

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ELSA LORENZO

CIVIL ACTION

VERSUS

NO. 13-5639

AMERICAN STRATEGIC INSURANCE
CO. AND THE NATIONAL FLOOD
INSURANCE PROGRAM

SECTION "C" (2)

ORDER AND REASONS

Before the Court is the defendant, American Strategic Insurance Co.'s ("ASI's") motion to dismiss pursuant to Rule 12(b)(6) for failure to state a claim on which relief can be granted. Rec. Doc. 5. The plaintiff does not oppose this motion. Rec. Doc. 8.

This matter arises out of ASI's alleged improper adjustment of claims submitted under a Write-Your-Own (WYO) insurance policy issued under the National Flood Insurance Program. Rec. Doc. 1. The motion to dismiss argues that the plaintiff's extra-contractual claims, claims for attorneys fees, and claims for pre- and post-judgment interest should be dismissed, with prejudice and at the plaintiff's cost, as preempted or otherwise foreclosed by federal law.


Having considered the record and the applicable law, the Court finds that ASI's motion to dismiss is well-grounded and meritorious. *See Wright v. Allstate Ins. Co.*, 500

F.3d 390, 394 (5th Cir. 2007) (federal common law claims preempted); *Wright V. Allstate Ins. Co.*, 415 F.3d 384, 390 (5th Cir. 2005) (state law extra-contractual claims preempted); *In re Estate of Lee*, 812 F.2d 253, 255 (prejudgment interest unrecoverable); *West v. Harris*, 573 F.2d 873, 880-81 (5th Cir. 1978) (attorney fee and prejudgment interest based on state causes of action unrecoverable).

Accordingly,

IT IS ORDERED that ASI's motion to dismiss is GRANTED. Rec. Doc. 5.

New Orleans, Louisiana, this 31st day of October, 2013.


HELEN G. BERRIGAN
UNITED STATES DISTRICT JUDGE