

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2004-006714

09/16/2005

HONORABLE REBECCA A. ALBRECHT

CLERK OF THE COURT  
K. Ballard  
Deputy

FILED: 09/21/2005

MARIA WELLS

STEPHEN E SILVERMAN  
THOMAS B DIXON  
RICHARD T TREON

v.

FARMERS INSURANCE COMPANY OF  
ARIZONA, et al.

BRUCE M PRESTON

MATTER TAKEN UNDER ADVISEMENT

8:58 a.m. This is the time set for Oral Argument on various motions. Present on behalf of the Plaintiff are Thomas Dixon and Stephen E. Silverman, and present on behalf of Defendant Farmers Insurance Company of Arizona is Bruce M. Preston.

Court reporter, Antoinette Salazar, is present.

Counsel are advised that the Motion to Strike will be heard in the context of the Motions for Summary Judgment.

Oral argument is presented on Defendant's Motion for Partial Summary Judgment re: Agency and Plaintiff's Cross Motion for Summary Judgment re: Non-Delegable Duty.

Farmers had a non-delegable duty to investigate and adjust the claim. Farmers had no responsibility for the work done by the contractors doing the remediation.

IT IS ORDERED granting the Defendant's Motion for Partial Summary Judgment re: Agency and Plaintiff's Cross Motion for Summary Judgment re: Non-Delegable Duty.

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Oral argument is presented on Defendant's Motion for Partial Summary Judgment regarding Bodily Injury and Mold Contamination Claims.

The parties agree that there is no evidence and will be no evidence that the Plaintiff suffered any physical injury as a result of the mold that was alleged to be in her home. Accordingly,

IT IS ORDERED granting the Motion for Partial Summary Judgment regarding Bodily Injury and Mold Contamination Claims.

Oral argument is presented on Defendant's Motion to Confirm Appraisal Award.

The parties agree, with regard to the property damage which was submitted to the appraisal panel, the value of these claims has been determined, and the appraisal award should be confirmed as to those items of damages.

The questions that remain for trial continue to be whether or not in advance of the appraisal panel hearing Farmers Insurance acted in good faith in its investigation and in its evaluation of the claim. The fact that its evaluation was lower or the fact that the award was different is not determinative of bad faith.

What Farmers did with regard to the Plaintiff's claim which may have caused the appraisal process to be invoked will remain a part of this case. Any concerns with the appraisal process itself, in the way the hearing was conducted, any contact or advocacy by Farmers during that process, is something that would to be resolved through the appraisal process and is not a part of this litigation.

Oral argument is presented on Defendants Motion for Partial Summary Judgment re: Punitive Damages.

IT IS ORDERED taking the Motion for Partial Summary Judgment re: Punitive Damages under advisement.

10:05 a.m. Matter concludes.