

MANUEL De LEOS
Plaintiff

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vs.

STATE COURT OF MD
10TH DIST HOWARD CO

ALL STATE INSURANCE COMPANY
Defendant

IN THE DISTRICT
COURT

OF MARYLAND

FOR HOWARD COUNTY

Case No. 1001 0002057-2003

* * * * *

MEMORANDUM OPINION AND ORDER

This matter came before the Court for trial on February 17, 2004 on Plaintiff's complaint for Breach of Contract wherein he sought damages for the breach of contract and for failure to proceed in good faith. The Court originally awarded damages in the amount of \$8,400.00, including \$774.20 in pre-judgment interest and court costs in the amount of \$49.00. By way of petition the Plaintiff has sought additional costs pursuant to Maryland Rule 1-341 for attorney fees and expert witness costs.

Under Maryland Rule 1-341, a party may be awarded attorney and expert's fees and costs if opposing counsel's claim or defense of a claim was made in bad faith or without substantial justification. In "determining whether to impose such sanctions for pursuing frivolous litigation, the court must first make specific finding on whether a party or attorney pursued an action in bad faith or without substantial justification and then additionally determine whether the wrongdoing actually warrants the imposition of sanctions." *Barnes v. Rosenthal Toyota, Inc.*, 727 A.2d 431 (1999). Additionally, for a court to impose such sanctions these "specific findings of fact (must be entered on the record as to a party's bad faith or lack of substantial justification in pursuing a cause of action." *Inlet Associates v. Harrison Inn Inlet, Inc.*, 324 Md. At 369, 596 A. 2d 1049 (1991).

In the instant case, the court found on the record that the Defendant's support of their argument was without merit in light of their failure to conduct a reasonable and diligent investigation into the cause of damage to the Plaintiff's vehicle. Moreover, the Defendant failed to fully investigate the Plaintiff's claim or even speak or interview the driver of the Plaintiff's vehicle. The Defendant contends that there were factual issues in dispute as to the causation of damage and what was a fair and reasonable repair that required a hearing on this matter, however, no proof by

way of expert testimony to this effect was offered at trial.

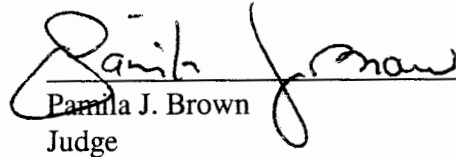
Therefore, the courts finds that Defendant, AllState Insurance Company, acted without substantial justification in defending their claim and awards attorney's and expert's fees and cost to the Plaintiff.

Accordingly, it is this 9 day of September 2005, by the District Court of Maryland for Howard County

ORDERED that because the Plaintiff, was subjected to bringing a claim before the tribunal that was defended without substantial justification, it is further

ORDERED, that pursuant to the motion for sanctions under Maryland Rule 1-341, the Plaintiff will receive \$11,816.50 in attorneys' fees, and it is further

ORDERED, that Plaintiff's shall receive \$2,470.00 in experts fees.


Pamela J. Brown
Judge

cc: Christopher S. Young, Esquire
Attorney for Plaintiff

Ingrid E.M. Sampson, Esquire
Attorney for Defendant

