

JEFF FINE
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9 **SUPERIOR COURT OF ARIZONA**

10 **MARICOPA COUNTY**

11 JASON WILHELM and MELISSA KAY) No. CV2019-012558
12 ARMSTRONG WILHELM, husband and)
13 wife,) **COMPLAINT**
14 Plaintiffs,)
15 v.) **(Insurance Bad Faith; Breach of**
16) **Contract)**
17 STATE FARM MUTUAL AUTOMOBILE)
18 INSURANCE COMPANY, a foreign)
19 corporation; JOHN and JANE DOES I-X,)
20 fictitious individuals; and ABC)
21 CORPORATIONS I-X, fictitious corporate)
22 entities,)
23 Defendants.)
24)
25)
26)
27)
28)

29 Plaintiffs Jason and Melissa Armstrong, for their Complaint against the defendants,
30 allege as follows:

- 31 1. Plaintiffs Jason and Melissa Wilhelm are residents of Maricopa County, Arizona.
- 32 The acts and occurrences hereinafter described all occurred in Maricopa County, Arizona.
- 33 2. Defendant State Farm Mutual Automobile Insurance Company ("State Farm") is
- 34 a foreign corporation, and is authorized to do, and doing, business as an insurance company
- 35 within the State of Arizona which has caused events to occur in Maricopa County.

1 3. The identities of John and Jane Does I through X and ABC Corporations I
2 through X are presently unknown to the plaintiffs and leave of court will be sought to amend
3 this Complaint once their true identities are discovered.

4 4. The amount in controversy exceeds the jurisdictional requirements of this Court
5 and venue in Maricopa County is proper.

6 5. Pursuant to Arizona Rules of Civil Procedure 26.2(c)(3), plaintiffs allege that
7 this is an insurance bad faith claim involving non-economic damages, the amount of which
8 are within the province of a jury. However, based on the factors set forth in Rule 26.2, this
9 matter should be assigned to discovery tier 2.

10 6. The plaintiffs demand a trial by jury.

11
12 **GENERAL ALLEGATIONS**
13

14 7. Plaintiffs are the owners of a 2013 Nissan Pathfinder (hereinafter, the
15 “Vehicle”). In December 2017, and at all other times material hereto, the Vehicle was
16 insured by an insurance policy issued by State Farm, Policy [REDACTED]
17 (hereinafter the “Insurance Contract”).
18

19 8. On or about December 8, 2017, the Vehicle was involved in an automobile
20 accident. The Insurance Contract was in full force and effect at the time of the accident.

21 9. The plaintiffs took the Vehicle to Coach Works Auto Body (“Coach Works”) for
22 repair.
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24 10. Coach Works prepared an estimate of the cost to restore the Vehicle to its
25 pre-loss condition.
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1 11. The plaintiffs were unable to resolve their property damage loss with the
2 insurance carrier for the driver that was at fault for the accident and notified State Farm of
3 their intent to present their property damage claim to State Farm for processing and payment
4 under the Insurance Contract.
5

6 12. Upon the first reporting of the loss, and continuing through the date of this
7 Complaint, State Farm has engaged in a course of conduct intentionally designed to serve
8 State Farm's interest in minimizing the amount it pays to resolve automobile damage claims
9 and frustrate and impede the plaintiffs' interest in restoring their Vehicle to the same
10 condition it was in prior to their collision. State Farm's wrongful conduct has included, but
11 is not limited to, the following:
12

13 (a) Persistent refusal to pay fair amounts for the parts, repair procedures
14 and labor necessary to restore the Vehicle to a safe and drivable condition;
15

16 (b) Misrepresentations regarding the plaintiffs' rights and obligations under
17 their Insurance Contract;
18

19 (c) Repeated failures to reasonably respond to communications from the
20 insured and their repair facility as necessary to resolve the insurance claim in good
21 faith; and
22

23 (d) Gross delays throughout the course of the claim process.

24 13. In an effort to obtain a prompt resolution of the dispute between State Farm and
25 Coach Works regarding the cost to repair the Vehicle, the plaintiffs demanded appraisal
26 under the policy and State Farm accepted the plaintiffs' appraisal demand.
27
28

1 14. Plaintiffs' demand for appraisal and State Farm's acceptance of that demand
2 created a binding contract to resolve the dispute over the amount of loss to the Vehicle
3 through appraisal.

4
5 15. State Farm breached the contract to appraise by subsequently refusing to proceed
6 with the appraisal process citing provisions in an amended policy form never provided to the
7 plaintiffs allegedly narrowing the appraisal remedy.

8
9 16. Because of State Farm's conduct in refusing to pay amounts necessary to
10 properly repair the vehicle and its breach of its agreement to resolve the dispute through
11 appraisal, the plaintiffs have been unable to secure repairs to their Vehicle. As a direct result
12 of State Farm's wrongful conduct, Coach Works has asserted a possessory lien on the
13 plaintiffs' vehicle, and the plaintiffs have been unable to remove their Vehicle from Coach
14 Works' facility and have incurred colossal and devastating storage charges imposed by
15 Coach Works.

16
17 17. The plaintiffs have now lost the use of their Vehicle for over 21 months, causing
18 them to incur insurance premiums and loan payments on a vehicle that they cannot drive and
19 causing them to incur inconvenience, expense and hardships in securing transportation
20 necessary to maintain their personal and professional lives.

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22
23 **COUNT ONE**
24 **(Breach of Contract)**

25 18. The plaintiffs incorporate by this reference all allegations made in the previous
26 paragraphs of this Complaint.

19. State Farm's conduct, as alleged in the General Allegations herein, breached numerous express and implied provisions in the Insurance Contract including the provisions requiring State Farm to pay the amounts necessary to reasonably repair collision damage to the Vehicle so as to restore the Vehicle to its pre-accident condition.

20. State Farm's breach of its express promise to resolve disagreements as to the amount of loss to the Vehicle through the appraisal process was also a breach of a contract agreement between plaintiffs and State Farm.

21. The plaintiffs have been significantly damaged as a direct consequence of State Farm's breaches of the Insurance Contract. Their damages include the additional cost to repair their Vehicle to its pre-loss condition, losses caused by their extended loss of use of the Vehicle, and storage charges and other administrative and investigative expenses owed to Coach Works and other expenses and consequential damages, the full amount of which will be proven at trial.

22. The plaintiffs are entitled to recover their reasonable attorneys' fees incurred in this action from State Farm pursuant to A.R.S. § 12-341.01 and as a direct component of their contract damages.

COUNT TWO

(Breach of the Implied Covenant of Good Faith and Fair Dealing)

23. The plaintiffs incorporate by this reference all allegations made in the previous paragraphs of this Complaint.

24. State Farm's refusal to pay for obvious unrepaired collision damage caused by the December 2017 accident was outrageous and indefensible acts of bad faith that were a

1 gross deviation from any and all recognized standards of practice in the insurance industry
2 for the fair handling of first-party collision damage claims under automobile policies in the
3 State of Arizona, or anywhere else in the country.
4

5 25. State Farm's breach of its express promise to resolve disagreements as to the
6 amount of loss to the Vehicle through the appraisal process was also a breach of State Farm's
7 duty of good faith and fair dealing.
8

9 26. There was no reasonable or good faith basis for State Farm's conduct as alleged
10 herein. State Farm's conduct was intentional and was done with full knowledge that the
11 conduct would cause significant harm to its insureds, Jason and Melissa Wilhelm.
12

