

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:13cv29

TRICIA IRENE GILBERT,)	
)	
Plaintiff,)	
)	
vs.)	ORDER OF DISMISSAL
)	
ATHENE ANNUITY & LIFE ASSURANCE COMPANY,)	
)	
Defendant.)	
_____)	

THIS MATTER is before the Court on the Defendant Athene Annuity & Life Assurance Company’s Motion to Dismiss [Doc. 2] and Motion to Grant its Uncontested Motion to Dismiss [Doc. 3].¹

The Defendant removed this action from state court on February 1, 2013 based on diversity jurisdiction. [Doc. 1]. The action stems from the Plaintiff’s attempt to collect on an accidental death insurance policy issued by the Defendant to her husband, now deceased (the Decedent). [Doc. 1-1]. It is undisputed from the Complaint and the documents attached thereto


¹ Counsel incorporated a memorandum of law into the Motion to Dismiss. [Doc. 2]. For future reference, the Local Rules require the filing of a separate brief in support of the motion. L.Civ.R. 7.1.

that the Decedent died from a self-inflicted gunshot wound; that is, suicide. [Doc. 1-1 at 3, 8, 9, 13, 14]. It is also undisputed that the insurance policy was for an accidental death benefit and that the policy contained an exclusion for death by suicide. [Doc. 1-1 at 8].

On February 8, 2013, the Defendant moved to dismiss the action for failure to state a claim upon which relief may be granted, citing the exclusionary provision of the accidental death benefit policy for suicide. [Doc. 2]. The Plaintiff, who is represented by counsel, failed to file any response to the motion. The Court finds that the motion should be granted.

IT IS, THEREFORE, ORDERED that the Defendant Athene Annuity & Life Assurance Company's Motion to Dismiss [Doc. 2] and Motion to Grant its Uncontested Motion to Dismiss [Doc. 3] are hereby **GRANTED** and this action is hereby **DISMISSED**.

Signed: February 27, 2013


Martin Reidinger
United States District Judge 