

Jury hits State Farm for \$2.5 million in Katrina case

Associated Press

Story Highlights

- Jury awards Biloxi, Mississippi, couple punitive damages
- Judge rules State Farm is liable for \$223,000 in storm damage to home
- Insurer had argued it wasn't liable for damage caused by water
- Ruling could affect hundreds of other cases

GULFPORT, Mississippi (AP)

-- A jury on Thursday awarded \$2.5 million in punitive damages to a couple who sued State Farm Fire & Casualty Co. for denying their claim after Hurricane Katrina.

The decision could benefit hundreds of other homeowners challenging insurers for refusing to cover billions of dollars in storm damage.

A federal judge only hours earlier had taken part of the case out of jurors' hands before they awarded punitive damages to State Farm policyholders Norman and Genevieve Broussard.

U.S. District Judge L.T. Senter Jr. ruled Thursday morning that State Farm is liable for \$223,292 in damage Hurricane Katrina caused to the Broussards' home. Senter left it to the jury to decide whether to award punitive damages.

Senter's decision to make a directed verdict rather than let the jury decide the entire case appeared to surprise everyone in the courtroom. After he explained his ruling, Senter ordered a recess to give attorneys time "to get over the shock."

Some of Senter's earlier rulings in other Katrina cases have favored the insurance industry, but his decision Thursday calls into question the companies' refusal to cover

damage from Katrina's storm surge.

The Broussards sued State Farm for refusing to pay for any damage to their home, which Katrina reduced to a slab.

The couple, who wanted State Farm to pay for the full insured value of their home plus \$5 million in punitive damages, claimed that a tornado during the hurricane destroyed their home. State Farm blamed all the damage on Katrina's storm surge.

State Farm and other insurers say their homeowner policies cover damage from wind but not from water, and that the policies exclude damage that could have been caused by a combination of both, even if hurricane-force winds preceded a storm's rising water.

Senter, however, ruled that State Farm couldn't prove that Katrina's storm surge was responsible for all of the damage to the Broussards' home. The judge also said the testimony failed to establish how much damage was caused by wind and how much resulted from storm surge.

"We are surprised and disappointed by the court's ruling," said State Farm spokesman Phil Supple. "The expert testimony supported a different result. After the conclusion of this case, we will evaluate our next steps in this lawsuit."

In his closing argument Thursday, one of the Broussards' attorneys, William Walker, said State Farm had breached their contract "in a bad way" by denying their claim. State Farm "acted like a chiseler," he said, adding, "The pocketbook is what they listen to."

State Farm attorney John Banahan urged jurors to "use your head and your heart" in deciding on punitive damages and to reject an attempt by the Broussards' attorney to demonize the company as an "evil empire."

Robert Hartwig, chief economist for the Insurance Information Institute in New York, said before the jury announced its decision that a punitive damage award would be "distressing" for insurers.

"It adds even more cost and more uncertainty to the other problems that already exist in the Mississippi homeowners insurance market," he said.

Settlement talks in separate case

The Broussards' case isn't directly involved in recent settlement talks between State Farm Fire & Casualty Co., Mississippi Attorney General Jim Hood and policyholders' lawyers.

People with direct knowledge of the settlement talks told The Associated Press this week that State Farm, Mississippi's largest home insurer, is considering paying hundreds of millions of dollars to settle more than 600 lawsuits and resolve thousands of other disputed claims.

Richard "Dickie" Scruggs, an attorney who represents 639 State Farm policyholders in the settlement talks, said he doesn't know how the judge's ruling on Thursday will affect the negotiations.

Randy Maniloff, a lawyer in Philadelphia, Pennsylvania, who represents insurers and has closely followed the Katrina litigation, said Senter's ruling is a "huge verdict" for homeowners.

"That settlement is looking awfully good for State Farm now," he added.

[CLICK HERE](#) for Judge Senter's decision in the Broussard case.



Federal Judge Denies State Farm's Mississippi Settlement

GULFPORT, Miss., January 29 (BestWire) — A federal court has denied certification to a deal that would settle civil and criminal suits brought against State Farm Fire and Casualty Co. by Mississippi Attorney General Jim Hood over its handling of Hurricane Katrina-related claims, citing insufficient information about the terms of the agreement.

In an eight-page decision, U.S. District Court Judge L.T. Senter refused to certify a proposed class action that would have provided a claims resolution process for up to 35,000 State Farm homeowners, renters and commercial policyholders in the coastal Mississippi counties of Jackson, Harrison, and Hancock — most of whom had not, to date, filed suit against State Farm.

Filed in the Chancery Court of Hinds County, Miss., the deal called for State Farm to provide full case files, including any adjuster or engineering reports, to any covered policyholders who requested them. State Farm would make new claims offers in many of the cases — including required offers of at least 50% of policy limits to roughly 1,000 homes that were reduced to slabs — and all policyholders would have the right to bring their claim to binding arbitration if they were dissatisfied with the revised offer.

However, Senter's decision notes the dismissal was made "without prejudice," leaving the door open for

Hood and the insurer to return with a revised deal.

"We're addressing the judge's concerns," State Farm spokesman Phil Supple said. "We hope, given the opportunity, that he will come to view the proposed settlement as fair, just, balanced, and reasonable."

