

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSEPH GALLUZZO and CAROL
POOLEY,

Plaintiffs,

v.

Case No.: 2:23-cv-1000-SPC-NPM

AMERICAN STRATEGIC
INSURANCE CORP.,

Defendant.

OPINION AND ORDER

Before the Court is Defendant's Motion for Partial Summary Judgment (Doc. 37). Plaintiffs failed to respond, so the Court ordered them to show cause why this action should not be dismissed for failure to prosecute. (Doc. 38). Plaintiffs have since responded that they do not oppose the motion and stipulate to the relief sought. (Doc. 39). For the below reasons, the Court grants the motion.

This is a flood insurance case. Plaintiffs originally sued for breach of contract in state court. But the contract at issue is a Standard Flood Insurance Policy issued under the National Flood Insurance Act. So Defendant invoked this Court's jurisdiction over flood claims and removed the action. *See* 28 USC § 1331; 42 USC § 4072.

Defendant now argues that Plaintiff cannot recover attorney's fees and interest in this flood case as a matter of law. Given the authorities cited by Defendant and Plaintiffs' stipulation, the Court agrees. *See, e.g., Dunn v. Wright Nat'l Flood Ins. Co.*, No. 2:23-CV-534-SPC-KCD, 2023 WL 5956980, at *1 (M.D. Fla. Sept. 13, 2023) (finding requests for attorney's fees and interest under Florida law improper in a flood case).

Accordingly, it is now

ORDERED:

1. Defendant's Unopposed Motion for Partial Summary Judgment (Doc. 37) is **GRANTED**.
2. The Court takes no further action on its Order to show cause (Doc. 38).

DONE and **ORDERED** in Fort Myers, Florida on December 19, 2024.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record