

42ND JUDICIAL DISTRICT COURT

PARISH OF DE SOTO

STATE OF LOUISIANA

NO.

DIVISION

██

V.

**STATE FARM FIRE AND CASUALTY COMPANY AND STATE FARM GENERAL
INSURANCE COMPANY BOTH D/B/A STATE FARM**

PETITION FOR DAMAGES

Now into court, through undersigned counsel, come petitioners, ██████████, who respectfully represent:

1.

Made Defendants herein are:

- A. State Farm General Insurance Company, d/b/a State Farm, a foreign insurer authorized to do and doing business in this state and who may be served with process through its registered agent, the Louisiana Secretary of State, 8585 Archives Avenue, Baton Rouge, LA 70809; and
- B. State Farm Fire and Casualty Company, d/b/a State Farm, a foreign insurer authorized to do and doing business in this state and who may be served with process through its registered agent, the Louisiana Secretary of State, 8585 Archives Avenue, Baton Rouge, LA 70809.

Factual Contentions

2.

On or about January 28, 2013, the petitioners' home at ██████████
██████████ was badly damaged by a hail storm.

3.

At the time of the loss, the petitioners' home and contents were insured by a policy of insurance issued and serviced by defendants, d/b/a State Farm. The policy number is believed to be [REDACTED]. All lawful terms of the insurance policy are plead and incorporated by reference.

4.

The hail related damages include, without limitation: interior water damages, damages to the home's roof, barbeque shed roof, a/c condenser, kitchen, the home's flat roofs, bathrooms, bedrooms, carpeting, and the [REDACTED]' personal property . The replacement cost value of the damaged property exceeds \$35,000.00.

5.

Petitioners promptly reported the loss and filed a claim with the Defendants. The claim number is believed to be [REDACTED].

6.

However, State Farm waited many months to initiate the loss adjustment, despite numerous follow ups by the petitioners. Remarkably, the State Farm adjuster, Stephen R. Peltier, did not inspect the damaged home until on or about November 29, 2013, ten (10) months after the loss.

7.

Despite the extensive damages at the [REDACTED] home, the State Farm adjuster spent less than thirty (30) minutes scoping the property and investigating the loss. He overlooked obvious damages to the roof, interior, etc. Accordingly, the corresponding adjustment was substantially undervalued, estimating that the damages total a mere \$750.57. After subtracting the \$581.00 deductible and holding back \$96.65 in recoverable depreciation, State Farm issued a check to the petitioners in the amount of \$72.92.

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8.

The State Farm adjuster did not create an estimate for repair and replacement of the [REDACTED], damaged contents.

9.

State Farm did not issue the [REDACTED] a payment for their damaged contents.

10.

The estimated amount of damages and tendered funds are significantly less money than the Stutts need to repair their home and replace their damaged contents.

11.

Shocked at the undervalued estimate, [REDACTED] contacted State Farm to explain that the loss payment was not anywhere near enough to repair their home and replace their damaged contents.

12.

The State Farm adjuster told [REDACTED] that the roof damage and water leaks causing damage to the interior were not being covered, because the roof damage was preexisting.

13.

The truth is that the roof was in fine shape before the hail storm, and there was no preexisting damage. In contrast, after the hail storm the roof began leaking and the interior of the home and contents were significantly damaged.

14.

Frustrated with the unjustified delays and underpaid claim, Mr. and Mrs. Stutts engaged [REDACTED] [REDACTED] to scope the property, review the State Farm adjustment, provide a written report, and create an estimate of the repairs. Mr. Tassin is an independent insurance professional with decades of experience in the insurance claims industry.

15.

Unlike Mr. Peltier's thirty (30) minute investigation, ██████████ spent over four (4) hours inspecting the Stutt's property and took over one hundred (100) color photographs. His opinion is that the roof needs replacing and that the damage was caused by the hail storm. Mr. Tassin performed industry standard "test square" surveys on several portions of the roof and barbecue shed roof, finding significant evidence of hail and wind damage. For example, he observed bruising, wind lifted shingles, small dents or "dimpling" on the vents, and structural fractures.

