

Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed July 20, 2011.

Not final until disposition of timely filed motion for rehearing.

No. 3D10-2269

Lower Tribunal No. 10-12515

Diana Simon Gonzalez,
Appellant,

vs.

State Farm Florida Insurance Company,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Pedro Echarte, Jr.,
Judge.

Alvarez, Carbonell, Feltman, Jimenez, & Gomez, and Paul B. Feltman, for
appellant.

Ubaldo J. Perez, Jr., P.A. and Elizabeth K. Russo and Susan S. Lerner, for
appellee.

Before ROTHENBERG and LAGOA, JJ., and SCHWARTZ, Senior Judge.

SCHWARTZ, Senior Judge.

The summary judgment entered below for the insurer on the ground that the insured had failed to comply with the pre-suit requirements of the policy that, among other things, she provide a satisfactory proof of loss and submit to an examination under oath, is affirmed. See *Edwards v. State Farm Florida Ins. Co.*, Case No. 3D10-2062 (Fla. 3d DCA June 15, 2011), and cases cited therein. In particular, we find no error or abuse of discretion in the trial court's denial of insured's request to "abate" the action, which was first made almost five years after the loss and only in the face of an imminent ruling against her at the hearing on the carrier's motion for summary judgment. See Edwards, Case No. 3D10-2062 (Fla. 3d DCA June 15, 2011); *Amica Mut. Ins. Co. v. Drummond*, 970 So. 2d 456, 459 (Fla. 2d DCA 2007); *Starling v. Allstate Floridian Ins. Co.*, 956 So. 2d 511, 513 (Fla. 4th DCA 2007); *Goldman v. State Farm Fire Gen. Ins. Co.*, 660 So. 2d 300, 301 (Fla. 4th DCA 1995); *Stringer v. Fireman's Fund Ins. Co.*, 622 So. 2d 145, 146 (Fla. 3d DCA 1993).

Affirmed.