the cancer unit, Dennis Hersom told me that I would not survive a performance management program regardless of any improvement that I made with my work performance. Therefore, I resigned.

6. While working in the Cardiac unit and the Cancer Unit, I had some ethical and moral concerns regarding claims not being paid appropriately due to the pressure to meet quotas for closing claims.

7. While I was at Unum, Unum provided insurance policies for employee sponsored plans, union or employee organization sponsored plans, employer sponsored plans, church plans, government plans, and many individual disability policy contracts.

8. There was at least one individual Customer Care Specialist in my Cardiac Psych Unit, as well as an individual in the Cancer Unit, that was responsible for handling claims under individual disability insurance policies issued by Unum.

9. I understood that all of these policies were subject to the same claims handling process and procedures. When I expressed concern about how the claims were handled, I was expressing concern for all claims and not just those on my caseload.

10. I personally handled processed claims under church plans (for example, priests) and government/school plans (for example, teachers).

11. Advance pay and closure was a way of closing claims based on a hypothetical ramp up of hours that was established by either a customer care specialist or a vocational rehabilitation consultant. It was also based on an opinion from a UnumProvident doctor who made a determination of what the claimant was capable of doing. I believe that the advance pay and close procedure is illegal because it could result in a claimant being subjected to higher scrutiny by UnumProvident if the claimant reopened his or her claim for benefits after a period of advancement had lapsed. Because the claimant had no right of appeal, and the claimant was not notified in advance, the claimant would be subject to higher scrutiny thereby misleading the client into agreeing to take an advance pay and close.

12. The advance pay and close was regularly misused as a profit technique for Unum to free up reserves attached to each claim. For example, if we were running behind on

projections to meet quotas for the month, we would be required to go back and look up part-time people that we could either close out through denial or through advance pay and close. Although advance pay and close was supposed to be with insured consent, often we were required to pressure them over and over again to accept an advance pay and close. Usually using advance pay and close had the effect of literally badgering an insured to go back to work. We were basically instructed to tell the insured that we expected them to be back to work in 30 days, "here's your check." Often, we would be required to apply this pressure even if the insured did not feel they were ready or able to return to work full-time. Rather, we were required to use Unum medical staff to push the issue.

13. I believed and reported to my supervisor that I thought Defendant was misrepresenting policies and plan benefits to airline pilots and truck drivers in order to sell them policies. These people were led to believe that the policies would cover them if a health condition made them unable to do their job, including maintenance of their license. However, the actual policies sold by Defendant included provisions that denied benefits if Unum doctors determined that the insured was physically able to perform the job requirements – even if those people were unable to get medical clearance from the FAA or state and federal licensing agencies to reinstate their license. I believed these activities were in violation of state and federal regulations.

14. I also reported to my supervisors that Defendant participated in and engaged in phony round table discussions as a way to put on a show for potential customers that were receiving guided tours of the UnumProvident building. I believe this practice to be misrepresentation in order to sell policies, when, in fact, the round table discussions were faked and did not represent what the actual round table discussions were like. Actual round table discussions were geared toward speeding up resolution and closure of a claim. Phony round table discussions were meant to leave the potential customers to believe Defendant engaged in

intelligent and objective round table discussions with regard to each claims. Not all claims went to roundtable.

15. I was, at times, asked to miscode claims or to manipulate the time a claim was coded in order to manipulate reserves. I was asked to do this by Cynthia Bellefountain, Dennis Hersom, and on occasion, Steve Leask.

16. Cynthia Bellefountain and Dennis Hersom, my managers, told me that the miscoding or manipulation of the time frame of coding a claim would have a direct impact on our reserves.

17. I was pressured to close claims to meet quotas. The pressure would include claims denials based on the wording of medical information being changed. This change could result in an immediate denial of a claim. I believe that the rush to deny a claim by changing medical information was an improper handling of a claim.

18. I felt pressure to close a claim by coding improperly. I was instructed to do this by my superiors. I believe this to be an improper or fraudulent practice with regard to handling claims.

19. I was never notified by Unum or UnumProvident that I maintained any type of fiduciary status with regard to contracts or policies at Unum that were subject to ERISA. I was not a plan participant or beneficiary with regard to any of the complaints to which I complained.

20. I resigned my employment at UnumProvident, in essence, in lieu of being fired. I was told by my supervisor that I would be basically be given a 60-day performance management program or to resign. He made clear that I would not survive a performance management program regardless of any attempts I made, or improvement in my numbers. Mr. Hersom warned me that, "I will not be able to give you a positive reference. You do not want a bad evaluation in your file."

21. I was concerned that claims are not being paid appropriately, as a result of the pressure to close claims in the Cancer Unit. Whether or not an individual claimant met the elimination, must be decided by interpreting the terms of the “contract.” Since UnumProvident handled individual disability contracts, as well as group plans, sometimes the elimination period would have to be decided by interpreting the terms of an individual contract.

22. Some doctors and nurses had policies administered and/or sold through UnumProvident that provided benefits to them if they could not work in their own occupation. I understood that certain categories of nurses and doctors, such as emergency room personnel, worked in a very specialized and niche field within the industry. I based this conclusion on information provided by the insureds. Also based on occupational descriptions provided by the employers and nurses/doctors, I understood that an emergency room nurse who was medically disabled from working in that occupation, would likely not have the training and transferable skills and qualifications to work outside of such a position, such as in an office environment or a consultant environment. However, Unum would deny these claimants benefits if Unum determined that they could perform a less strenuous nursing position, even if they were not qualified for the position and had no chance of ever obtaining such a position.

23. Often when we were behind schedule in meeting our team quota for claim closures, the consultants and managers would pressure us to find other additional claims to close. One pressure to deny claims had to do with the wording in medical reviews. Often we would be asked to have the wording in medical reviews manipulated so that a denial could be made immediately. This caused us to rush and deny a claim before medical information was actually sufficient to make a good faith determination.

24. Another tactic that Unum took when our team was falling behind in our quota, was to send us back and go through all files for a sort of “round up,” looking for loopholes or technicalities in the contracts or anything else that would help close the claim. Sometimes they

would set aside a Saturday, requiring all Customer Care Specialists to come in and do a sort of “round up” for claim closures. I believed these tactics would result in some claims being closed prematurely.

25. I filed a complaint against UnumProvident for whistle blowing before the Maine Human Rights Commission. I did not make any request for damages with regard to that complaint.


26. Approximately a month before Hersom approached me to tell me that my job was on the line, I received my annual performance appraisal. Although the performance appraisal had some coaching comments, the performance appraisal reviewed my performance for the year as consistently meeting all goals and standards.

27. I have no connections with the state of New York. During the relevant time frame, I never went to the state of New York. My deposition was taken here in Maine, my employment took place all here in Maine, and my entire relationship with Defendant took place here in Maine. I received, and read in Maine, a copy of the letter sent by Mr. White on November 6, 2002 to Mr. Gelber. I was embarrassed and humiliated by the false tone and nature of the letter.

28. I requested, through counsel, that that it sent to CBS News, but Unum refused.

Unum retract the letter

Dated: 9/17/2004

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STATE OF MAINE
KENNEBEC, SS.

Dated:
9/17/04

Personally appeared the above-named Daniel Donatelli and swore to the truth of the foregoing statements to the best of his knowledge and belief.

Before me,