

## Farmers Undervalues Lost Property, Suit Says

By **Martin Bricketto**

Law360, New York (May 11, 2011) -- Farmers Insurance Co. Inc. was hit with a putative class action Friday in California state court that accuses the company of improperly calculating depreciation in the amounts it pays policyholders for property lost or damaged because of fires and other incidents.

Named plaintiff Frances Marc Alexander contends that Farmers uses a standard system for determining the depreciation of property that doesn't consider the actual physical condition of the item when it was damaged or destroyed, an alleged violation of the California Insurance Code.

"Farmers' uniform practice results in depreciation deductions that have no relation to the true physical depreciation of the property," the complaint said. "Through this practice, Farmers is able to substantially reduce the amount of money it pays its insureds by assuming high levels of depreciation irrespective of the actual physical condition of the lost property."

Alleging unfair business practices, breach of contract and breach of implied covenant, Alexander wants the court to order the readjustment of claims, restitution of allegedly excessive premiums and a prohibition of the asserted conduct, among other relief.

The putative class includes California residents who have homeowners or commercial insurance policies with Farmers and who received settlements or settlement offers for property claims less than their policy limits since December 2004.

Farmers pledges in its policies to pay the actual cash value of lost or damaged property that it covers, but it determines that value by first calculating a replacement cost and then deducting depreciation according to a "straight line schedule" based on the age of the item, according to the complaint.

However, the applicable insurance code only permits insurers to make a fair and reasonable deduction for physical depreciation, meaning the actual wear and tear of the property, based on the actual condition of the item lost or damaged at the time of the incident, the complaint says.

State regulations also require insurers to include all justifications for adjusting claims for depreciation and other reasons in the claim file, and fully explain the basis for that adjustment in writing, according to the complaint. In applying its allegedly improper depreciation method, Farmers doesn't independently justify the depreciation in the claim file as required, the complaint says.

Alexander also accuses Farmers of violating its contracts with policyholders by improperly calculating depreciation and refusing to pay them proper amounts, using "secret, standardized and arbitrary depreciation methods" that don't weigh the actual condition of damaged items. It also fails to justify that depreciation amount in writing, he says.

Alexander further contends that Farmers has also violated the state insurance code by applying physical depreciation deductions to components that are not normally subject to repair and replacement during the useful life of structures.

The Millbrae, Calif, resident lost his home and other property in an August 2007 fire, according to the complaint.

Instead of relying on his depreciation amounts that considered the actual condition of lost items, Farmers simply plugged in the age of the items and calculated depreciation based on its standardized method, the complaint says. The excessive amount of that depreciation ended up being four times more than what Alexander had put forward, according to the complaint.

Representatives for the parties did not immediately respond to requests for comment Wednesday.

Alexander is represented by Michael von Loewenfeldt and Ivo Labar of Kerr & Wagstaffe LLP.

Counsel information for Farmers was not immediately available on Wednesday.

The case is Alexander v. Farmers Insurance Co. Inc. et al., case number BC460992, in the Superior Court of the State of California, County of Los Angeles.

--Editing by Andrew Park.

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