

IN THE CIRCUIT COURT OF ADAIR COUNTY, MISSOURI

THE COLLISION COMPANY, LLC,

Plaintiff,

v.

Case No: 20AR-CV00726

STATE FARM MUTUAL
AUTOMOBILE
INSURANCE COMPANY,

Defendants.

**STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S
ANSWER, REQUEST FOR JURY TRIAL, AND AFFIRMATIVE DEFENSES
TO THE SECOND AMENDED PETITION**

Defendant State Farm Mutual Automobile Insurance Company ("State Farm"), by and through counsel, and for its Answer, Affirmative Defenses and Jury Trial Demand in response to Plaintiff The Collision Company's Second Amended Petition states as follows:

COUNT I- CARRIKER

1. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 1 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 1.

2. State Farm admits that, at all relevant times, it is an insurance corporation organized under the laws of the State of Illinois and is authorized to engage in the business of insurance in the State of Missouri. State Farm further admits that Chad Davis, Raquel Schempp, and Audra Jackson are State Farm agents with their principal places of

business in Kirksville, Adair County, Missouri. Except as so stated, State Farm denies the allegations set forth in ¶ 2.

3. Paragraph 3 states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that Plaintiff has a “claim” that entitles it to any relief. Except as so stated, State Farm denies the allegations set forth in ¶ 3.

4. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 4 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 4.

5. State Farm admits that it, via email/shopest@asi.com, notified Plaintiff that State Farm’s customer selected it to “manage the repair process” for Amy Carriker’s vehicle. State Farm states that the document speaks for itself and State Farm denies any allegations based upon a mischaracterization of the same. State Farm specifically denies Plaintiff’s allegation that State Farm notified Plaintiff that “Scott Carriker was going to enter into a contract with Plaintiff.” State Farm further denies that the email was sent “on or about June 6, 2018.” Except as so stated, State Farm denies the allegations set forth in ¶ 5.

6. The first sentence of ¶ 6 states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that allegation. State Farm denies the allegations set forth in the second sentence of ¶ 6 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except

as so stated, State Farm denies the allegations set forth in ¶ 6.

7. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 7 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 7.

8. State Farm lacks information or knowledge sufficient to admit or deny whether Scott Carriker executed the document described in ¶ 8 and therefore denies the same. Paragraph 8 also states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that allegation. State Farm denies the allegations set forth in the second sentence of ¶ 8 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 8.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

State Farm admits that Plaintiff in its unnumbered “WHEREFORE” paragraph asks the Court for certain relief described therein but denies that Plaintiff is entitled to any such relief in law or in equity. Except as so stated, State Farm denies the allegations set forth in that paragraph.

COUNT II - BUCKNER

13. State Farm refers to and incorporates by reference herein its answers to ¶¶

1-12 as if fully set forth herein.

14. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 14 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 14.

15. State Farm admits that, at all relevant times, it is an insurance corporation organized under the laws of the State of Illinois and is authorized to engage in the business of insurance in the State of Missouri. State Farm further admits that Chad Davis, Raquel Schempp, and Audra Jackson are State Farm agents with their principal places of business in Kirksville, Adair County, Missouri. Except as so stated, State Farm denies the allegations set forth in ¶ 15.

16. Paragraph 16 states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that Plaintiff has a “claim” that entitles it to any relief. Except as so stated, State Farm denies the allegations set forth in ¶ 16.

17. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 17 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 17.

18. State Farm admits that it, via email/shopest@asi.com, notified Plaintiff that State Farm’s customer selected it to “manage the repair process” for Brent Buckner’s vehicle. State Farm states that the document speaks for itself and State Farm denies any allegations based upon a mischaracterization of the same. State Farm specifically denies Plaintiff’s allegation that State Farm notified Plaintiff that “Brent Buckner was going to

enter into a contract with Plaintiff.” State Farm denies the allegations set forth in the second sentence of ¶ 18 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 18.

19. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 19 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 19.

20. State Farm lacks information or knowledge sufficient to admit or deny the allegations set forth in the first sentence of ¶ 20 and therefore denies the same. State Farm denies the allegations set forth in the second sentence of ¶ 20 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 20.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

State Farm admits that Plaintiff in its unnumbered “WHEREFORE” paragraph asks the Court for certain relief described therein but denies that Plaintiff is entitled to any such relief in law or in equity. Except as so stated, State Farm denies the allegations set forth in that paragraph.

COUNT III - FINCHER

25. State Farm refers to and incorporates by reference herein its answers to ¶¶ 1-24 as if fully set forth herein.

26. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 26 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 26.

27. State Farm admits that, at all relevant times, it is an insurance corporation organized under the laws of the State of Illinois and is authorized to engage in the business of insurance in the State of Missouri. State Farm further admits that Chad Davis, Raquel Schempp, and Audra Jackson are State Farm agents with their principal places of business in Kirksville, Adair County, Missouri. Except as so stated, State Farm denies the allegations set forth in ¶ 27.

28. Paragraph 28 states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that Plaintiff has a “claim” that entitles it to any relief. Except as so stated, State Farm denies the allegations set forth in ¶ 28.

29. State Farm admits that it, via email/shopest@asi.com, notified Plaintiff that State Farm’s customer selected it to “manage the repair process” for Diane Fincher’s vehicle. State Farm states that the document speaks for itself and State Farm denies any allegations based upon a mischaracterization of the same. State Farm specifically denies Plaintiff’s allegation that State Farm notified Plaintiff that “Diane Fincher was going to enter into a contract with Plaintiff.” State Farm denies the allegations set forth in the

second sentence of ¶ 29 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 29.

30. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 30 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 30.

31. State Farm lacks information or knowledge sufficient to admit or deny the allegations set forth in the first sentence of ¶ 31 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 31.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

State Farm admits that Plaintiff in its unnumbered “WHEREFORE” paragraph asks the Court for certain relief described therein but denies that Plaintiff is entitled to any such relief in law or in equity. Except as so stated, State Farm denies the allegations set forth in that paragraph.

COUNT IV - HINES

36. State Farm refers to and incorporates by reference herein its answers to ¶¶ 1-35 as if fully set forth herein.

37. State Farm lacks information or knowledge sufficient to admit or deny the

allegations of ¶ 37 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 37.

38. State Farm admits that, at all relevant times, it is an insurance corporation organized under the laws of the State of Illinois and is authorized to engage in the business of insurance in the State of Missouri. State Farm further admits that Chad Davis, Raquel Schempp, and Audra Jackson are State Farm agents with their principal places of business in Kirksville, Adair County, Missouri. Except as so stated, State Farm denies the allegations set forth in ¶ 38.

39. Paragraph 39 states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that Plaintiff has a “claim” that entitles it to any relief. Except as so stated, State Farm denies the allegations set forth in ¶ 39.

40. State Farm admits that it, via email/shopest@asi.com, notified Plaintiff that State Farm’s customer selected it to “manage the repair process” for Sara Hines’ vehicle. State Farm states that the document speaks for itself and State Farm denies any allegations based upon a mischaracterization of the same. State Farm specifically denies Plaintiff’s allegation that State Farm notified Plaintiff that “Sara Hines was going to enter into a contract with Plaintiff.” State Farm denies the allegations set forth in the second sentence of ¶ 40 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 40.

41. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 41 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 41.

42. State Farm lacks information or knowledge sufficient to admit or deny whether Sara Hines executed the document described in ¶ 42 and therefore denies the same. Paragraph 42 also states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that allegation. State Farm denies the allegations set forth in the second sentence of ¶ 42 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 42.

43. State Farm admits that Plaintiff claimed that repairs to Sarah Hines' vehicle would cost \$5,466.01 but denies that Plaintiff's estimate was reasonable. State Farm further admits that Plaintiff provided State Farm with a document entitled "Insured's Notification of Repairs" and states that such document speaks for itself and State Farm denies any allegations based upon a mischaracterization of the same. State Farm denies the last sentence of ¶ 43 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 43.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

State Farm admits that Plaintiff in its unnumbered “WHEREFORE” paragraph asks the Court for certain relief described therein but denies that Plaintiff is entitled to any such relief in law or in equity. Except as so stated, State Farm denies the allegations set forth in that paragraph.

COUNT V.- CUPP

49. State Farm refers to and incorporates by reference herein its answers to ¶¶ 1-48 as if fully set forth herein.

50. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 50 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 50.

51. State Farm admits that, at all relevant times, it is an insurance corporation organized under the laws of the State of Illinois and is authorized to engage in the business of insurance in the State of Missouri. State Farm further admits that Chad Davis, Raquel Schempp, and Audra Jackson are State Farm agents with their principal place of business in Kirksville, Adair County, Missouri. Except as so stated, State Farm denies the allegations set forth in ¶ 51.

52. Paragraph 52 states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that Plaintiff has a “claim” that entitles it to any relief. Except as so stated, State Farm denies the allegations set forth in ¶

52.

53. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 53 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 53.

54. State Farm lacks information or knowledge sufficient to admit or deny whether Tracy Cupp executed the document described in ¶ 54 and therefore denies the same. Paragraph 54 also states a legal conclusion to which no response is required. To the extent a response is required, State Farm denies that allegation. State Farm denies the allegations set forth in the second sentence of ¶ 54 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 54.

55. State Farm lacks information or knowledge sufficient to admit or deny the allegations of ¶ 55 and therefore denies the same. Except as so stated, State Farm denies the allegations set forth in ¶ 55.

56. State Farm admits that Plaintiff provided State Farm with a document entitled “Insured’s Notification of Repairs” and states that such document speaks for itself and State Farm denies any allegations based upon a mischaracterization of the same. State Farm denies the last sentence of ¶ 56 as there were no exhibits attached to the Second Amended Petition (in either the copy provided to counsel for State Farm or the copy filed with the Court and available online for review). Except as so stated, State Farm denies the allegations set forth in ¶ 56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

State Farm admits that Plaintiff in its unnumbered “WHEREFORE” paragraph asks the Court for certain relief described therein but denies that Plaintiff is entitled to any such relief in law or in equity. Except as so stated, State Farm denies the allegations set forth in that paragraph.

WHEREFORE, having fully answered, State Farm prays that the Court enter its order dismissing Plaintiff The Collision Company’s Second Amended Petition with prejudice, awarding State Farm its costs and expenses herein, and for such other and further relief as the Court deems just and proper under the circumstances.

JURY DEMAND

State Farm hereby requests a trial by jury.

GENERAL DENIAL

State Farm denies all allegations of Plaintiff’s Second Amended Petition that are not expressly admitted in the preceding paragraphs of this Answer.

AFFIRMATIVE AND OTHER DEFENSES

1. Some or all of the five claims arising out of Plaintiff’s alleged relationships with those individuals identified above (“State Farm’s Insureds or Claimants”) fail to state a claim upon which relief may be granted.

2. Plaintiff has failed to comply with Rule 55.05 of the Missouri Rules of Civil Procedure, as certain matters have not been pled with the requisite particularity and/or specificity. By way of example, Plaintiff does not describe with any specificity what alleged actionable statements or “misrepresentations of fact” were made by State Farm and/or its agents in connection with Counts I, II, IV, or V. Nor does Plaintiff identify for any of its counts who at State Farm, or what representative of State Farm, made the alleged actionable statements.

3. Some or all of the claims may be barred by the applicable statutes of limitations.

4. Plaintiff had no contract or valid business expectancy with State Farm’s Insureds or Claimants.

5. State Farm lacked knowledge of contracts or other lawfully protected relationships between Plaintiff and State Farm’s Insureds and/or Claimants.

