

of Texas in its reasoning. *See, e.g., Wilson v. Allstate Ins. Co.*, No. 4:16-CV-970, 2017 WL 1313854, at *2 (E.D. Tex. Apr. 10, 2017); *Lopez v. Allstate Vehicle & Prop. Ins. Co.*, No. 4:17-CV-00103, 2017 WL 1294453, at *3 (E.D. Tex. Apr. 4, 2017); *Polen v. Vehicle*, No. 4:16-CV-00842, 2017 WL 661836, at *2 (E.D. Tex. Feb. 17, 2017). The Court finds that these cases support applying the notice-prejudice rule in this case, and Allstate’s objection is overruled.

Allstate next objects to the magistrate’s conclusion that it has failed to show prejudice. Allstate argues that it is prejudiced because it will have to prematurely litigate this case and because Hallak could win extra-contractual damages or attorney’s fees. The Court agrees with the magistrate judge that Allstate is not prejudiced because “it had the opportunity to inspect the property damage and attempt to settle the claims after Hallak timely filed his claims, it had the additional opportunity to investigate when the parties engaged in correspondence for several months regarding the instant dispute, and because it ‘received what would likely be a substantially compliant proof of loss in the form of [Hallak’s] civil complaint[.]’” R&R 8 (quoting *Lopez*, 2017 WL 1294453, at *4) (citing *Wilson*, 2017 WL 1313854, at *3).

Allstate also objects to the magistrate judge’s finding that Hallak’s complaint amounts to substantial compliance with the “Actions Against Us” provision. But because Allstate has failed to show prejudice, the Court need not examine whether Hallak substantially complied with the provision. The Court thus overrules this objection.

Accordingly, it is **ORDERED** that Defendant Allstate Vehicle and Property Insurance Company’s Rule 12(b)(1) Partial Motion to Dismiss for Lack of Subject Matter Jurisdiction and Rule 12(b)(6) Partial Motion to Dismiss (ECF No. 7) is **DENIED**.

SO ORDERED on this 26th day of July, 2017.


Reed O'Connor
UNITED STATES DISTRICT JUDGE
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