

BAD FAITH BLOG

You Ain't Got No Class: Seventh Circuit De-Certifies Class of Insureds Seeking Injunctive Relief

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Summary: Seventh Circuit de-certifies class of homeowner insureds seeking the injunctive relief of a uniform standard for inspecting roof damage cause by massive hailstorm. Also, The Seventh Circuit also agrees with District Court's decision not to certify class for bad faith claims due to individualized nature of evidence to prove claim.

Kartman et al. v. State Farm Mutual Automobile Insurance Company et al. 634 F.3d 883 (7th Cir. 2011)

After a severe hail storm struck central Indiana in April 2006, thousands of homeowners filed claims with State Farm for hail damage to the roofs of their homes. State Farm paid more than \$236 million in property damage claims resulting from the hail storm. However, not all the policy holders were satisfied with their payments. Therefore, a suit was brought as a class action on behalf of approximately 7,000 policy holders and alleged that State Farm engaged in pervasive under-compensation of roof damage claims stemming from the hail storm. As part of their theory that State Farm breached its contract and committed bad faith, the plaintiffs alleged that State Farm failed to implement a uniform "reasonable, objective" standard for assessing hail damaged roofs. The lawsuit sought damages and an injunction requiring State Farm to re-inspect all class members' roofs pursuant to a "uniform, reasonable, and objective" standard for evaluating hail damage. State Farm removed the case to federal court.

The plaintiffs moved to certify a damages class (FRCP 23(b)(3) and also – or alternatively – a class for injunctive relief (FRCP 23(b)(2)). The district court declined to certify a damages class, holding that each plaintiff's claim of under-payment required an individualized factual inquiry on the merits. However, the district court concluded that class claims for injunctive relief could proceed to determine whether State Farm should be required to re-inspect insured's roofs pursuant to a "uniform and objective standard."

The Seventh Circuit reversed the district court's order and remanded with instructions to de-certify the class. The Seventh Circuit found it was not appropriate to certify the class under Rule 23(b)(2), which applies to class certification for injunctive relief. The proper remedy for the plaintiff's suit for breach of contract and for bad faith denial of insurance benefits was damages. There was no contract or tort based duty requiring State Farm to use a particular standard for assessing hail damage. As such, there was no independent cognizable wrong to support a claim for injunctive relief requiring State Farm to conduct class wide roof re-inspection pursuant to a "uniform and objective" standard.

Additionally, this was not "final injunctive relief" that is "appropriate respecting the class as a whole." FRCP 23(b)(2). The relief was not appropriate because the normal remedy for wrongful denial of insurance benefits is damages, and not equitable relief. Moreover, the injunction envisioned by the plaintiffs would not be a final remedy. A class wide roof re-inspection would only lay an evidentiary foundation for subsequent individual determinations of liability and damages.

Under Indiana's tort of bad faith, the plaintiffs must prove State Farm engaged in an unfounded refusal to fully pay their claims. There was no allegation suggesting deceit or unfair advantage as the basis for the bad faith claim. Moreover, the plaintiffs cited no authority for the proposition that an insurer's use of an *ad hoc* loss assessment standard qualified as an independent basis for bad faith liability. Bad faith arose only when an insurance claim was wrongfully denied and the insurer knew there was "no rational, principled basis for denying the claim." This requirement alone barred class certification because it could not be established on a class wide basis. State Farm's inconsistent approach to hail damage estimating (if it was inconsistent) might be evidence tending to show that the insurer underpaid some hail damage claims. However, it did not independently establish bad faith liability or support a separate injunctive remedy.

The Seventh Circuit, by decertifying plaintiffs' class, dealt a blow to insureds (and their attorneys) who attempt to bring class action suits based on bad faith theories. The individualized nature of bad faith claims, in Indiana and many other jurisdictions, preclude class certification for these types of claims. The Seventh Circuit, by agreeing with the district's court's denial of class certification for the insured's damages class, provides further support for challenging future class actions based on bad faith claims.