

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

**REGINALD EDWIN BOSSIER**

**PLAINTIFF**

**VERSUS**

**CAUSE NO. 1:08-cv-408-LTS-RHW**

**STATE FARM FIRE AND CASUALTY COMPANY**

**DEFENDANT**

**MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON DWELLING EXTENSION**

COMES NOW the Plaintiff, by and through counsel of record, and files this his Motion for Partial Summary Judgment on Dwelling Extension and for cause therefore would show unto the Court the following, to-wit:

1.

Plaintiff's home was severely damaged by Hurricane Katrina, to the extent it required demolition.

2.

In addition to damage to his dwelling, a separate outbuilding was completely destroyed down to the slab. In addition, his wooden fence was likewise destroyed.<sup>1</sup>

3.

The separate outbuilding and fence are covered under the State Farm policy for "dwelling extension." See ECF 77-6 at page 28 of 56.

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<sup>1</sup>The separate outbuilding was a substantial brick building of almost 1,000 square feet. State Farm has never contested that its value equals or exceeds the policy limits.

4.

The recent 30(b)(6) deposition of State Farm maintains that the coverage available for dwelling extension is \$66,001.00. See, Exhibit 1 at p. 43.<sup>2</sup>

5.

State Farm has failed and refused to pay anything for the loss of Mr. Bossier's dwelling extension.

6.

During the claims adjustment process, and prior to filing suit, Plaintiff provided State Farm with an affidavit of his nearby neighbor, Mr. Ziz, who witnessed the total destruction of the outbuilding and fence prior to the arrival of water. See, Exhibit 2.

7.

Subsequent to the filing of suit, State Farm took a recorded statement of Mr. Ziz confirming his eye witness account. See, Exhibit 3.

8.

Mr. Ziz's sworn deposition testimony (Exhibit 4) confirms without contradiction his eyewitness account of the destruction of the outbuilding and fence prior to the arrival of water.

9.

State Farm has produced no proof contrary to the personal knowledge of Mr. Ziz.

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<sup>2</sup>This amount included Option ID and inflation factor additions.

10.

The policy provides coverage for “accidental direct physical loss” and “windstorm.”

11.

It is uncontradicted that Hurricane Katrina is a “windstorm” and that loss caused by it is an “accidental direct physical loss.”

12.

No genuine issue of material fact exists concerning Plaintiff’s entitlement to policy limits for the dwelling extension in the amount of \$66,001.00 and Plaintiff is entitled to judgment as a matter of law as to said claim.

13.

Located in the dwelling extension were various contents. A contents list for this personal property has been provided to State Farm and totals \$52,300.00. See, Exhibit 5.

14.

In addition to coverage for dwelling extension, State Farm has failed to produce any evidence that the personal property located in the dwelling extension was not destroyed by wind prior the arrival of water.

15.

Plaintiff is likewise entitled to partial summary judgment in the amount of \$52,300.00 for the loss of personal property.

16.

Defendant had no legitimate, arguable basis for denial of the dwelling extension claim nor for the contents located within same. Plaintiff is entitled to attorney's fees and expenses for the prosecution of those claims.

17.

In addition, Plaintiff is entitled to interest on said amounts and the issue of punitive damages should be submitted to the jury given State Farm's lack of an arguable reason for denial of the dwelling extension and dwelling extension's contents claims.

18.

Since this motion is based on uncontested facts, Plaintiff requests that the necessity of a separate memorandum be waived.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests this Honorable Court enter its order granting Plaintiff's Motion for Partial Summary Judgment on Dwelling Extension as set forth herein and awarding Plaintiff the total sum of \$66,001.00 for dwelling and \$52,300.00 for dwelling extension contents. Moreover, Plaintiff is entitled to attorney fees and expenses on these claims given the lack of arguable reason, and would suggest an additional 33% be added to same. Finally, interest should be awarded and the issue of punitive damages should be submitted to the jury at the trial of this cause. Plaintiff prays for such other and further relief as may be deemed appropriate.

THIS the 7<sup>th</sup> day of August, 2009.

Respectfully submitted,

REGINALD EDWIN BOSSIER

BY: */s/ Judy M. Guice*

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**CERTIFICATE OF SERVICE**

I, Judy M. Guice, counsel for Plaintiff, do hereby certify that I have this day electronically filed the foregoing with the Clerk of this Court using the ECF system which sent notification of such filing to the following:

H. Benjamin Mullen, Esquire  
John A. Banahan, Esquire  
Bryan, Nelson, Schroeder, Castigliola & Banahan, PLLC  
P. O. Drawer 1529  
Pascagoula, MS 39568

This the 7<sup>th</sup> day of August, 2009.

*s/Judy M. Guice*

JUDY M. GUICE (MSB #5057)