

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

**AMERICAN GENERAL LIFE AND
ACCIDENT INSURANCE COMPANY,**

Plaintiff,

v.

BETTY R. JOHNSON,

Defendant.

Civil Action 7:10-CV-136 (HL)

ORDER

This is an addendum to the Order (Doc. 22) entered on April 7, 2011 granting Defendant's Motion to Dismiss (Doc. 12). In the original Order, the Court stated that American General had not provided any evidence to establish a dollar amount for reasonable attorney's fees that would be incurred by Ms. Johnson in litigating her claim. That is incorrect. American General did provide an affidavit from an attorney who stated that it is his opinion that the minimum amount of attorney's fees that would be incurred by Ms. Johnson in the prosecution of her claim is \$35,250. Even taking that into consideration, however, the Court still finds that dismissal of the complaint is warranted. As the Court stated in its original Order, to find that American General has met the amount in controversy for diversity purposes, it would have to assume that Ms. Johnson would be awarded bad faith damages, which is a very difficult burden for her to carry, and that she would be awarded attorney's fees, which are not statutory, but are for a jury to decide. The Court will not speculate as

to what a jury may or may not award in this case. The Court's previous Order stands, and the Motion to Dismiss is granted.

SO ORDERED, this 7th day of April, 2011.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

mbh