

APPENDIX A

1a

FIFTH DIVISION MCFADDEN, P. J., RICKMAN
and MARKLE, JJ

NOTICE: Motions for reconsideration must be physically received in our clerk's office within ten days of the date of decision to be deemed timely filed. <http://www.gaappeals.us/rules>

**January 10, 2019 NOT TO BE OFFICIALLY
REPORTED**

In the Court of Appeals of Georgia

A18A1993. GRIFFIN v. HUMANA EMPLOYERS
HEALTH PLAN OF GEORGIA, INC.

This appeal arises from claims submitted by pro se appellant W. A. Griffin, M.D. to Humana Employers Health Plan of Georgia, Inc. ("Humana") for dermatological services she provided to Humana's insureds as an out-of-network provider. Dr. Griffin disagrees with Humana's denial of claims submitted by her and the rate at which Humana paid for her services. Three of Dr. Griffin's patients executed a document purporting to assign to Dr. Griffin their respective rights to reimbursement from Humana. Dr. Griffin then filed suit against Humana for breach of contract, breach of the covenant of good faith and fair dealing, and violations of Georgia's civil RICO law. The trial court granted summary judgment to Humana on all of Dr. Griffin's claims, and she now appeals. We find no error in the record transmitted to us on appeal, and thus we affirm.

Dr. Griffin contends the trial court erred in granting summary judgment to Humana for several reasons. We cannot agree. In its order denying summary judgment, the trial court cited to Dr. Griffin's complaint, the documents purportedly assigning claims, Humana's motion for summary judgment, the plan documents for the patients whose claims are at issue, an affidavit, and Dr. Griffin's responses to requests for admission. Dr. Griffin, however, only designated the trial court's order to be transmitted on appeal, and she specifically requested that all other documents be omitted from the record on appeal.¹ Consequently, these documents the trial court relied upon are not in the record for this Court to review.

When an appellant omits evidence necessary for determination of issues on appeal affirmation is required. It is well established that the burden is on the party alleging error to show it by the record and that where the proof necessary for determination of the issues on appeal is omitted from the record, an appellate court must assume that the judgment below

Dr. Griffin initially instructed the trial court to omit nothing from the record on appeal, but subsequently filed an amended notice of appeal instructing the trial court to omit everything except its order granting summary judgment.

was correct and affirm. On appeal, this Court is required to conduct a de novo review which, by definition, is impossible if the appellant omits the very evidence at the heart of our inquiry. Because [Dr. Griffin] has purposefully omitted materials relevant to our inquiry into whether summary judgment was appropriate, we presume that the trial court's order granting summary judgment to [Humana] was correct and affirm.

(Citation and punctuation omitted.) *Kappelmeier v. Prudential Ins. Co. of America*, 306 Ga. App. 58 (1) (701 SE2d 488) (2010). Accordingly, because Dr. Griffin omitted the portions of the record that would enable appellate review, we affirm the trial court's order granting summary judgment.

Judgment affirmed. McFadden, P.J., and Rickman, J., concur.

APPENDIX B

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SUPREME COURT OF GEORGIA Case No.
S19C0678 September 03, 2019

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

**W. A. GRIFFIN v. HUMANA EMPLOYERS
HEALTH PLAN OF GEORGIA, INC.**

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Court of Appeals Case No. A18A1993

**SUPREME COURT OF THE STATE OF
GEORGIA**

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

/s/ T. S. Banus, Clerk