

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

Association Casualty Insurance Company;)
Benchmark Insurance Company; Georgia)
Casualty & Surety Company; and National)
Security Fire and Casualty Company,)

Plaintiffs,)

v.)

Case No. 2:09-CV-00024-KS-JCS

Allstate Insurance Company; Mississippi Farm)
Bureau Mutual Insurance Company;)
Nationwide Mutual Fire Insurance Company)
d/b/a Nationwide Insurance Companies; State)
Farm Fire and Casualty Company; St. Paul)
Travelers Companies,)

Defendants.)

**DEFENDANT STATE FARM FIRE AND CASUALTY
COMPANY'S MOTION FOR JUDGMENT AS A MATTER OF LAW**

Pursuant to Rule 50(a) of the Federal Rules of Civil Procedure, Defendant State Farm Fire and Casualty Company ("State Farm") is entitled to judgment as a matter of law on the issue of whether State Farm was appointed to membership on the Board of Directors ("the Board") of the Mississippi Windstorm Underwriting Association ("MWUA") for the years 2003 through 2005. State Farm would show:

1. As set forth more fully in the accompanying brief, the facts and inferences point so strongly and overwhelmingly in favor of State Farm that no reasonable juror could conclude that State Farm was a member of the MWUA Board of Directors. Because State Farm was not a member of the MWUA Board during the relevant time period, State Farm, as a matter of law, cannot be held directly liable for the Plaintiffs' claims.

2. Moreover, Plaintiffs have failed to submit any evidence that Sam Branch or J.D. Sparks were acting as State Farm's agents when they served on the MWUA Board. To the contrary, the evidence presented demonstrates that Mr. Branch and Mr. Sparks acted in their individual capacities with no direction or control from State Farm. Because Sam Branch and J.D. Sparks were not acting as agents for State Farm when they served on the MWUA Board, State Farm cannot, as a matter of law, be held vicariously liable for their actions.

WHEREFORE, PREMISES CONSIDERED, because Plaintiffs have failed to establish any legal or factual basis for State Farm's direct or vicarious liability in this case, their claims should be dismissed as a matter of law.

This the 16th day of March, 2009.

Respectfully submitted,

STATE FARM FIRE AND CASUALTY COMPANY

By: s/E. Barney Robinson III (MSB #09432)

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ATTORNEYS FOR STATE FARM FIRE AND CASUALTY
COMPANY

CERTIFICATE OF SERVICE

I, E. Barney Robinson III, one of the attorneys for State Farm, do hereby certify that I have this day caused a true and correct copy of the foregoing instrument to be delivered to all counsel of record, via the means directed by the CM/ECF system.

THIS the 16th of March, 2009.

/s/E. Barney Robinson III
E. BARNEY ROBINSON III