

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

MARTHA SHEALEY,

Plaintiff,

v.

Case No: 6:18-cv-1635-Orl-31GJK

**GEOVERA SPECIALTY INSURANCE
COMPANY,**

Defendant.

ORDER

On January 10, 2019, Magistrate Judge Kelly issued a Report and Recommendation (Doc. 27), recommending that Defendant's Motion to Abate Pending Appraisal (Doc. 3) be granted. On January 24, 2019, Plaintiff filed an objection to the Report and Recommendation (Doc. 29). Defendant has not responded to the objection.

In June 2017, Plaintiff submitted a claim to Defendant for water damage to her house caused by a failed plumbing system. Doc. 19 ¶ 1; Doc. 3 ¶5. On July 18, 2017, Defendant evaluated Plaintiff's claim and paid her \$2,580.73. Doc. 1-2 at 91. In its letter to Plaintiff, Defendant advised Plaintiff that her loss was limited by a policy endorsement regarding smog, rust, and mold, etc. *Id.* Thereafter, Plaintiff filed suit in state court alleging that Defendant had breached the insurance contract by its "refusal to pay for all of Plaintiff's losses. . . ." Doc. 2 ¶10.¹ On September 14, 2018, Defendant's counsel wrote to Plaintiff's counsel demanding appraisal under the policy. Doc.

¹ The case was removed to this Court on October 1, 2018. Doc. 1.

1-2 ¶109. In that letter, defense counsel recognized Plaintiff's claim in the amount of \$50,965.76 under coverage A of the policy. *Id.* ¶110.

In her objection, Plaintiff contends that the only issue raised by the Complaint is one of coverage, which is a matter for the Court to decide. However, the Defendant's demand for appraisal expressly provides that "the appraisal will only include damage disputes and will not be used as a means to resolve any coverage issues." *Id.* ¶ 110. Defendant has accepted coverage of Plaintiff's claim and has paid a portion of her claimed loss. Under Florida law, the extent of Plaintiff's loss is subject to the policy's appraisal process. Here, appraisal is appropriate, because "the parties simply disagree on the extent of the coverage." *Fouladi v. GeoVera Specialty Ins. Co.*, No. 6:18-cv-326-ORL-40-KRS, 2018 WL 3761039, at *6 (M.D. Fla. Apr. 30, 2018), *report and recommendation adopted*, No. 6:18-cv-326-ORL-40-KRS, 2018 WL 3758315 (M.D. Fla. May 24, 2018). Accordingly, it is

ORDERED that Plaintiff's objection to the Report and Recommendation is **OVERRULED**. The Report and Recommendation is **CONFIRMED** and **ADOPTED** as part of this Order and Defendant's Motion (Doc. 3) is **GRANTED** as to appraisal.

It is further **ORDERED** that this case is **STAYED** pending appraisal.

It is further **ORDERED** that the parties are to proceed with the appraisal process as required by the insurance policy and to provide a status report to the Court on May 31, 2019, and every 90 days thereafter until this matter is resolved.

DONE and **ORDERED** in Chambers, Orlando, Florida on March 13, 2019.




GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party