

IN THE STATE COURT OF BIBB COUNTY
STATE OF GEORGIA

Katie Hall Libert
Katie Hall Libert, Clerk
State Court of Bibb County

TIFFANY DANIELY,
Plaintiff,

vs.

CIVIL ACTION NO. 23-SCCV-095344

JOHN DOE,
Defendant.

ORDER ON MOTION FOR ATTORNEY'S FEES AND COSTS

Plaintiff Tiffany Daniely filed a Motion for Attorney's Fees and Costs pursuant to O.C.G.A. § 9-11-68(b)(2) on December 19, 2024. The Court heard the Motion on April 10, 2025. After careful consideration of the Motion, the arguments and evidence presented by the parties, the Court's entire file, and pertinent legal authority, the Court enters this Order.

Ms. Daniely suffered injuries in a motor vehicle collision on January 25, 2021. She filed suit on January 20, 2023, against John Doe, and she served a summons and copy of her suit on Allstate Property and Casualty Insurance Company ("Allstate"), as her uninsured motorist coverage ("UM Coverage) insurer. On August 8, 2024, Ms. Daniely sent two letters to counsel for Allstate. One letter was an offer of settlement pursuant to O.C.G.A. § 9-11-68. The other letter was a demand pursuant to O.C.G.A. § 33-7-11(j). In each letter, Ms. Daniely offered/demanded to settle her claims for \$50,000.00. Ms. Daniely had \$50,000.00 in UM Coverage under her policy with Allstate; however, Allstate had already paid \$5,000.00 of that coverage. Allstate did not accept Ms. Daniely's offer/demand.

Allstate defended the case in its own name at trial. The jury returned a verdict in the amount of \$80,000.00 against Allstate, and the Court entered a judgment for \$80,000.00 against Allstate. The amount of the final judgment is greater than 125 percent of Ms. Daniely's O.C.G.A. § 9-11-68 offer, and she, therefore, filed this Motion for Attorney's Fees and Costs.

The express language of O.C.G.A. § 9-11-68 states that it applies to an offer "to settle a tort claim..." O.C.G.A. § 9-11-68(a). While a tort claim underlies Allstate's potential exposure, Allstate is not alleged to have committed a tort against Ms. Daniely. Allstate's exposure is based on its contract with Ms. Daniely. A contract, unlike a tort, involves an offer and an acceptance. It involves an exchange of consideration. In the context of UM Coverage, the insurer offers to provide UM Coverage in a stated amount, under defined conditions, in exchange for the payment of a premium. If the insured wants more coverage, she must pay a higher premium. The question of whether O.C.G.A. § 9-11-68 applies to claims for UM Coverage is currently unanswered in Georgia law.¹


Ms Daniely and Allstate agreed on coverage terms, and Ms. Daniely paid a premium to purchase \$50,000.00 of UM Coverage. After receiving \$5,000.00 in medical payments, Ms. Daniely demanded Allstate pay \$50,000.00 to settle her claims. Ms. Daniely demanded Allstate pay more than its contractual exposure, i.e. \$5,000.00 more than the coverage she purchased. The Court finds that a demand for more than the UM Coverage policy limits is not made in good faith.

¹ The Court understands that the Court of Appeals is currently considering this question. To decide the Motion in this case, the Court does not need the answer.

Pursuant to O.C.G.A. § 9-11-68(d)(2), if the court determines that the O.C.G.A. § 9-11-68 was not made in good faith, the court may disallow an award of attorney's fees and costs. Having found Ms. Daniely's offers was not made in good faith, the Court declines to award the attorney's fees and costs in this case.

IT IS HEREBY ORDERED that Plaintiff's Motion for Attorney's Fees and Costs pursuant to O.C.G.A. § 9-11-68(b)(2) is DENIED.

SO ORDERED, this 29th day of April, 2025.



Jeff Hanson, Chief Judge
State Court of Bibb County