

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Nos. 13-12656 ; 13-13881 ; 13-14061

D.C. Docket No. 8:11-cv-02455-SCB-MAP

ELIESER LUMPUY,
d.b.a. 3L Motorsports, LLC,

Plaintiff - Appellee,

versus

SCOTTSDALE INSURANCE COMPANY,

Defendant - Appellant.

Appeals from the United States District Court
for the Middle District of Florida

(September 23, 2014)

Before HULL, MARCUS, and BLACK, Circuit Judges.

PER CURIAM:

After a jury trial and multiple post-judgment motions, this is a consolidated appeal of an insurance dispute involving sinkhole damage to commercial property owned by the plaintiff Elieser Lumpuy (the “insured”). The defendant Scottsdale Insurance Company (the “insurer”) filed three different notices of appeals as to the following orders referenced in those notices of appeal:

(1) a June 7, 2013 Notice of Appeal as to the May 9, 2013 Judgment, which entered judgment in favor of the plaintiff insured in the amount of \$264,025, and as to the May 10, 2013 Amended Judgment, which corrected the May 9 order’s exclusion of above-ground damages as found by the jury and entered judgment in favor of the plaintiff insured in the amount of \$280,025;

(2) an August 22, 2013 Second Notice of Appeal as to the May 22, 2013 denial of a motion for reconsideration, the June 14, 2013 denial of numerous post-trial motions, and the June 17, 2013 Second Amended Judgment, which reduced the judgment for damages to \$145,152.62, which was the balance of the policy limit under the insurance policy, plus \$12,715.92 in pre-judgment interest;

(3) a September 3, 2013 Third Notice of Appeal as to the August 27, 2013 order awarding plaintiff insured costs; the August 28, 2013 Amended Bill of Costs; the August 29, 2013 order awarding plaintiff insured attorney’s fees; and the August 30, 2013 Third Amended Judgment, which did not modify the damages or pre-judgment interest award from the Second Amended Judgment but did award \$6,059.60 in costs and \$151,022.50 in attorneys’ fees.

The Court consolidated the three appeals for purposes of briefing and oral argument and also issued jurisdictional questions to the parties.

We have jurisdiction to hear all issues in defendant insurer's first appeal. After careful review of the briefs and complete district court record and after oral argument, this Court affirms the district court's May 9, 2013 and May 10, 2013 judgments, which are covered by the first notice of appeal. Specifically, this Court finds no reversible error (1) in the jury trial conducted by the district court; (2) in any of the district court's rulings challenged on appeal; or (3) in the district court's denial of judgment as a matter of law for the defendant insurer.

The Court, however, lacks jurisdiction over the defendant insurer's second appeal because that notice of appeal was untimely filed. Defendant insurer's request for extension of time to file the notice of appeal as to the June 17, 2013 Second Amended Judgment did not come until August 23, 2013. At that point, the district court lacked the power to extend the time for the filing of an appeal from the June 17, 2013 Second Amended Judgment. We also note that the plaintiff insured has not appealed the entry of the Second Amended Judgment, which reduced the damages award to \$145,152.62 and added an award of \$12,715.92 in pre-judgment interest against the defendant insurer. Because we have no occasion to review the Second Amended Judgment, we leave that judgment undisturbed.

We do have jurisdiction to hear defendant insurer's appeal from the Third Amended Judgment only to the extent that it challenges the award of costs and attorney's fees, but we find no reversible error in that award, either. Accordingly,

we affirm the Third Amended Judgment's award of \$6,059.60 in costs and \$151,022.50 in attorney's fees against the defendant insurer.

AFFIRMED as to Appeal Nos. 13-12656 and 13-14061, dismissed as to Appeal No. 13-13881.