

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

MICHAEL KING,

Plaintiff,

CASE NO: 12-001641

DIVISION: F

v.

THE FIRST LIBERTY
INSURANCE CORPORATION,

Defendant.

**ORDER GRANTING DEFENDANT'S MOTION
FOR FINAL SUMMARY JUDGMENT**

THIS CAUSE came before the Court on Defendant, The First Liberty Insurance Corporation's ("Liberty Mutual"), motion for final summary judgment, or alternatively, dismissal. A hearing was held on July 30, 2012 at 1:30pm. The Court, having reviewed the file, heard argument of counsel, and otherwise being informed fully in the premises, ORDERS and ADJUDGES that the motion be, and the same is, GRANTED.

Liberty Mutual is entitled to final summary judgment in this "bad faith" action because Plaintiff did not obtain a judicial determination that Liberty Mutual breached the insurance contract in the underlying insurance claim prior to filing this "bad faith" action. Such a determination is a condition precedent to a "bad faith" action. *Vest v. Travelers Ins. Co.*, 753 So. 2d 1270 (Fla. 2000). Instead, Plaintiff's underlying insurance claim was resolved using the insurance policy's appraisal provision.

Plaintiff shall take nothing by this action, and Liberty Mutual shall go hence without day. The Court reserves jurisdiction to determine attorneys' fees and costs as

appropriate under Florida law.

DONE AND ORDERED in chambers at Tampa, Hillsborough County, Florida,

this _____ day of _____, 2012.

ORIGINAL SIGNED
CONFORMED COPY

AUG 10 2012

CHARLES ED BERGMANN
CIRCUIT JUDGE

The Honorable Charles Ed Bergmann
Circuit Court Judge

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