6. State Farm’s Insureds or Claimants did not breach any contract with Plaintiff.

7. State Farm’s conduct does not constitute intentional interference.

8. State Farm’s conduct was justified because, among other things, State Farm had a legitimate economic interest in the transactions at issue.

9. Some or all of the claims are barred by the doctrines of laches and unclean hands.

10. Some or all of the claims are barred because State Farm complied with all applicable statutes and with the requirements and regulations of the appropriate regulatory agencies, including 20 C.S.R. §100-1.050(2)(F).

11. Some or all of the claims may be barred by the doctrine of “*ex dolo malo non oritur actio*.”

12. Some or all of the claims or the requested remedies may be barred by reason of Plaintiff’s ratification of, or acquiescence, agreement or consent, as well as by merger.

13. Some or all of the claims or the requested remedies may be barred by the failure of conditions precedent.

14. Plaintiff has failed to demonstrate any basis for equitable relief.

15. Some of Plaintiff’s claims are barred by lack of privity and/or duty.

16. Some or all of the claims are barred by the applicable provisions of the contracts and/or agreements at issue in this litigation.

17. Some or all of the claims are barred because Plaintiff’s conduct was the direct and proximate cause of any alleged damages it suffered in relation to its business relationship with State Farm’s Insureds or Claimants. Such conduct was an intervening, superseding or sole cause of Plaintiff’s alleged injuries, which prohibits the imposition of liability on State Farm.

18. To the extent Plaintiff is seeking or intends to seek damages, Plaintiff’s recovery, if any, should be barred or reduced by its own contributory or comparative negligence or fault.

19. Some or all of the claims may be barred by the doctrines of merger, waiver or discharge.

20. Some or all of the claims may be barred by lack of standing and/or dissolution of entity.

21. Plaintiff's claim for punitive damages exceeds the statutory limit on the award of punitive damages set forth in RSMo. § 510.265.

22. A punitive damage award against State Farm would contravene provisions of the Missouri Constitution and the Constitution of the United States, including, but not limited to, Article I, Bill of Rights, Sections 10, 19 and 21 of the Constitution of the State of Missouri, including Sections 9 and 18 of the Bill of Rights and the Fifth, Eighth and Fourteenth Amendments to the United States Constitution. Further, a punitive damage award would deprive State Farm of property without due process of law and deny it equal protection of the law. Further, an award of punitive damages is precluded because, *inter alia*, the standards for same are too vague to give notice of the conduct prohibited, and they would subject State Farm to multiple jeopardy, excessive fines and unusual punishment. Such damages are also precluded by R.S. Mo. § 400.1-106.

23. A punitive damage award against State Farm would deny State Farm of its property without due process of law in violation of the 5th and 14th Amendments to the Constitution of the United States and/or Article 1, Section 2 and/or 10 of the Constitution of the State of Missouri because there are insufficient legal standards for the jury to determine the amount of any such damages so as to allow awards that: (1) are grossly

excessive or wholly disproportionate to the offense and obviously unreasonable; and (2) gives State Farm no notice of the consequences of its conduct.

24. A punitive damage award against State Farm without sufficient legal standards to determine the amount that may be awarded is unconstitutional because it serves to deny State Farm of its right of access to the courts as guaranteed by the due process clause of the 5th and 14th Amendments to the Constitution of the United States and/or Article 1, Sections 2, 10 and/or 14 of the Constitution of the State of Missouri.

25. An award of punitive damages against State Farm, including one in association with the Tort Victims Compensation Fund as set forth in R.S. Mo. § 537.675, is unconstitutional because it constitutes a fine, punishment or payment in violation of the Excessive Fines Clause of the United States Constitution's Eighth Amendment and in violation of the Missouri Constitution, Article 1, Section 21.