16.

██████████'s inspection also revealed water intrusion, resulting from the roof damage, in no less than the six (6) rooms. He noted, for example, water damaged wall paneling, wallpaper, ceiling tiles, carpet, and furniture.

17.

██████████'s estimation is that the replacement cost value of the structural damages to the home and barbecue shed total thirty five thousand, four hundred dollars and twenty one cents (\$35,400.21), and the actual cash value of the structural damages to the home and barbecue shed total thirty thousand, two hundred sixty nine dollars and fifty three cents (\$30,269.53).

18.

██████████'s estimation is that the replacement cost value of the contents is two thousand, three hundred sixty eight dollars and zero cents (\$2,368.00), and the actual cash value of the damaged contents is one thousand, eight hundred twenty dollars and four cents (\$1,820.04).

19.

██████████'s narrative report, estimate of repairs, and corresponding color photographs are attached and incorporated as exhibits A, B, and C, respectively.

20.

Because of Defendants' failure to adjust the claim in good faith, the petitioners have been deprived use of full use of their home for nearly a year.

21.

The petitioners have suffered undue aggravation and stress and loss of enjoyment of life as a result of Defendants' failure to adjust the claim in good faith and reasonably perform under the insurance policy.

22.

The damages due the petitioners exceed \$50,000, but are less than \$75,000, and thus they are entitled to a trial by jury as to all issues.

Causes of Action

23.

Defendants failed to perform under the policy of insurance by:

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

24.

Defendants 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 petitioners within 30 days after receiving satisfactory proof of the loss;

- b. Failing to make a written offer to settle the petitioners' property damage claim within 30 days after receiving satisfactory proof of the loss;
- c. Failing to initiate the loss adjustment within fourteen (14) days of notification of the claim;
- d. Breaching its affirmative duty to adjust the claim fairly and promptly;
- e. misrepresenting the cause of the loss to the interior of the home and roofs by claiming it was all preexisting (rather than the undisputed hail storm);
- f. Breaching its affirmative duty to make a reasonable effort to settle claims with the petitioners;
- g. Arbitrarily, capriciously, and without probable cause failing to pay the amount of the claim due within 30 days after receiving satisfactory proof of the loss; and
- h. 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.

25.

Defendants breached the delictual duties owed to the petitioners under Article 2315 of the Louisiana Civil Code by acting negligently in investigating and paying the insurance claim, thereby causing damage to the petitioners.

Prayer for Relief

WHEREFORE, Petitioners [REDACTED] pray: 1.) for a trial by jury; and 2.) that judgment be entered in their favor and against State Farm General Insurance Company and State Farm Fire and Casualty Company for all damages as will be proven at trial and as set forth below:

Type of Damages	Amount of Damages
Costs of repairing the petitioners' home	As are reasonable in the premises
General damages	As are reasonable in the premises
Mental anguish and distress	As are reasonable in the premises
Hedonic damages	As are reasonable in the premises
Bad faith damages under La. R.S. 22:1892	As are reasonable in the premises
Bad faith damages under La. R.S. 22:1973	As are reasonable in the premises
Bad faith damages under Civil Code Article 1997	As are reasonable in the premises
Moral damages under Civil Code Article 1998	As are reasonable in the premises
Moratory damages under Civil Code Article 2000	As are reasonable in the premises
Attorney Fees	As are reasonable in the premises
Court Costs	As are reasonable in the premises
Expert and consultant fees	As are reasonable in the premises
Other damages to be amended, presented in the Pretrial Order, and/or proven at the trial of this matter	As are reasonable in the premises

Respectfully submitted,

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Attorney for Plaintiffs

Please Serve:

1. State Farm General Insurance Company; and
2. State Farm Fire and Casualty Company.

Both through their registered agent:

The Louisiana Secretary of State
8585 Archives Avenue
Baton Rouge, LA 70809