UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PATRICIA and WILLIAM POTTER,

Plaintiffs,

v.

AMERICAN FAMILY INSURANCE,

Defendant.

CASE NO. C16-5406 BHS

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

This matter comes before the Court on American Family Insurance's ("American Family") motion to dismiss claims regarding *Olympic Steamship* fees (Dkt. 55).

On July 5, 2017, American Family filed the instant motion. *Id*. On July 7, 2017, Plaintiffs Patricia and William Potter ("Potters") responded conceding the merits of the motion and requesting terms for having to respond. Dkt. 57. On July 28, 2017, American Family replied. Dkt. 60.

Regarding the merits, the Court grants the motion because the issue is not contested.

Regarding the frivolousness of the motion, the Court agrees with Potters that the issue could have been resolved in a five-minute phone call instead of a fully briefed third dispositve motion. The Court also agrees with the Potters that this is not the first time American Family's counsel has been admonished by this Court or the Ninth Circuit for

failing to resolve issues "through common courtesies, rather than taxing the resources of the federal judiciary." *Parker v. Allstate Ins. Co.*, 2012 WL 1065531, *1 (9th Cir. 2012). The Court, however, declines to award fees for this frivolous motion because the Potters did not need to respond.

Therefore, the Court **GRANTS** American Family's motion to dismiss (Dkt. 55).

**IT IS SO ORDERED**.

Dated this 7th day of August, 2017.

BENJAMIN H. SETTLE
United States District Judge