

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

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No. 04-1365

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MARIANNE WILLMAN,)	
)	
Plaintiff-Appellant,)	
)	
MERVIN C. WILLMAN, (Estate of))	
)	
Plaintiff-Appellant,)	
v.)	ON APPEAL FROM THE UNITED
)	STATES DISTRICT COURT FOR
ST. PAUL FIRE & MARINE)	THE EASTERN DISTRICT OF
INSURANCE CO.)	MICHIGAN
)	
Defendant-Appellee)	

Before: MERRITT and ROGERS, Circuit Judges; and HOOD, District Judge.*

ROGERS, Circuit Judge. The plaintiff, Marianne Willman, representing the estate of her deceased husband, appeals the district court's dismissal of her complaint for failure to state a claim upon which relief can be granted. For the reasons set forth in the district court opinion, we affirm the dismissal of the plaintiffs' complaint.¹

*The Honorable Joseph D. Hood, United States District Judge for the Eastern District of Kentucky, sitting by designation.

¹In addition to failing to state a state-law claim upon which relief can be granted under federal diversity jurisdiction, the plaintiffs also have failed to state a claim that would warrant the exercise of federal question jurisdiction. Although the plaintiff did assert two claims based on alleged due process violations of the Fourteenth Amendment, it is clear that these claims have no merit because St. Paul is a private insurance company to which the Fourteenth Amendment does not apply. *United States v. Morrison*, 529 U.S. 598, 621 (2000) (quoting *Shelley v. Kraemer*, 334 U.S. 1, 13 (1948)) (“[T]he Fourteenth Amendment, by its very terms, prohibits only state action ‘That Amendment erects no shield against merely private conduct,

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however discriminatory or wrongful.”).