

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JOHN THOMPSON and LEIGH ANN)	
THOMPSON, Individually and on)	
Behalf of All Others Similarly Situated,)	
)	CIVIL ACTION FILE
Plaintiffs,)	NO. 5:14-cv-00032-MTT
)	
v.)	
)	
STATE FARM FIRE AND)	
CASUALTY COMPANY,)	
)	
Defendant.)	

ANSWER OF STATE FARM FIRE AND CASUALTY COMPANY

Defendant State Farm Fire and Casualty Company (“State Farm”) answers the Amended Complaint [Doc. 6] (“Complaint”) as follows. In this Answer, Plaintiffs John and Leigh Ann Thompson are referred to as “Plaintiffs.”

First Defense

The Complaint fails to state a claim upon which relief may be granted.

Second Defense

The Complaint is barred by the language of Section I of the policy, which does not provide coverage for diminished value. The insuring agreement in Section I of the policy covers, subject to terms and conditions, “accidental direct

physical loss to the property,” which does not include diminished value. Similarly, Section I – Loss Settlement does not include payment of diminished value.

Third Defense

Claims of some putative class members are barred by their failure to satisfy Section I policy condition 6, which provides as follows:

6. **Suit Against Us.** No action shall be brought unless there has been compliance with the policy provisions. The action must be started within one year after the date of loss or damage.

Fourth Defense

Claims of some putative class members may be barred by *res judicata*.

Fifth Defense

Claims of some putative class members may be barred by collateral estoppel.

Sixth Defense

Plaintiffs and putative class members lack standing to bring the claims alleged in the Complaint.

Seventh Defense

Plaintiffs’ and putative class members’ claims are not ripe for judicial determination.

Eighth Defense

Plaintiffs' and putative class members' claims are barred by their failure to meet conditions precedent in applicable policies of insurance.

Ninth Defense

Claims of some putative class members may be barred by set-off and/or recoupment.

Tenth Defense

Claims of some putative class members may be barred by release.

Eleventh Defense

Claims of some putative class members are barred by accord and satisfaction.

Twelfth Defense

Claims of some putative class members are barred by payment.

Thirteenth Defense

Claims of some putative class members are barred by statutes of limitations.

Fourteenth Defense

Claims of some putative class members may be barred by discharge in bankruptcy.

Fifteenth Defense

Claims of some putative class members may be barred by estoppel.

Sixteenth Defense

Claims of some putative class members may be barred by waiver.

Seventeenth Defense

Claims of Plaintiffs and some putative class members are barred by the failure to comply with the appraisal clause in Section I of the relevant insurance policies.

Eighteenth Defense

State Farm answers the numbered paragraphs of the Complaint as follows:

1. State Farm admits the allegations of paragraph 1.
2. State Farm denies that Plaintiffs or putative class members have any causes of action against State Farm and denies that any causes of action accrued against State Farm. State Farm admits the remaining allegations of paragraph 2.
3. State Farm admits the allegations of paragraph 3.
4. In response to paragraph 4, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.
5. State Farm denies the allegations of paragraph 5, given the vagueness of those allegations. Further in response, State Farm admits that Plaintiffs had

homeowners insurance with State Farm, pursuant to a written contract of insurance, the terms of which speaks for itself.

6. In response to paragraph 6, State Farm admits that Plaintiffs timely paid the premiums due under the “Policy” as defined in the Complaint, for the policy period in effect on September 20, 2013.

7. State Farm admits the allegations of paragraph 7.

8. State Farm admits the allegations of paragraph 8.

9. State Farm denies the allegations of paragraph 9.

10. Paragraph 10 purports to state legal conclusions and general opinions to which no response is required. To the extent a response is required, State Farm denies the allegations of paragraph 10 and specifically denies that the Policy covers diminished value.

11. Paragraph 11 purports to state legal conclusions and general opinions to which no response is required.

12. State Farm admits the allegations of paragraph 12.

13. State Farm denies the allegations of paragraph 13, except that State Farm admits that on or about September 20, 2013, Plaintiffs’ dwelling experienced water damage to the interior of the home and that State Farm paid a claim under the Policy associated with that water damage.

14. State Farm admits the allegations of the first sentence of paragraph 14. State Farm denies the allegations of the second sentence of paragraph 14.

15. State Farm denies that there was any “diminution in value to [Plaintiffs’] property” and denies the remaining allegations of paragraph 15.

16. State Farm denies the allegations of paragraph 16, denies that Plaintiffs’ home would have incurred diminished value for this claim, and denies that State Farm was obligated to evaluate for diminished value.

17. State Farm denies the allegations of paragraph 17 and denies that Plaintiffs’ home would have incurred diminished value for this claim.

18. State Farm denies the allegations of paragraph 18.

19. State Farm denies the allegations of paragraph 19.

20. State Farm denies the allegations of paragraph 20.

21. In response to paragraph 21, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.

22. State Farm denies the allegations of paragraph 22, except that State Farm admits that it has issued written contracts of insurance to many homeowners in Georgia, the terms of which speak for themselves.

