

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RONALD HABERMEHL, et al.,

Plaintiffs,

v.

**AUTO CLUB FAMILY INSURANCE
COMPANY, et al.,**

Defendants.

Case No. 12-cv-230-DRH-DGW

MEMORANDUM AND ORDER

HERNDON, Chief Judge:

Pending before the Court are defendant Auto Club Family Insurance's (Auto Club) motions to dismiss counts I, II, IV, V, and VI of plaintiffs' amended complaint (Doc. 35) and to strike plaintiffs' punitive damages request (Doc. 36). As Auto Club filed its motion to dismiss on September 25, 2012, plaintiffs had until October 29, 2012, to timely file a response. *See* SDIL-LR 5.1(c), 7.1(c). Plaintiffs failed to do so. Additionally, as Auto Club filed its motion to strike plaintiffs' punitive damages request on September 25, 2012, plaintiffs had until October 12, 2012, to timely respond. *See* SDIL-LR 5.1(c), 7.1(g). Again, plaintiffs did not respond.

The Court considers plaintiffs' failure to respond to Auto Club's motions as admissions of their merits. SDIL-LR 7.1(c), 7.1(g). Accordingly, Auto Club's

motion to dismiss counts I, II, IV, V, and VI of plaintiffs' amended complaint (Doc. 35) is **GRANTED**. Thus, counts I, II, IV, V, and VI of plaintiffs' amended complaint are **dismissed without prejudice**. As to Auto Club's request that plaintiffs' punitive damages request be stricken from counts I, III, and V (Doc. 36), this motion is **GRANTED in part**. As the instant Order dismisses plaintiffs' counts I and V, Auto Club's requests as to those counts is rendered **MOOT**. Auto Club's request that plaintiffs' punitive damages request be stricken from count III is **GRANTED**.

IT IS SO ORDERED.

Signed this 6th day of November, 2012.

Digitally signed by
David R. Herndon
Date: 2012.11.06
13:12:11 -06'00'

The image shows a digital signature in blue ink that reads "David R. Herndon". To the right of the signature is a circular official seal of the United States District Court for the Southern District of New York. The seal features an eagle with wings spread, perched on a shield with the American flag's stars and stripes. The text "UNITED STATES DISTRICT COURT" is written around the top inner edge of the seal, and "SOUTHERN DISTRICT OF NEW YORK" is written around the bottom inner edge.

**Chief Judge
United States District Court**