

October 6, 1999

**JURY AWARDS RECORD VERDICT
IN ABUSIVE CLASS ACTION SUIT**
(Snider v. State Farm Mut. Automobile Ins. Co.)

An Illinois jury this week awarded \$456 million in damages against the nation's largest automobile insurance company in a class-action suit brought by plaintiffs' lawyers on behalf of two Illinois citizens. The verdict was a setback for the Washington Legal Foundation (WLF), which has sought for the past 1 1/2 years to have the case thrown out of court.

WLF has argued, in briefs filed both in Illinois courts and the U.S. Supreme Court, that the case is a classic example of tort law run amok; WLF argued that the case is highly unlikely to benefit any consumers but could result in huge fees for the attorneys masterminding the litigation. WLF noted that the plaintiffs' lawyers fault the insurer, State Farm Mutual Automobile Insurance Co., for taking actions that many state insurance regulators encourage insurers to take as a means of saving money for their customers.

State Farm has stated that it will appeal the jury verdict, which will become final after the trial judge decides whether to add punitive damages to the damages already awarded. WLF has pledged to support the appeal -- all the way to the U.S. Supreme Court, if necessary.

WLF's principal concern is that the case should never have been certified as a nationwide class action, whereby the two plaintiffs (carefully chosen by the lawyers controlling the suit) purport to represent the interests of all State Farm automobile insurance policy holders throughout the nation. In briefs filed in the case, *Snider v. State Farm Mut. Automobile Ins. Co.*, WLF argued that courts should never agree to certify class actions in which the number of class members is so large that notice could never be provided to all members of the class, the individual class members have little in common, and the laws of 50 different states would have to be applied to the various claims.

WLF argued that such class-actions suits are essentially untriable, with two results: defendants are forced into settlements of claims that often are frivolous, and

virtually all of the benefits of settlement flow to the lawyers rather than to their alleged clients. Alternatively, WLF argued, the defendant is forced to go to trial in a jurisdiction handpicked by the plaintiff's lawyer and faces a potentially ruinous jury award based on evidence involving no more than a handful of the millions of individuals whose claims are being pressed.

"As this case well illustrates, abuse of the class action process is becoming an increasingly frequent occurrence," said WLF Chief Counsel Richard Samp after learning of the jury verdict. "Such suits are not meant to redress real injuries of real plaintiffs, but are used to extort funds from deep-pocketed companies for the exclusive benefit of the plaintiffs' bar," Samp said.

The Illinois suit challenges a long-standing business practice of State Farm, whereby State Farm provides in most of its insurance policies that it may specify use of parts manufactured by sources other than the original equipment manufacturer ("non-OEM parts") when adjusting claims for damage to insured vehicles. State Farm asserts that by retaining the option to specify non-OEM parts, it encourages competition in the automobile repair parts industry and thereby reduces costs to consumers. The jury found that State Farm's practice violates the Illinois consumer fraud statute because, the plaintiff alleged, *all* non-OEM parts are inferior to OEM parts -- even though many states expressly authorize (and some *require*) use of non-OEM parts.

The two plaintiffs (both Illinois citizens) were permitted by the trial judge to maintain the suit as a class action on behalf of the 5,000,000 State Farm policyholders who received non-OEM parts. Even though courts elsewhere in the country have refused to certify such an unwieldy class in other cases raising identical claims, the Illinois plaintiffs found a judge who was willing to certify their proposed class. Recognizing that applying the law from each class member's home state to that class member's claims would make the class totally unmanageable, the court agreed to apply Illinois's consumer fraud law all to the claims of *all* class members -- even though many class members had absolutely no ties to Illinois. The judge also ruled that the jury could decide on a class-wide basis whether State Farm's conduct violated Illinois law; that ruling deprived State Farm of the opportunity to introduce evidence with respect to individual plaintiffs demonstrating that their rights under Illinois law had not been violated. Finally, the court waived the normal (and legally mandated) rule that a class plaintiff is required to mail notice of the suit to identifiable class members because, the court found, such a mailing to all 5,000,000 class members would be prohibitively expensive.

WLF is a public interest law and policy center with supporters in all 50 states. It devotes a substantial portion of its resources to promoting tort reform and reining in

excessive litigation.

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