

the Mitchels have not received one single payment or unconditional tender from Allstate Indemnity Company.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1332 since the parties are completely diverse and the amount in controversy exceeds \$75,000.00.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(d). Allstate Indemnity Company's contacts with the Middle District, particularly East Baton Rouge Parish, would subject it to personal jurisdiction here under La. R.S. 22:1269 (B).

PARTIES

4. Plaintiffs, [REDACTED], are both Louisiana citizens, residing in Rapides Parish, Louisiana.

5. Defendant, Allstate Indemnity Company, a/k/a Allstate Insurance Company a/k/a Allstate Fire and Casualty Insurance Company a/k/a Allstate Property and Casualty Insurance Company a/k/a Allstate Assurance Company, is incorporated in Illinois with its principal place of business there. It is licensed to do and doing business in Louisiana and may be served through its registered agent for service of process, the Louisiana Secretary of State, 8585 Archives Avenue, Baton Rouge, LA 70809.

FACTUAL ALLEGATIONS

6. On or about January 10, 2015, the [REDACTED] house located at 395 Lakeland Drive, Boyce, Louisiana, (the "Lake House") caught fire and burned to the ground.

7. Despite efforts of the Cotil Volunteer Fire Department, the fire completely destroyed the entire house and its contents. The only remaining structure was the slab and an out building, which also sustained damage from the fire.

8. On information and belief, the cost to rebuild the Lake House exceeds \$148,780.00. The replacement cost of the contents of the home lost in the fire exceeds \$37,385.00.

9. At the time of the loss, the Lake House and the contents there in were insured by a policy of insurance issued and serviced by Allstate Indemnity Company, policy number 945996025. All premiums were paid and current.

10. The [REDACTED] promptly reported the loss to, and filed a claim with, their insurer, Allstate Indemnity Company.

11. The [REDACTED] cooperated with the claims process by, for example, (1) submitting a damaged personal property inventory, (2) making the Lake House available for inspection by Allstate Insurance Company's adjuster, and (3) submitting a sworn proof of loss.

12. To date, Allstate Indemnity Company has not tendered any amounts due and owed under the terms of the policy of insurance.

13. Allstate Indemnity Company instead chose to investigate the loss, ostensibly to determine the cause of the fire.

14. Allstate Indemnity Company has thoroughly investigated this claim by means of conducting Examinations Under Oath of the [REDACTED], obtaining witness statements, subpoenaing telephone records and obtaining the report from the Cotil Volunteer Fire Department.

15. It is believed that Allstate Indemnity Company's investigation was concluded June 2015, as it has taken no further action since that day. Yet, the [REDACTED] still have not received any claims payments due under the policy of insurance.

16. Remarkably, Allstate Indemnity Company has not provided the Mitchels any explanation for the delay in payment.

17. Further, Allstate Indemnity Company has failed to respond to the [REDACTED] requests for written reasons for the delay in payment, a certified copy of their policy of insurance, and copies of the subpoenaed telephone records.

FIRST CLAIM FOR RELIEF: BREACH OF CONTRACT

18. Allstate Indemnity Company is liable unto the [REDACTED] under Civil Code Articles 1906 *et seq.* because it failed to perform under the policy of insurance by:

- a. Not tendering the proceeds due under the policy in a timely fashion;
- b. Not thoroughly investigating the claim; and
- c. Not acting reasonable under the circumstances.

SECOND CLAIM FOR RELIEF: BAD FAITH

19. Allstate Indemnity Company breached the duties of good faith and fair dealing set forth in La. R.S. 22:1892 and 22:1973 by:

- a. Failing to pay the amount of the claim due the [REDACTED] within 30 days after receiving satisfactory proof of the loss;
- b. Failing to make a written offer to settle the [REDACTED]'s' property damage claims within 30 days after receiving satisfactory proof of the loss;
- c. Breaching its affirmative duty to adjust the claim fairly and promptly
- d. Breaching its affirmative duty to make a reasonable effort to settle claims with the Mitchels;
- e. Misrepresenting pertinent policy provisions; and

f. Arbitrarily, capriciously, and without probable cause failing to pay the amount of the claim due within 60 days after receiving satisfactory proof of the loss.

WHEREFORE, Plaintiffs, [REDACTED], respectfully pray and requests that judgment be entered against Defendant, Allstate Indemnity Company, for the following:

- A. Personal property damages and unpaid alternate living expenses, pursuant to Civil Code Article 1994 and the insurance policy;
- B. General damages, mental anguish and distress, and hedonic damages under La. R.S. 22:1973 and *Durio v. Horace Mann Ins. Co.*, 74 So.3d 1159 (La., 2011);
- C. Bad faith damages under La. R.S. 22:1892 and 22:1973;
- D. Attorneys' fees, pursuant to La. R.S. 22:1973;
- E. Court costs;
- F. Expert and consultant fees;
- G. Other damages to be amended, presented in the Pretrial Order, and/or proven at the trial of this matter; and
- H. Other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiffs, [REDACTED], demand a trial by jury in this action.

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DATED: April 27, 2016

RESPECTFULLY SUBMITTED,

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