

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BETTYE BURT

CIVIL ACTION

VERSUS

NO. 09-1747

OMEGA ONE INSURANCE COMPANY

SECTION "F"

ORDER AND REASONS

Before the Court is the defendant's Motion for Summary Judgment. Plaintiff does not oppose the granting of summary judgment as to the substantive claims of the lawsuit, but opposes the award of sanctions and attorneys fees.

The defendant requests sanctions and attorneys fees based on the plaintiff's "willful and wrongful failure to dismiss the case," even though the defendant had paid the policy limits on plaintiff's claim. Plaintiff's attorney notes that all the requests to dismiss the case were made to plaintiff's previous counsel, and that it is the policy of the current plaintiff's counsel to dismiss claims such as the plaintiff's. Further, the plaintiff notes that the defendant had no substantive discussions with current counsel regarding plaintiff's claim and that this motion for summary judgment, with its attached exhibits, was plaintiff's counsel's first notice of this information.

The Court finds that plaintiff's current counsel was not aware of the defendant's previous attempts to dismiss the case, and therefore sanctions and attorney's fees pursuant to Rule 11 of the Federal Rules of Civil Procedure are not warranted.

Accordingly,

IT IS ORDERED: that the Motion for Summary Judgment is GRANTED IN PART, as it relates to the plaintiff's substantive claims for payment under her insurance policy, and DENIED IN PART, as it relates to claims for sanctions and attorneys fees. Plaintiff's claims are hereby dismissed.

New Orleans, Louisiana, July 28, 2009.


MARTIN L. C. FELDMAN
UNITED STATES DISTRICT JUDGE