

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY
CASE NO.: 502013AP000031XXXXMB
L.T. No.: 502011SC005504XXXXNB

UNITED SERVICES AUTOMOBILE
ASSOCIATION,
Appellant,

v.

ADVANCED DIAGNOSTIC
RESOURCES a/a/o Obed Colon,
Appellee.

Opinion filed: **AUG 07 2014**

Appeal from the County Court in and for Palm Beach County,
Judge Laura Johnson.

For Appellant:

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PER CURIAM.

AFFIRMED. We find no error in the trial judge's order striking Defendant's pleadings and entering Final Judgment in favor of the Plaintiff. The lower court properly found by clear and convincing evidence that Defendant, United Services Automobile Association, had submitted an affidavit in support of its Motion for Summary Judgment which was "almost entirely false" in nearly every material respect. We further agree with the trial judge's

characterization of Defendant's actions in this case to be egregious and intolerable, certainly worthy of the ultimate sanction imposed. See Bertrand v. Belhomme, 892 So. 2d 1150, 1152 (Fla. 3d DCA 2005) (“[A] party who has been guilty of fraud or misconduct in the prosecution or defense of a civil proceeding should not be permitted to continue to employ the very institution it has subverted to achieve her ends.”) (citing Metropolitan Dade County v. Martinsen, 736 So. 2d 794, 795 (Fla. 3d DCA 1999)).

We write further to express our concern as to how this patently false affidavit found its way into the court file. Equally concerning is that even after the affidavit was exposed as being a fraud upon the court, counsel for the Defendant continued to argue that it should be considered by the court in support of the Motion for Summary Judgment. Defense counsel is reminded that his signature on the Motion for Summary Judgment, wherein he references the fraudulent affidavit, constitutes a certificate by him that he has read the pleading and the affidavit and that to the best of his knowledge, information, and belief there are good grounds to support them. Fla. R. Jud. Admin. 2.515(a).

Appellant's Motion for Attorney's Fees Pursuant to Proposal for Settlement is DENIED.
OFTEDAL and BROWN, JJ., concur. HAFELE, J., concurs in result only.