

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JANE E. DAVIS, Individually and)	
as Executrix of the Estate of)	
Robert N. Davis,)	
)	
Plaintiff)	
)	
v.)	Civil Action
)	No. 13-cv-7038
ALLSTATE PROPERTY AND CASUALTY)	
COMPANY)	
)	
Defendant)	

O R D E R

NOW, this 30th day of September, 2014, upon consideration of the following documents:

1. Defendant Allstate Property and Casualty Insurance Company's Motion to Dismiss Plaintiff's Amended Complaint, which motion was filed February 12, 2014, together with
 - A. Memorandum of Law in Support of Defendant Allstate Property and Casualty Insurance Company's Motion to Dismiss Plaintiff's Amended Complaint ("Defendant's Brief") and five exhibits to Defendant's Brief (Exhibits 1 to 5);

2. Response of Plaintiff, Jane E. Davis, Individually and as Executrix of the Estate of Robert N. Davis, to Motion to Dismiss of Defendant, Allstate Property and Casualty Company, which response was filed February 27, 2014, together with
 - A. Response and Brief of Plaintiff, Jane E. Davis, to Motion to Dismiss of Defendant, Allstate Property and Casualty Company

("Plaintiff's Brief") and three exhibits to Plaintiff's Brief (Exhibits A to C);¹

3. Reply Memorandum of Law in Support of Defendant Allstate Property and Casualty Insurance Company's Motion to Dismiss Plaintiff's Amended Complaint, which reply memorandum was filed April 15, 2014;
4. Sur-reply Brief of Plaintiff, Jane E. Davis, Individually and as Executrix of the Estate of Robert N. Davis, In Opposition to Reply Brief of Defendant, Allstate Property and Casualty Company, which sur-reply brief was filed April 15, 2014; and
5. Amended Complaint for Declaratory and Other Relief ("Amended Complaint"), filed January 30, 2014, together with three exhibits to the Amended Complaint (Exhibits A to C);

and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that Defendant Allstate Property and Casualty Insurance Company's Motion to Dismiss Plaintiff's Amended Complaint is granted.

IT IS FURTHER ORDERED that Counts I and IV of plaintiff's Amended Complaint are dismissed with prejudice.

IT IS FURTHER ORDERED that Counts II and III of plaintiff's Amended Complaint are dismissed without prejudice for plaintiff to file a second amended complaint which adequately sets forth her bad faith claims.

¹ I do not consider Exhibits D and E to plaintiff's response, for the reasons expressed at page 16, footnote 20 of the accompanying Opinion.

IT IS FURTHER ORDERED that plaintiff shall have until October 20, 2014 to file a second amended complaint setting forth her bad faith claims.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge