

Mississippi's First Katrina Insurance Jury Trial Addresses Burdens of Proof and Awards Punitive Damages



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On Thursday, January 11, 2007, the first Mississippi jury to decide an insurance coverage dispute arising out of Hurricane Katrina awarded \$2.5 million dollars in punitive damages to the policyholders. After Hurricane Katrina reduced the policyholders' Mississippi home to a slab, the homeowners' insurer, State Farm Fire & Casualty Co. ("State Farm"), denied the claim in full. State Farm argued that the total loss was caused by storm surge, a cause of loss excluded from coverage under the homeowners' policy. The policyholders insisted that wind, a covered cause of loss, had contributed to the loss, and filed a suit named *Broussard v. State Farm Fire & Casualty Co.* (S.D. Miss. No. 1:06CV6).

Hours before the jury's award, Mississippi District Court Judge L.T. Sentor issued a Judgment as a Matter of Law that took a part of the case away from the jury. The Judge ruled that the insurer failed to carry its burden of proving the extent to which the damages were caused by storm surge, an excluded cause of loss. Once the policyholder established that wind contributed to the loss, the burden shifted to the insurer to prove the extent to which the loss was caused by storm surge. The Judge ruled that State Farm failed to present credible evidence that the entire loss was caused by storm surge, and noted that State Farm had conceded that wind contributed to the loss. Instead, he ruled that State Farm inappropriately attempted to shift the burden onto the policyholders to prove the extent of the damages caused by wind, a covered cause of loss. The Judge ruled that State Farm was therefore obligated to pay to the policyholders the full value of the policy, or \$233,292, for their property and contents losses.

Judge Sentor held that State Farm's denial of the claim in full was unreasonable and forced the policyholders to file suit. He additionally held that State Farm acted unreasonably by attempting to shift the burden of proof onto the policyholders. The court instructed the jury to decide whether State Farm should pay punitive damages for the manner in which it handled the policyholders' claim. The jury returned with a very significant award of punitive damages.

State Farm's attorneys indicated that it will appeal the judgment and the amount of the punitive damages award.

For additional information contact [Jay Rosenquest](#).