26. Plaintiff's claim for punitive damages is unconstitutional because it seeks to punish State Farm without the protection of Constitutional safeguards, including, but not limited to, proof beyond a reasonable doubt, and/or a standard higher than "a preponderance of the evidence," the right to a speedy trial, the prohibition against double jeopardy and freedom from self-incrimination during the discovery process and trial, which are guaranteed under the Fifth, Sixth, Eighth and Fourteenth Amendments of the Constitution of the United States and the Constitution of the State of Missouri, Article 1, Sections 18(a), 19, 21 and 22(a); and any law of the State of Missouri Courts which would permit Plaintiff to recover punitive damages without the protection of such safeguards is unconstitutional.

27. Plaintiff's request for punitive damages and/or subsequent imposition of punitive damages against State Farm constitutes cruel and unusual punishment in violation of the 8th Amendment of the United States Constitution.

28. Plaintiff's request for punitive damages and/or subsequent imposition of punitive damages against State Farm constitutes cruel and unusual punishment in violation of Missouri Constitution, Article 1, Section 21.

29. A punitive damages award deprives State Farm of property without due process of law in violation of its rights under the 5th and 14th Amendment to the United States Constitution and Article 1 of the Bill of Rights, Section 10 and 13 of the Constitution of Missouri by imposition of a retroactive standard governing the liability for and the amount of the penalty.

30. A punitive damage award deprives State Farm of property without due process of law in violations of the Bills of Attainder and Ex Post Facto clauses of the United States Constitution, Article 1, Section 9, Clause 3; Article 1, Section 10, Clause 1 and Article 1, Bill of Rights, Section 13 of the Constitution of Missouri by imposition of retroactive standard governing liability for damages based on aggravating circumstances and the amount of damages.

31. The imposition of a punitive damage award as punishment which may be awarded by less than a unanimous verdict violates the 6th Amendment and Article 3, Section 2 of the United States Constitution and Article 1, Bill of Rights, Section 22(a) of the Constitution of Missouri.

32. A punitive damage award deprives State Farm of property without the due process of law and further deprives State Farm of the equal protection of the laws in violation of State Farm's rights under the 5th and 6th Amendments to the United States Constitution and Article 1, Bill of Rights, Sections 10 and 12 of the Constitution of Missouri, because the jury is told to take into consideration the evidence of Defendant's net worth, implying to the jury that it would be more appropriate to punish Defendant than another defendant under similar circumstances who had a lesser net worth.

33. A punitive damage award deprives State Farm of property without due process of law in violation of its rights under the 5th and 14th Amendments to the United States Constitution and Article 1, Bill of Rights, Sections 10 and 19 of the Constitution of Missouri because such an award results in multiple punishments for a single act or course of conduct.

34. A punitive damage award deprives State Farm of property without due process of law in violation of its rights under the 5th and 14th Amendments to the United States Constitution and Article 1, Bill of Rights, Sections 2 and 10 of the Constitution of Missouri since Missouri law erroneously permits arbitrary, capricious and discriminatory enforcement of said laws.

35. The MAI 10.01 is unconstitutional and violates State Farm's rights under the 5th and 14th Amendments to the United States Constitution and Article 1, Bill of Rights, Sections 2, 10, 18, 19, 21 and 22 of the Constitution of the State of Missouri.

36. Some or all of the claims may be barred because Plaintiff's alleged damages, if any, are speculative and because of the impossibility of the ascertainment and allocation of such damages.

37. State Farm reserves the right to assert any additional defenses which may arise as discovery progresses or otherwise in the course of this litigation.

PRAYER FOR RELIEF

WHEREFORE, having fully answered, State Farm prays that the Court enter its Order dismissing Plaintiff's Second Amended Petition with prejudice, awarding State Farm its costs and expenses herein, and for such other and further relief as the Court deems just and proper under the circumstances.

Dated: August 30, 2024

Respectfully Submitted:

DOWD BENNETT LLP

By: /s/ Robert F. Epperson, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2024, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Robert F. Epperson, Jr.