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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Elizabeth Downs,

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No. CV-09-1565-PHX-FJM

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Plaintiff,

)

ORDER

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vs.

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State Farm Mutual Automobile
Association, et al.,

)

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Defendants.

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The court has before it defendant Mary Borgens’ motion to dismiss (doc. 7). Plaintiff has not responded and the time for doing so has expired. Under LRCiv 7.2(i), if a party “does not serve and file the required answering memoranda . . . such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.”

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Borgens, an insurance adjuster, contends that dismissal is proper under Rule 12(b)(6), Fed. R. Civ. P., for failure to state a claim because an adjuster cannot be liable for bad faith. We agree. See Meineke v. GAB Bus. Servs., Inc., 195 Ariz. 564, 568, 991 P.2d 267, 271 (Ct. App. 1999) (rejecting negligence claim against an adjuster).

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IT IS ORDERED GRANTING defendant Borgens' motion to dismiss (doc. 7).
DATED this 10th day of September, 2009.

Frederick J. Martone

Frederick J. Martone
United States District Judge