13 27. Part of State Farm's obligations and duties to the plaintiffs under the Insurance
14 Contract included an obligation to treat the plaintiffs fairly and to evaluate and respond to
15 their claim in good faith, giving the plaintiffs' interests equal consideration to State Farm's
16 own interests. State Farm breached its duty of good faith and fair dealing owed to the
17 plaintiffs through a course of conduct that involved an incomplete and improper initial
18 investigation of the property damage, delays in approving the repairs, misrepresentations
19 regarding the nature and extent of coverage provided under the Insurance Contract, refusing
20 to authorize repair procedures and parts necessary to a proper repair of the Vehicle, refusal to
21 pay undisputed amounts owing under the Insurance Contract for repairs, and by the
22 unreasonable and unfair manner in which State Farm processed these claims and reached its
23 decision to refuse to pay for complete repairs in an attempt to save State Farm money on the
24 plaintiffs' claim.
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1 28. At the time State Farm sold its automobile insurance policy to the plaintiffs, at
2 the time of each renewal, and at all times while State Farm was handling the plaintiffs'
3 claim, State Farm was aware that one of the purposes of the insurance it sold to the plaintiffs
4 was to provide peace of mind and security during the period of coverage in the event of a
5 loss covered under the terms of the policy. State Farm intentionally deprived the plaintiffs of
6 the peace of mind and security that was the underlying purpose of the Insurance Contract.
7

8 29. The conduct of State Farm and its agents in the evaluation and processing of the
9 plaintiffs' claim was fundamentally lacking in honesty and fairness which business concerns,
10 particularly insurance companies, are charged with in dealing with consumers. State Farm
11 was on specific notice that its failure to fairly and honestly evaluate and settle plaintiffs'
12 claim was causing, and would continue to cause, the plaintiffs significant financial damage,
13 and emotional and mental suffering.
14

15 30. State Farm's conduct throughout the processing of the plaintiffs' claims, is, upon
16 information and belief, part of a much larger program that State Farm has instituted to reduce
17 their claims payments to insureds in Arizona, and across the nation, on all types of claims.
18 State Farm uses their nationwide claims payment reduction program as a method of
19 increasing the profitability of their companies.
20

21 31. State Farm's claims payment reduction program operates nationwide, and its
22 practices in Arizona are consistent with a corporate-wide scheme. The scheme that State
23 Farm employed on the plaintiffs' claims is part of a larger pattern of fraud, trickery and
24 deceit against State Farm's own insureds across the country.
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32. As a direct and proximate result of State Farm's bad faith conduct alleged herein, the plaintiffs have suffered anxiety, worry, mental and emotional distress, feelings of insecurity, feelings of hopelessness, loss of the benefits and enjoyment of vehicle ownership, and have incurred other expenses, obligations and injuries causing general damages in an amount that will be shown at trial.

COUNT THREE
(Punitive Damages)

33. The plaintiffs incorporate by this reference all allegations made in the previous paragraphs of this Complaint.

34. State Farm's conduct described herein was outrageous, reprehensible and was done willfully, maliciously and deceptively with conscious disregard of the plaintiffs' rights and with the intent to harm or injure the plaintiffs, and/or with direct knowledge that harm and injuries were likely to occur. The conduct occurred for the purpose of advancing State Farm's own pecuniary interests in total disregard to substantial likelihood that the plaintiffs would be severely and wrongfully harmed. Accordingly, there should be an assessment of punitive damages against State Farm in an amount appropriate to punish and set an example of State Farm.

WHEREFORE, the plaintiffs request judgment against the defendants as follows:

A. For all economic damages incurred as a consequence of State Farm's breaches of the Insurance Contract as alleged herein;

B. For all injuries, damages and losses arising out of State Farm's bad faith in processing, evaluating and responding to the plaintiffs' insurance claims as alleged herein:

1 C. For punitive and exemplary damages against State Farm in an amount
2 appropriate to punish and set an example of State Farm.

3 D. For prejudgment interest;

4 E. For plaintiffs' reasonable attorneys' fees incurred in this matter under A.R.S.
5 § 12-341.01 and/or any other applicable law;

6 F. For taxable costs incurred; and

7 G. For such other and further relief as the Court deems just and proper under the
8
9 circumstances.

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11 DATED this 13th day of September, 2019.

12 **DIXON LAW OFFICES, P.L.C.**

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14 By 

15 Thomas B. Dixon, Esq.
16 Attorneys for Plaintiffs
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