23. State Farm denies the allegations of paragraph 23.

24. State Farm denies the allegations of paragraph 24.

25. State Farm denies the allegations of paragraph 25, except that State Farm admits that Plaintiffs had coverage for “accidental direct physical loss” to their dwelling, subject to the terms, conditions, and exclusions of the Policy.

26. State Farm denies the allegations of paragraph 26.

27. State Farm denies the allegations of paragraph 27.

28. State Farm denies the allegations of paragraph 28, except that State Farm admits that these Plaintiffs seek to represent a class, but State Farm denies that class treatment is appropriate.

29. State Farm denies the allegations of paragraph 29, except that State Farm admits that these Plaintiffs seek to represent a class, but State Farm denies that class treatment is appropriate.

30. In response to paragraph 30, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.

31. State Farm denies the allegations of paragraph 31.

32. State Farm denies the allegations in paragraph 32, except that State Farm admits that there are more than 100,000 State Farm homeowners insurance policyholders in Georgia. Further in response, State Farm admits that these Plaintiffs seek to represent a class, but State Farm denies that class treatment is appropriate.

33. State Farm denies the allegations in paragraph 33, except that State Farm admits that it insures thousands of persons in Georgia. Further in response, State Farm admits that these Plaintiffs seek to represent a class, but State Farm denies that class treatment is appropriate.

34. State Farm denies the allegations of paragraph 34 and specifically denies that class treatment is appropriate.

35. State Farm denies the allegations of paragraph 35 and specifically denies that class treatment is appropriate.

36. State Farm denies the allegations of paragraph 36 and specifically denies that class treatment is appropriate.

37. State Farm denies the allegations of paragraph 37 and specifically denies that class treatment is appropriate.

38. State Farm denies the allegations of paragraph 38 and specifically denies that class treatment is appropriate.

39. In response to paragraph 39, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.

40. State Farm denies the allegations of paragraph 40 and specifically denies that class treatment is appropriate.

41. State Farm denies the allegations of paragraph 41 and specifically denies that class treatment is appropriate.

42. In response to paragraph 42, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.

43. State Farm denies the allegations of paragraph 43 and specifically denies that class treatment is appropriate.

44. State Farm denies the allegations of paragraph 44 and specifically denies that class treatment is appropriate.

45. State Farm denies the allegations of paragraph 45 and specifically denies that class treatment is appropriate.

46. State Farm denies the allegations of paragraph 46 and specifically denies that class treatment is appropriate.

47. State Farm denies the allegations of paragraph 47 and specifically denies that class treatment is appropriate.

48. State Farm denies the allegations of paragraph 48 and specifically denies that class treatment is appropriate.

49. In response to paragraph 49, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.

50. State Farm denies the allegations of paragraph 50 and specifically denies that class treatment is appropriate. Further in response, State Farm admits that Plaintiffs had coverage for “accidental direct physical loss” to their dwelling, subject to the terms, conditions, and exclusions of the Policy.

51. Paragraph 51 purports to state legal conclusions and general opinions to which no response is required. To the extent a response is required, State Farm denies the allegations of paragraph 51 and denies that it breached any duty to Plaintiffs.

52. State Farm denies the allegations of paragraph 52 and specifically denies that class treatment is appropriate. Further in response, State Farm admits that Plaintiffs made a claim for property damage to their dwelling, which State Farm paid.

53. State Farm denies the allegations of paragraph 53.

54. State Farm denies the allegations of paragraph 54.

55. State Farm denies the allegations of paragraph 55 and specifically denies that class treatment is appropriate.

56. State Farm denies the allegations of paragraph 56 and specifically denies that class treatment is appropriate.

57. In response to paragraph 57, State Farm incorporates and re-alleges the responses and denials in all preceding paragraphs as if fully set forth herein.

58. State Farm denies the allegations of paragraph 58.

59. State Farm denies the allegations of paragraph 59 and specifically denies that class treatment is appropriate.

60. State Farm denies the allegations of paragraph 60 and specifically denies that class treatment is appropriate.

State Farm denies that Plaintiffs are entitled to any of the relief sought in the prayer for relief.

GENERAL DENIAL

State Farm denies each and every allegation of the Complaint not specifically and expressly admitted herein.

WHEREFORE, having fully answered the Complaint, State Farm prays that the Complaint be dismissed with prejudice, that each and every prayer for relief in the Complaint be denied, that judgment be entered in favor of State Farm with costs assessed against Plaintiffs, and that State Farm be awarded such other and further relief as this Court may deem just and proper.

[signature on following page]

/s/ Thomas W. Curvin

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State Farm Fire and Casualty Company

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2014, I electronically filed the foregoing **Answer of State Farm Fire and Casualty Company** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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