

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

HENRY KUEHN AND JUNE P. KUEHN

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:08CV577-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY  
AND JOHN DOES 1 THROUGH 10

DEFENDANTS

**PLAINTIFFS' REPLY TO**  
**STATE FARM FIRE AND CASUALTY COMPANY'S [109] RESPONSE IN**  
**OPPOSITION TO PLAINTIFFS' [108] MOTION TO ENFORCE SETTLEMENT**

COME NOW the Plaintiffs, HENRY KUEHN and JUNE P. KUEHN, by and through their attorneys of record, DENHAM LAW FIRM, PLLC, and would reply to State Farm Fire and Casualty Company's [109] Response in Opposition to Plaintiffs'[108] Motion to Enforce Settlement, and would show as follows:

1. On May 13, 2010, John Banahan, Esquire, attorney for State Farm Fire and Casualty Company, following negotiations which had been ongoing for a long time, offered a sum of money which was then presented to the Plaintiffs by their attorney for settlement in full of the Plaintiff's claim.

2. At no time had there ever been any discussion of State Farm receiving any type of confidentiality agreement from the Plaintiffs.

3. In accepting the offer Plaintiffs' counsel wrote,

"Dear John: My folks have considered your offer over the weekend and are willing to accept \$XXX,XXX to settle their claim with State Farm.

The release language should simply be standard language without any reference to confidentiality, as that has not been any part of our discussion."

See attached Exhibit "A," Letter from Denham to Banahan dated May 17, 2010, with settlement amount redacted.

4. State Farm makes no assertion to the contrary, but instead attempts to spin the letter as an attempt by the Plaintiffs to add new conditions to the settlement agreement, which is entirely contrary to the facts as pleaded by both sides.

5. The only agreement the parties had was to settle the claim for a specified amount of money. If State Farm wished to receive in the settlement negotiations a confidentiality agreement, this would have formed a part of the discussions which led to the final settlement, but State Farm never one time expressed any interest in receiving or paying the Kuehns for a confidentiality agreement.

6. The case of *Platcher v. Health Professionals, Ltd.*, 549 F. Supp. 2d 1040, 1043-1044 (C. Dist. Ill. 2008), cited by the Plaintiffs in the [108] Motion to Enforce Settlement, is identical in fact to the instant case and ought to be controlling in this matter.

7. The Plaintiffs are entitled to receive their money without additional conditions being placed on their receipt of their settlement by State Farm apart from their giving up their right to trial.

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs, HENRY KUEHN and JUNE P. KUEHN, respectfully request that the Court GRANT the Plaintiffs' [108] Motion to Enforce Settlement.

Date: May 27, 2010

Respectfully submitted,

**HENRY KUEHN  
AND JUNE P. KUEHN**

BY: DENHAM LAW FIRM, PLLC

BY:     s/Earl L. Denham      
EARL L. DENHAM, MSB# 6047

CERTIFICATE OF SERVICE

I, EARL L. DENHAM, do hereby certify that I electronically filed the above and foregoing *Plaintiffs' Reply to State Farm Fire and Casualty Company's [109] Response in Opposition to Plaintiffs' [108] Motion to Enforce Settlement* with the Clerk of the Court utilizing the ECF system, which provides notification of said filing to the following:

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Bryan, Nelson, Schroeder, Castigliola & Banahan  
P.O. Drawer 1529  
Pascagoula, MS 39568-1529

SO CERTIFIED on this the 27th day of May, 2010.

*s/Earl L. Denham*  
EARL L. DENHAM

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\*\*\* VIA TELECOPIER \*\*\*  
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(1 page)

May 17, 2010

John A. Banahan, Esquire  
Bryan, Nelson, Schroeder, Castigliola & Banahan  
Post Office Drawer 1529  
Pascagoula, MS 39568-1529

Re: Hurricane Katrina (State Farm) BAD FAITH CLAIM  
Henry Kuehn and June P. Kuehn v.  
State Farm Fire and Casualty Company  
Civil Action Number: 1:08cv577-LTS-RHW  
Our File No. 10618-001

Dear John:

My folks have considered your offer over the weekend and are willing to accept \$450,000.00 to settle their claim against State Farm.

The release language should simply be standard language without any reference to confidentiality, as that has not been any part of our discussion.

Sincerely,  
DENHAM LAW FIRM, PLLC

  
EARL L. DENHAM

ELD/tif

cc: Henry Kuehn  
June P. Kuehn

**Exhibit "A"**