

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 09-cv-02105-RPM

SARA SCHNEEBERGER,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY;
JOHN DOE and
JANE DOE,

Defendants.

ORDER DISMISSING THIRD AND FOURTH CLAIMS FOR RELIEF IN SECOND
AMENDED COMPLAINT

In the Second Amended Complaint in this civil action based on a failure to pay uninsured motorist benefits under the defendant's insurance policy issued to the plaintiff, the plaintiff has in the third claim for relief alleged the violation of C.R.S. § 10-3-1115 and § 10-3-1116, statutes which were passed with an effective date of August 5, 2008. The statute is not applicable to the facts of this case as the defendant has asserted in its motion to dismiss, filed September 3, 2009. The plaintiff also alleged in the fourth claim for relief a violation of the Colorado Consumer Protection Act, C.R.S. § 6-1-101 *et seq.*, but has failed to allege facts sufficient to support such a claim. In response to the defendant's motion to dismiss, the plaintiff filed an affidavit which the defendant moved to strike. The Court has accepted the allegations of the affidavit as if they were submitted as an amended complaint and finds that the allegations are insufficient to support a statutory violation. Accordingly, it is

ORDERED that the defendant's motion to dismiss the third and fourth claims for relief in the Second Amended Complaint is granted and the defendant's motion to strike plaintiff's response is denied.

DATED: October 15th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge