

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2000-004331

01/15/2003

HON. PAUL A KATZ

CLERK OF THE COURT
B. Navarro
Deputy

FILED: 01/23/2003

PHILIP KRUMM, et al.

LISA J COUNTERS

v.

ASHEKA REENEA MATTHEWS, et al.

LAWRENCE A PESHKIN

MINUTE ENTRY

The Court having reviewed Plaintiffs' Motion to Reconsider Re State Farm's Motion for Summary Judgment Setting Aside the Appraisal and State Farm's Response thereto; and good cause appearing,

IT IS ORDERED denying Plaintiffs' Motion to Reconsider.

The Court having taken Plaintiffs' Motion to Limit the Scope of the Second Appraisal under advisement; having reviewed the memoranda of the parties and legal authorities cited therein; and good cause appearing,

IT IS ORDERED that State Farm's appraisal must be based upon facts and information that was available to State Farm at the time of Plaintiffs' alleged loss. The Court finds that the decisions made by the Plaintiffs as to how to spend settlement proceeds is irrelevant as regards the actual loss suffered by them at the time of the accident giving rise to the immediate cause of action.

The Court having taken State Farm Fire and Casualty Company's Motion for Partial Summary Judgment on Plaintiffs' Claims for Punitive Damages, Consumer Fraud and Insurance Misrepresentation under advisement; having reviewed the memoranda of the parties and legal authorities cited therein; and good cause appearing,

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IT IS ORDERED denying said motion with respect to Plaintiffs' claim for punitive damages. While the claim for punitive damages is thin at best, this Court finds that there are genuine issues of material fact that remain for trial on this issue.

IT IS FURTHER ORDERED that the trial on punitive damages shall be bifurcated from the trial on liability and compensatory damages, and the issues of punitive damages will not be presented to the jury unless the claim for such damages survives a motion for judgment as a matter of law, pursuant to Rule 50, Ariz.R.Civ.P.

IT IS FURTHER ORDERED granting State Farm's Motion for Summary Judgment regarding consumer fraud and insurance misrepresentation as the language in the insurance policy is not fraudulent or the basis of a claim for misrepresentation.