

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

GLORIA A. MOORE,)
)
 Plaintiff,)
)
 vs.) 1:15-cv-01464-RLY-TAB
)
 NATIONWIDE MUTUAL INSURANCE)
 COMPANY,)
)
 Defendant.)

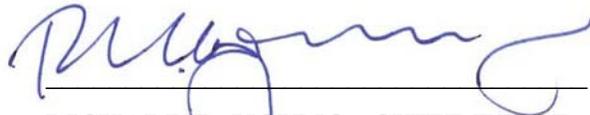
ORDER ON NATIONWIDE’S MOTION TO DISMISS

Gloria A. Moore filed this action against her insurer, Nationwide Mutual Insurance Company, for claims arising out of a vehicular crash that occurred in May 2014. Moore was hit by an unknown driver who fled the scene. In her two-count Complaint, Moore asserts that (1) she is entitled to compensation pursuant to the uninsured motorist provision of her automobile insurance policy issued by Nationwide, and (2) Nationwide breached its duty under Indiana’s Unfair Claims Settlement Practices Act, Ind. Code § 27-4-1-1 *et seq.*

Nationwide seeks dismissal of Count II on the basis that the Unfair Claims Settlement Practices Act “provides no private cause of action.” *Erie Ins. Co. v. Hickman*, 622 N.E.2d 515, 519 n.1 (Ind. 1993). *See Woodley v. Fields*, 819 N.E.2d 123, 133 n.17 (Ind. Ct. App. 2004) (“Ind. Code § 27-4-1-4.5, which specifies certain ‘unfair claim settlement practices,’ provides no private cause of action.”). The plain language of the statute makes this clear: “This article does not create a cause of action other than an

action by: (1) The commissioner to enforce his order; or (2) A person, as defined in section 1 [IC 27-4-1-1] of this chapter, to appeal an order of the commissioner.” Ind. Code § 27-4-1-18. Moore did not respond to Nationwide’s motion. Therefore, the court **GRANTS** Nationwide’s Motion to Dismiss (Filing No. 10), and **DISMISSES WITH PREJUDICE** Count II of Moore’s Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).¹

SO ORDERED this 10th day of December 2015.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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¹ Moore’s Complaint is written in such a way that nearly all of the numbered paragraphs under the Count II heading are actually relevant to Count I. Therefore, all paragraphs under Count II remain viable with the exceptions of paragraphs 25 and 26.