

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

LAWRENCE TROY TOMLINSON and *
ELIZABETH BOWMAN TOMLINSON * CIVIL ACTION NO.: 06-00617
INDIVIDUALLY AND AS PARENTS *
AND NATURAL TUTORS OF *
KATHLEEN K. TOMLINSON AND * JUDGE FELDMAN
SEAN V. TOMLINSON *
VERSUS * MAGISTRATE ROBY
ALLSTATE INDEMNITY COMPANY *

PROPOSED JURY INTERROGATORIES

INSURANCE CONTRACT CLAIM

1. Do you find that plaintiffs proved by a preponderance of the evidence that they suffered property damage to their home caused by wind or wind driven rain which is covered under their homeowner policy for which they have not been paid?

YES _____ NO _____

If your answer is "YES" to number 1, please proceed to number 2.

If your answer is "NO," please proceed to number 3.

2. What additional amount of money do you find that plaintiffs are owed for damage to their home for damage caused by wind or wind driven rain?

\$ _____

3. Do you find that plaintiffs proved by a preponderance of the evidence that they suffered damage to the contents of their home caused by wind and/or wind driven rain which is covered under their homeowner policy for which they have not been paid?

YES _____ NO _____

If your answer is "YES" to number 3, please proceed to number 4.

If your answer is "NO," please proceed to number 5.

4. What additional amount of money do you find that plaintiffs are owed for damage to the contents of their home caused by wind or wind driven rain?

\$ _____

5. Do you find that plaintiffs failed to timely notify Allstate of damage to any item of property, failed to allow Allstate to inspect an allegedly damaged property item, and/or misrepresented material facts?

YES _____ NO _____

If your answer is "YES" to number 5, please sign the bottom of this form and return it to the Court.

If your answer is "NO" please proceed to number 6.

6. Do you find that plaintiffs failed to mitigate their damage?

YES _____ NO _____

If your answer is "YES" to number 6, please proceed to number 7.

If your answer is "NO," please proceed to number 8.

7. By how much should the plaintiffs' damages be reduced as a result of their failure to mitigate?

\$ _____

BAD FAITH CLAIM¹

1. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate failed to initiate loss adjustment of their claim within thirty days after notification of the loss?

YES _____ NO _____

2. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate violated 22:658 by failing to pay an amount undisputedly due the plaintiffs within thirty days after Allstate's receipt of a satisfactory proof of loss?

YES _____ NO _____

If your answer is "YES" to number 2, please proceed to number 3.

If your answer is "NO," please proceed to number 5.

¹ Allstate contends that plaintiffs have produced insufficient evidence to permit submitting their bad faith claims to the jury. In the event the Court disagrees, Allstate proposes the following interrogatories.

3. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate's failure to timely pay an undisputed amount was due to arbitrary and capricious conduct and without just cause?

YES _____ NO _____

If your answer is "YES" to number 3, please proceed to number 4.

If your answer is "NO," please proceed to number 5.

4. What amount of money do you find was not paid by Allstate in a timely manner after receipt of a satisfactory proof of loss?

\$ _____

5. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate violated 22:658 by failing to make a timely written offer of settlement with the plaintiffs after Allstate's receipt of a satisfactory proof of loss?

YES _____ NO _____

If your answer is "YES" to number 5, please proceed to number 6.

If your answer is "NO," please proceed to number 7.

6. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate's failure to make a written offer of settlement was due to arbitrary and capricious conduct and without just cause?

YES _____ NO _____

7. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate violated 22:1220 when it failed to pay an amount undisputably due within sixty days of receipt of satisfactory proof of loss?

YES _____ NO _____

If your answer is "YES" to number 7, please proceed to number 8.

If your answer is "NO," please sign the bottom of this form and return to the Courtroom.

8. Do you find that plaintiffs proved by a preponderance of the evidence that Allstate's failure to pay an undisputed amount due within sixty days was due to arbitrary and capricious conduct and without just cause?

YES _____ NO _____

If your answer is "YES" to number 8, please proceed to number 9.

If your answer is "NO," please sign the bottom of this form and return to the Courtroom.

9. What amount of money do you find was not paid by Allstate within sixty days of receipt of a satisfactory proof of loss?

\$ _____

10. What amount of damages do you find by a preponderance of the evidence that plaintiffs proved by a preponderance of the evidence were caused by Allstate's failure to pay an undisputed amount due within sixty days? If you do not award damages, plaintiffs may still recover a penalty?

\$ _____

Date

Signature

Respectfully submitted,



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CERTIFICATE

I hereby certify that on February 2, 2007, I electronically filed the foregoing Proposed Jury Interrogatories with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the following:

M. Elizabeth Bowman
bethbowman@bowmanandhowley.com

Christy M. Howley
christyhowley@bowmanandhowley.com

There are no manual recipients listed on the Court's Electronic Mail Notice List.


