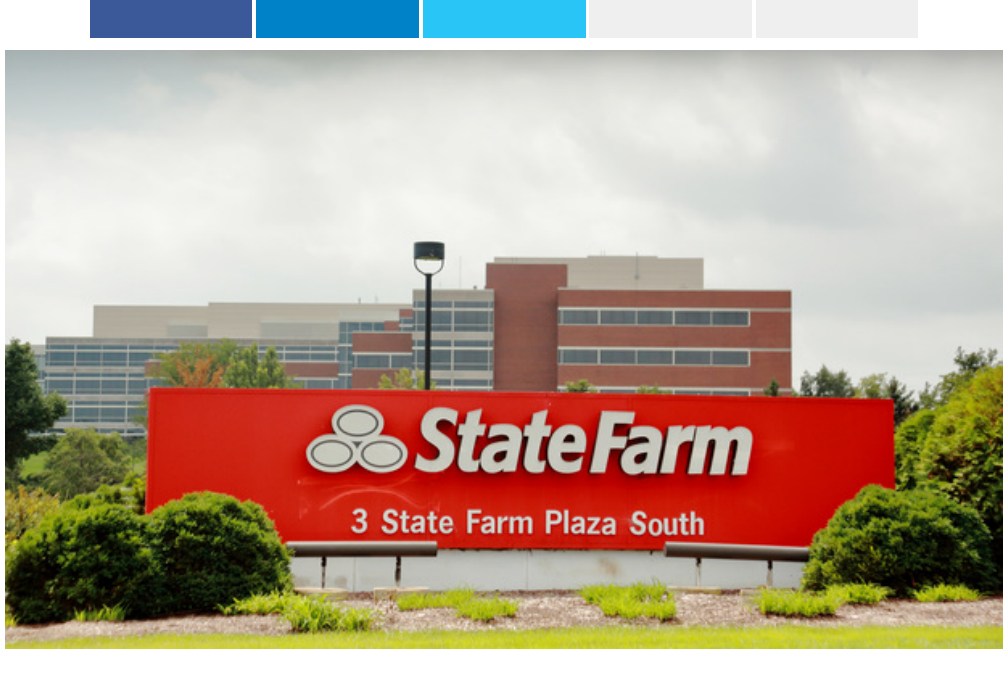
News

Court of Appeal Revives Bad Faith Suit Against State Farm Over Wildfire Damage

The decision is a blow to insurers who have relied on the so-called "genuine dispute" doctrine to knock out bad faith claims pretrial.

By **Ross Todd** | June 09, 2020 at 06:56 PM



State Farm's corporate headquarters. Photo: C.J. Hanevy/Shutterstock.com

A California appellate court has revived a bad faith insurance lawsuit against State Farm General Insurance Co. brought by a family whose home was damaged in a 2015 California wildfire.

In **a decision** that was issued last month and published Monday, the First District Court of Appeal found that expert testimony does not automatically insulate an insurer from bad faith claims and that questions of whether an expert's inspection was biased is a jury question.

The decision reverses a decision from a Mendocino County Superior Judge Jeanine Nadel who granted State Farm's motion for summary judgment under the so-called "genuine dispute" doctrine. Under the doctrine, an insurer denying or delaying payment of policy benefits is immune from bad faith claims so long as there's a genuine dispute about the existence of coverage or the amount, even though the insurer might be liable for breach of contract.

Dylan Schaffer of Kerley Schaffer, who represents the plaintiffs in the case, Leonard and Patricia Fadeeff—whose home in Hidden Valley Lake was smoke damaged but not destroyed in the 2015 Valley Fire that burned more than 75,000 acres in Northern California—said that the decision offers clarity on a doctrine that's "wildly overused" by insurers.

"The opinion is an acknowledgment that to the extent that an insured can point to bias, that's a jury question," Schaffer said.

According to the decision, State Farm has paid $50,000 to the Fadeeff family after the initial adjuster the company sent to the home reported smoke and soot on the interior walls, ceilings and carpeting, and on the exterior, deck and handrail. The Fadeeffs hired another licensed adjuster and submitted supplemental claims for additional repairs, including interior smoke damage and exterior paint damage caused by pressure washing, totaling about $75,000.

State Farm used a different independent adjuster James Carpenter, who isn't a licensed adjuster in the state to investigate the supplemental claims. Carpenter denied the Fadeeffs' supplemental claims for damage to the interior carpet and wallpaper and the exterior paint finding that the damage was due to typical wear, tear and deterioration, even though State Farm's earlier adjuster had concluded that the home was "well maintained with no deferred maintenance."

In the decision, First District Justice Marla Miller called attention to the apparent contradictory conclusions reached by the two adjusters hired by State Farm. "Was there preexisting wear and tear or was there damage to a well-maintained home by power washing after a wildfire?" Miller wrote, in an opinion joined by Presiding Justice J. Anthony Kline and Justice James Richman. "To ask the question shows that State Farm has not established that it is 'undisputed or indisputable that the basis for the insurer's denial of benefits was reasonable.'"

A spokesman for State Farm didn't immediately provide any comment on the decision. The company was represented by Sandra Stone of Pacific Law Partners, who didn't respond to a request for comment.

Schaffer, the Fadeeffs' lawyer, said that underlying dispute is only over a few hundred thousand dollars, his firm thought that it was important to take up on appeal because of the amount of "general dispute" arguments they're seeing insurers make in bad faith cases, especially in cases involving homes that have been damaged but not destroyed in recent wildfires across the state.

"This is not a very big case from a purely financial standpoint, but we thought it was the right way to explain to the court that this doctrine should be very narrowly applied," he said. "I hope that this opinion and opinions like it will continue to roll out saying 'No, no, no. This is a jury question.'"

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