

IN THE DISTRICT COURT OF GRADY COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
Grady County, Oklahoma

JAN 12 2007

Lois Foster, Court Clerk  
By Deputy

DONALD L. WATKINS, JR. and )  
BRIDGET WATKINS, individually )  
and as representatives of a class of )  
similarly situated individuals, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
STATE FARM FIRE & CASUALTY )  
COMPANY and DANNY WALKER, and )  
other similarly situated agents of State Farm )  
Fire & Casualty Company, )  
 )  
Defendants. )

Case No. CJ-2000-303

**ORDER SUSTAINING PLAINTIFFS' MOTION FOR CONTEMPT AND FOR  
SANCTIONS AGAINST DEFENDANT, STATE FARM FIRE & CASUALTY COMPANY**

On the 21<sup>st</sup> day of December, 2006, the above-styled and numbered cause came on for hearing before the undersigned Judge on Plaintiffs' Motion for Contempt and for Sanctions Against Defendant, State Farm Fire & Casualty Company. Defendant, State Farm, appeared by and through its counsel of record, Tom Cordell, Anton Rupert, Rustin Strubhar, David Jones and LeAnne Burnett. Plaintiffs appear by and through Jeff D. Marr, Attorney at Law. Upon review of the written briefs filed by the parties, after hearing oral arguments, viewing excerpts from videotaped depositions, and being otherwise fully advised in the premises, this Court sustains Plaintiffs' Motion for Contempt and for Sanctions Against Defendant, State Farm Fire & Casualty. In making its ruling, this Court finds the conduct displayed by State Farm and its counsel to be obstructive, contemptuous, and in bad faith. In sustaining Plaintiffs' Motion for Contempt and for Sanctions, this Court hereby imposes the following sanctions upon Defendant, State Farm,

to penalize it for its contemptuous behavior and to deter similar conduct in the future.

Therefore, IT IS SO ORDERED that:

1. Defendant, State Farm, intentionally violated this Court's Order dated November 6, 2006, and that State Farm is in contempt of the Court's Order;

2. That Defendant's violation of the Court's Order dated November 6, 2006, was willful, deliberate and in bad faith;

3. Plaintiffs are hereby awarded the costs and attorneys' fees incurred in bringing this Motion and the underlying Motion to Compel and For Sanctions. Plaintiffs' counsel shall submit their bill of costs to this Court within five (5) days of this order;

4. Defendant, State Farm shall immediately and unconditionally comply with this Court's November 6, 2006, Order sustaining Plaintiffs' Motion to Compel by producing to this Court no later than the end of business on January 19, 2007, the following: a) all documents requested by Plaintiffs in their first set of post-verdict requests for production, without redactions or omissions. In addition, complete and unredacted copies of all documents withheld on a claim of privilege shall also be presented to the Court for in-camera inspection by the end of business on January 19, 2007, so that this Court can make a determination whether these documents are in fact privileged; and b) full, complete and verified answers, to all of Plaintiffs' first set of post-verdict interrogatories numbered 2, 3, 4, 5, 6, 7, 9, 10 and 11, without objection or claim of privilege. As further sanction for its contemptuous behavior, State Farm shall pay the sum of \$1,000.00 per day for each day of non-compliance after the end of business on January 19, 2007.

5. Defendant, State Farm, shall produce its 12 O.S. 3230(C)(5) corporate designees, Daniel Carrigan and Michael Carroll, for further sworn testimony in Oklahoma on a mutually agreed upon date and time, not later than January 19, 2007. The Court further orders all costs associated with these depositions, including court reporter and videographer fees, shall be paid by State Farm, and that defense counsel are prohibited from making any objection other than "objection to the form" during said depositions;

6. State Farm's 3230(C)(5) corporate designees, Michael Carroll and Daniel Carrigan, are to obey their trial subpoenas served upon them during their respective depositions or State Farm and its counsel risk further sanctions the morning of trial;

7. Defendant, State Farm, and its counsel repeatedly and in bad faith engaged in litigation misconduct during the following court ordered depositions: Susan Hood I; Susan Hood II; Michael Carroll; Daniel Carrigan; Deborah Traskell; and Jack North. At the time of these depositions, State Farm had the right to control and is therefore responsible for the actions and positions taken by its witnesses and selected counsel who are attorneys retained on a regular basis by State Farm. Plaintiffs are awarded their expenses, costs and attorneys' fees incurred for each of the aforementioned depositions so as to sanction State Farm for its obstructionist behavior and to deter future abuses. Plaintiffs shall submit a bill of costs within five (5) days from the date of this Order;

