

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

CHARLES A. WILLSEY, Individually and
as the Special Administrator of the
Estate of CYNTHIA K. WILLSEY, Deceased

PLAINTIFF

V.

CIVIL NO. 12-2320

SHELTER MUTUAL INSURANCE COMPANY

DEFENDANT

ORDER

Currently before the Court are Defendant's Motion for Partial Summary Judgment and supporting documents (docs. 43-45), Plaintiff's Response (doc. 72), and Defendant's Reply (doc. 78). Also before the Court are Defendant's Second Motion for Partial Judgment on the Pleadings and supporting brief (docs. 81-82) and Plaintiff's Motion to Strike Defendant's Second Motion for Partial Judgment on the Pleadings or, in the Alternative, Motion for Extension of Time to File Substantive Response and to File Documents Under Seal and supporting brief (docs. 88-89) and Defendant's Response (doc. 96). Finally, before the Court is Plaintiff's Motion for Extension of Time to File Supplemental Response to Defendant's Motion for Partial Summary Judgment and Motion for Extension of Time to Seek Attorneys' Fees and Costs (doc. 91).

Having reviewed the pleadings and the evidence on file; viewing the evidence in the light most favorable to the non-moving party as

required, the Court finds that there remain genuine issues of disputed material facts in connection with Plaintiff's bad faith claim, including, but not limited to whether Plaintiff's allegations regarding Defendant's actions constitute affirmative misconduct and bad faith. Accordingly, Defendant's Motion for Partial Summary Judgment (doc. 43) is DENIED, and this matter remains set for a jury trial during the week of December 9, 2013. Plaintiff's Motion for Extension of Time to File Supplemental Response to Defendant's Motion for Partial Summary Judgment (doc. 91) is DENIED AS MOOT. Plaintiff's Motion for Extension of Time (doc. 91) to file his motion for fees and costs in connection with the Court's October 17, 2013, discovery order is GRANTED, and Plaintiff has through November 22, 2013, to file his motion.

Plaintiff's Motion to Strike Defendant's Second Motion for Partial Judgment on the Pleadings (doc. 88) is GRANTED, and Defendant's Motion for Partial Judgment on the Pleadings as to Plaintiff's claim pursuant to the Arkansas Deceptive Trade Practices Act ("ADTPA") (doc. 81) is STRICKEN. Defendant did not file this motion until October 22, 2013, six weeks prior to trial. Further, on September 30, 2013, the Court denied Defendant's Motion to file additional dispositive motions as the deadline had expired (doc. 66). Finally, on August 16, 2013 (doc. 49), the Court found Plaintiff had stated a claim pursuant to the ADTPA and denied Defendant's motion

for partial judgment on the pleadings on that claim.

IT IS SO ORDERED this 19th day of November 2013.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge