

**IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA**

**BAIN COMPLETE WELLNESS, LLC,  
as assignee of Kerri McDougald,**

**Plaintiff,**

v.

**Case No: 16-CC-028803 Div: I**

**GARRISON PROPERTY AND CASUALTY  
INSURANCE COMPANY, a foreign corporation,**

**Defendant.**

\_\_\_\_\_ /

**ORDER**

THIS CAUSE came on for hearing before the Court on September 19, 2019, upon Defendant's Motion to Tax Fees and Costs, filed pursuant to Fla. R. Civ. P. 1.525. After having heard arguments of counsel, considered all Motions and Responses, and being otherwise duly advised in the premises, the Court finds as follows:

1. On September 11, 2018, this Court entered an Order Denying Plaintiff's Motion for Continuance, Order Deeming Defendant's Motion for Summary Judgment Moot, and Order Granting Defendant's Motion for Sanctions Pursuant to Florida Statutes Section 57.105.
2. In the September 11, 2018 Order, the Court found that Defendant served the requisite 21-day safe harbor letter on March 14, 2017. The Plaintiff did not dismiss this action within the safe harbor period. Defendant filed its Motion for Sanctions Pursuant to Florida Statute § 57.105 (Failure to Serve Pre-Suit Demand) on April 11, 2017.

3. The Court also found that Plaintiff's counsel knew or should have known that the pre-suit demand letter sent in this matter did not comply with the statutory requirements, and as such, Plaintiff had not complied with a condition precedent to the filing of this action.
4. The September 11, 2018 Order also found that the Defendant is entitled to attorney's fees pursuant to Florida Statutes section 57.105(1).
5. The Court also finds that Defendant is entitled to costs pursuant to Fla. R. Civ. P. 1.420(d); specifically court reporter costs.

Based on the foregoing, it is ORDERED and ADJUDGED that Defendant's Motion to Tax Fees and Costs is GRANTED.

Additionally, the Parties are referred to mediation within the next thirty (30) days as to the amount of attorney's fees. If no resolution is reached, the Parties are to set an evidentiary hearing within one hundred twenty (120) days of the mediation to determine the amount of fees to be awarded.

DONE AND ORDERED in Hillsborough County, Tampa, Florida on this \_\_\_\_ day of \_\_\_\_\_ 2019.

Electronically Conformed 10/7/2019  
Honorable Joelle Ann Ober  
Joelle Ann Ober

Conformed copies to:

Stephen B. Farkas, Esquire  
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#21763