

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

MARIO RODRIGUEZ,)
)
 Plaintiff,)
)
 v.)
)
 SAFECO INSURANCE COMPANY)
 OF INDIANA,)
)
 Defendant.) Civil Action No. 5:20-CV-168-C

ORDER

On this date, the Court considered Defendant’s Motion for Summary Judgment, Plaintiff’s Response, and Defendant’s Reply.¹ After careful consideration of the arguments presented, the Court finds that Defendant’s Motion should be **GRANTED**.

At issue is whether payment of an appraisal award, plus payment of estimated interest due under the Prompt Payment Act, entitle an insurer to summary judgment on an insured’s claim under the Prompt Payment Act. If so, then the insurer is absolved from paying attorney’s fees that otherwise would be due under the Prompt Payment Act. No issue of material fact is present to prevent the entry of summary judgment.² As the Parties have recognized, this is purely a matter of law. After careful review of the arguments and authority cited by the Parties, the Court finds that Defendant’s position is meritorious. Although the issue presents policy factors that

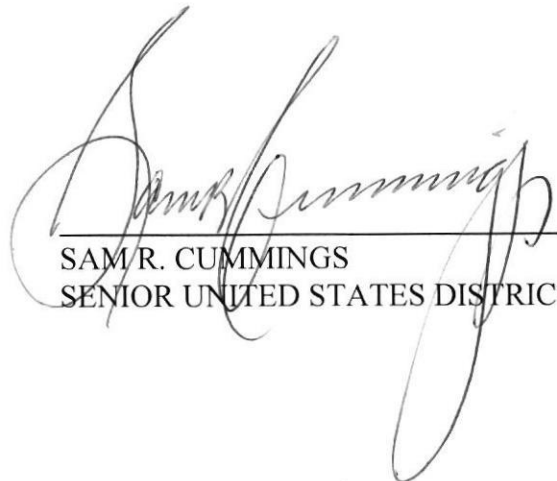
¹The Court also fully considered Plaintiff’s supplemental authority and Defendant’s response thereto. The Court notes, as argued by Defendant, the supplemental authority supplied by Plaintiff was a state court case that dealt with attorney’s fee issues prior to the enactment of Chapter 542A.007(a) of the Texas Insurance Code.

²Furthermore, Plaintiff does not appear to dispute that the payment of the appraisal award disposes of Plaintiff’s claims for breach of contract and violations of Chapters 541 of the Texas Insurance Code.

weigh in favor of each possible outcome, the Court finds that the legislature's intent appears clear when enacting Chapter 542A of the Texas Insurance Code to limit attorney's fees. *See* Tex. Ins. Code § 542A.007(a). It must be presumed that the legislature was aware of the conflict Chapter 542A would have with the Prompt Payment Act and chose to limit attorney's fees anyway. *See Pearson v. Allstate Fire & Cas. Ins. Co.*, 2020 WL 264107, *4 (N.D. Tex. Jan. 17, 2020) (it is logical that attorney's fees are not recoverable when the computation of fees as set forth in Chapter 542A.007(a) lead to zero because the apparent purpose is to curb abusive hailstorm claims). As such, the Court finds that Plaintiff's claims should be **DISMISSED** for the reasons argued in Defendant's Motion and Reply.

SO ORDERED.

Dated October 3, 2022.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE