Melinder v. Texas Farmers Insurance Company Doc. 37

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

CHRISTINA MELINDER	§	
	§	
V.	§	CIVIL ACTION NO. G-10-463
	§	
HOMECOMINGS FINANCIAL, ET AL.	§	

OPINION AND ORDER

For the reasons addressed and discussed during a June 10, 2011, hearing with counsel of record on Plaintiff's "Motion to Dismiss Plea in Intervention of Homecomings Financial, LLC" (Instrument no. 7) and "Motion to Dismiss Amended Plea in Intervention of Homecomings Financial, LLC" (Instrument no. 27) the Court **FINDS** that the language of the settlement agreement regarding the term "underpayment of insurance proceeds" is ambiguous and may permit the Court to consider extrinsic evidence to determine whether Homecomings can assert a claim for repayment of the settlement amount it made to Plaintiff against the insurance proceeds payable by Texas Farmers Insurance Company for damage to Plaintiff's property during Hurricane Ike.

It is, therefore, the **ORDER** of this Court that Plaintiff's "Motion to Dismiss Plea in Intervention of Homecomings Financial, LLC" (Instrument no. 7) and "Motion to Dismiss Amended Plea in Intervention of Homecomings Financial, LLC" (Instrument no. 27) are **DENIED**.

DONE at Galveston, Texas, this 21st day of June, 2011.

John R. Froeschner
United States Magistrate Judge

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