

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2000-000773

01/08/2004

HON. PAUL A KATZ

CLERK OF THE COURT
B. Navarro
Deputy

FILED: 01/14/2004

TIMOTHY A FEAVEL, et al.

DANIEL B TREON

v.

AMERICAN FAMILY INSURANCE GROUP, et al. JAMES T ACUFF JR.

UNDER ADVISEMENT RULING

The Court having taken Defendants, American Family Mutual Insurance Company's and Thomas Boughton's (collectively "American Family"), Motion for Partial Summary Judgment Re: Arbitration Clause Claims under advisement, having reviewed the memoranda of the parties and the legal authorities cited therein, and good cause appearing,

IT IS ORDERED granting American Family's Motion for Partial Summary Judgment Re: Arbitration Clause Claims.

The Court finds that the policy in dispute, that required arbitration rather than appraisal for non-fire related casualties, was approved of by the Arizona Department of Insurance ("ADOI") on April 23, 1998 and with such approval it was reasonable as a matter of law for American Family to issue the revised policy consistent with such ADOI approval. The Plaintiffs cannot maintain a bad faith claim under these circumstances even if the ADOI's approval of the revised policy was unlawful. Based upon this finding it is unnecessary for this Court to determine whether or not the mandates of A.R.S. §20-1503 apply only to fire/lightning losses, whether the Feavels' claims are time barred or precluded by the Arizona Administrative Review Act, or whether the Federal Arbitration Act preempts the Plaintiffs' claim that the arbitration clause was illegal under Arizona law.