Terranova et al v. American Family Mutual Insurance Company Doc. 9

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

PETIE J. TERRANOVA and TERRI L. TERRANOVA, Plaintiffs,	)	
v.	)	No. 09-0902-CV-W-FJG
AMERICAN FAMILY MUTUAL INSURANCE COMPANY, Defendant.	)	

ORDER

Pending before the Court is Defendant American Family Mutual Insurance Company's Motion to Dismiss (Doc. No. 4), which seeks partial dismissal of plaintiff's claims. Defendant seeks dismissal of plaintiff's claims for punitive and emotional distress damages, as well as plaintiff's claims for "violation of the Attorney-Client Relationship"[1] pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiffs filed no opposition to the pending motion.

After reviewing the pending motion, the Court finds that defendant's motion should be **GRANTED** for the reasons stated in defendant's motion (Doc. No. 4) and suggestions in support (Doc. No. 5). Plaintiffs' claims for punitive and emotional distress damages are dismissed as they are preempted by Missouri's vexatious refusal to pay statute, Mo. Rev. Stat. § 375.420. Further, no cause of action exists under Missouri law for "violation of the Attorney-Client Relationship," so plaintiff's claims for the same must be dismissed.

IT IS SO ORDERED.

Date: 11/30/09
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge

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[1]Plaintiffs allege that their attorney sent defendant a letter on March 24, 2009, but that subsequent to receipt of this letter, defendant continued to "have ex parte contact and communications with Plaintiffs without the consent of permission of Plaintiff's counsel." See Doc. No. 1, Ex. 1, ¶ 9.

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