8. State Farm shall reimburse Plaintiffs for all costs and attorney fees incurred by Plaintiffs in attempting to secure the deposition of Michael Traynor. Plaintiffs shall submit a bill of costs within five (5) days from the date of this Order;

9. State Farm's counsel is prohibited from making any suggestive or obstructive speaking objections during all future depositions. Any objection made shall be limited to stating "objection to the form";

10. State Farm shall be prohibited at trial from referencing in any manner its "investigation" results relating to Haag Engineering, or independent adjusters as being somehow exculpatory;

11. Pursuant to 12 O.S. §3237(B)(2)(a), matters regarding the November 6, 2006, Order sustaining Plaintiffs' Motion to Compel and for Sanctions or any other designated facts shall be taken to be established for the purposes of this action in accordance with the claims made by Plaintiffs in obtaining the Order sustaining Plaintiffs' Motion to Compel;

12. Plaintiffs' proposed jury instruction attached as hereto as Exhibit "A", which is specifically supported by the Oklahoma Supreme Court in *Payne v. Dewitt*, 995 P.2d 1088 (Okla. 1999), and which advises defendant has been found guilty of litigation misconduct in obstructing or refusing to answer appropriate deposition questions and that had answers been forthcoming, the jury may presume they would be detrimental to State Farm's interests, is hereby adopted by this Court.

13. State Farm shall be denied the opportunity to present defense evidence concerning any matter which it declined to disclose during discovery under a claim of attorney-client privilege, specifically including evidence concerning Gulf Coast claim

handling and an alleged investigation of Haag Engineering through Michael Traynor, and State Farm's utilization of independent adjusters;

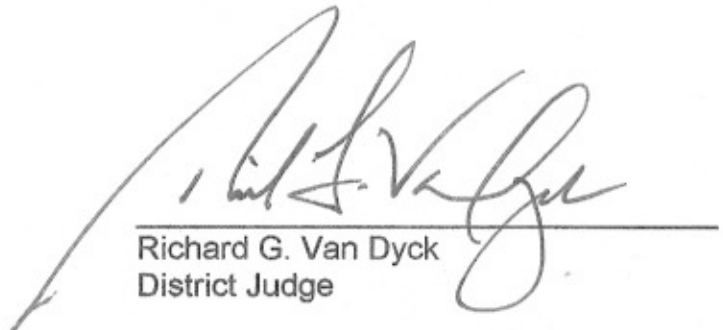
14. Defendant shall be prohibited from conducting any further discovery in this matter other than that which is specifically outlined in this Order or any other Order which may be issued by this Court hereinafter.

15. All other relief requested by Plaintiffs not specifically referenced herein is denied.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Plaintiffs' Motion for Contempt and for Sanctions Against State Farm Fire & Casualty is **SUSTAINED** and the Court hereby imposes the sanctions referenced above.

**IT IS SO ORDERED!**

Dated this 12<sup>th</sup> day of January, 2007.



Richard G. Van Dyck  
District Judge

Court Clerk,  
Please send a copy to  
all counsel of record

JURY INSTRUCTION NO. \_\_\_\_\_

You are instructed that the court has determined that defendant wrongfully refused to participate in good faith in the timely production of documents to plaintiffs and in witnesses refusing to answer relevant questions under oath concerning State Farm's handling of Gulf Coast claims following Hurricanes Katrina and Rita. This refusal included State Farm's use of Haag Engineering Company and E. A. Renfroe Company in the handling of these claims. Additionally, witnesses associated with the defendant wrongfully refused to answer questions under oath concerning an investigation of Haag Engineering Co. State Farm asserts it instituted following the May 25, 2006, *Watkins*' verdicts against it.

You are instructed that you are entitled, but not required, to infer that had defendant timely produced all relevant documents and had witnesses been forthcoming in their testimony, it would have resulted in information being disclosed which would have been detrimental to defendant's interests and/or supportive of plaintiffs' claims.

Authority: 12 O.S. § 3237(b)(2); *Payne v. Dewitt*, 995 P.2d 1088 (Okla. 1999).

**EXHIBIT "A"**

\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

EXCEPTIONS ALLOWED: \_\_\_\_\_

**EXHIBIT "A"**