State Farm agreed to pay out at least \$50 million to members of the class, but there was no cap on the maximum amount that could be awarded. Hood has estimated settlement of the slab claims would cost at least \$80 million, and that the total amount of new payments could top \$500 million.

But in his ruling, Senter argued that the deal offered "no way I can ascertain how this sum compares to the total claims of the members of the proposed class." The judge added that the proposed settlement did not offer enough information about the size or determining characteristics of the proposed class, making it even more difficult to assess "how thinly this large sum may be spread among the class members."

"I have no way of making a determination how these figures were arrived at and indeed whether they are not just arbitrary amounts established without any factual support," Senter wrote.

Senter noted he was "struck by the lack of any guaranteed payment to any class members," and that even

the promise of 50% reimbursements to those policyholders whose properties were reduced to slabs could be "obviated by an offset of policy limits by other insurance."

The deal would not generally cover those hundreds of plaintiffs who already have filed suit, although individual plaintiffs may opt to participate in the binding arbitration process rather than continue to pursue tort litigation. The insurer has negotiated a separate, confidential agreement with more than 600 policyholders represented by class actions attorney Richard Scruggs, who noted in a statement that his group's "efforts and attentions will be placed on satisfying (Senter's) questions and requirements."

"The prospect of multiyear case by case litigation is in no one's best interest," Scruggs said. "It is the intention of the Scruggs Katrina Group to go forward next week with the initial disbursement of settlement payments to the hundreds of families we represent apart from the proposed class."

The proposed Hood settlement also provides that individuals in the covered class may opt out, but Senter objected that the "proposed notice of the settlement does not provide a box that can be checked off if a policyholder wishes to be excluded from the class, but requires instead that the insured write a separate letter requesting exclusion from the class."

"I am also uncomfortable with the concept of send-

ing a large number of policyholders into the process of binding arbitration when none of these individuals has ever agreed to participate in that procedure," Senter wrote. "Requiring the members of the proposed class to arbitrate their claims would necessarily result in a diminution of the procedural safeguards these individuals and other entities presently enjoy."

(By R.J. Lehmann, Washington bureau manager: raymond.lehmann@ambest.com)

Outcome of Mississippi insurance case could help Alabama families recoup losses

By JOSH BEAN
Staff Reporter, Press-Register

After Hurricane Katrina's rampage across the Gulf Coast, Kenneth and Barbara Morris returned to their Shell Belt Road home to find nothing left but a concrete slab.

The same thing happened to John and Lois Thornton on Coden Belt Road in south Mobile County, according to court records and an attorney for the couples.

In both cases, State Farm ruled that storm surge -- not wind -- caused the destruction, making the families' homeowners policies virtually worthless and prompting lawsuits against the insurance giant.

In a similar case, U.S. District Judge L.T. Senter Jr. ruled on Thursday that State Farm Fire and Casualty Co. is liable for \$223,292 for damage caused by Katrina to a Mississippi couple -- a decision that could help hundreds of homeowners like the Morrises and Thorntons who are challenging insurance companies' refusal to cover their storm damage.

The federal jury also awarded \$2.5 million in punitive damages in the Mississippi case.

"I really do think this is going to help us," said Montgomery-based attorney Chris Sanspree, who represents the two Mobile couples. "I don't see how it couldn't."

It is unknown how many Alabama families are still involved in state or federal lawsuits regarding disputed homeowners claims from hurricanes Katrina and Ivan, said Ragan Ingram, spokesman for the state insurance commission, but Web-based searches suggest there are hundreds.

Insurance companies were reluctant to say how the Mississippi case will affect similar cases in Alabama or elsewhere, especially in light of State Farm's intention to appeal the decision.

"It's premature to say what, if any, impact it will have (in Alabama)," State Farm spokesman Phil Supple said in a

phone interview from his Bloomington, Ill., office. "We think it will have a very different outcome when we get an appeal."

Allstate Insurance Co. spokesman Mike Siemienas, meanwhile, said the ruling "will not impact Allstate since this decision involves the handling of a specific claim against State Farm."

The Mississippi case calls into question the use of the "anti-concurrent cause clause" that many insurance companies have used to deny claims from hurricane damage, insurance experts said.

Included in most homeowners policies, this clause essentially gives the company

Insurers rake in profits amid higher charges, lower payouts

A consumer group has sharply criticized U. S. insurance companies for charging drivers and homeowners more for coverage and paying out less at a time of record-setting profits.

The Consumer Federation of America's insurance director, J. Robert Hunter, according to an article by the Associated Press, accused the biggest players in the industry of gouging the public on their way to an estimated combined after-tax profit of nearly \$ 60 billion in 2006.

A study by the federation showed that automobile and home insurers' profits have surged in recent years despite billions of dollars in damage from Hurricane Katrina and other storms, in part because they have shifted more costs to consumers and taxpayers.

The consumer group's study estimates the insurance industry's net income after taxes in 2006 will be \$59.9 billion, shattering the 2005 record of \$48.8 billion and 2004's \$40.5 billion in profits.

Those profits were achieved at the same time consumers received less money after filing claims.

Hunter acknowledged that 2006 profits were inflated by the lack of a significant hurricane, but he said the companies would have achieved a new high even if there had been storms.

Marc Racicot, president of the American Insurance Association and a former Montana governor, defended the industry, saying last year was a fortunate anomaly given that in virtually every year over the past two decades, insurers lost money on their core business operations.

Think about that next time your renewal's turned down.