

CJRA-P, JURY, RHW

**U.S. District Court  
Southern District of Mississippi (Southern)  
CIVIL DOCKET FOR CASE #: 1:05-cv-00462-LG-RHW**

Fondren et al v. Mississippi Farm Bureau Insurance  
Company  
Assigned to: District Judge Louis Guirola, Jr  
Referred to: Magistrate Judge Robert H. Walker  
Cause: 28:1332 Diversity-Insurance Contract

Date Filed: 10/11/2005  
Jury Demand: Plaintiff  
Nature of Suit: 110 Insurance  
Jurisdiction: Diversity

**Plaintiff****Louis Fondren**

represented by **Elmer Louis Fondren, Jr.**  
FONDREN & FONDREN  
520 Live Oak Avenue  
Pascagoula, MS 39567  
228/762-5110  
Email: fondrenl@aol.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael L. Fondren**  
FONDREN & FONDREN  
520 Live Oak Avenue  
Pascagoula, MS 39567  
228/762-5110  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Bobbie J. Fondren**  
*all members of the hereinafter  
described class of Plaintiffs*

represented by **Elmer Louis Fondren, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael L. Fondren**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

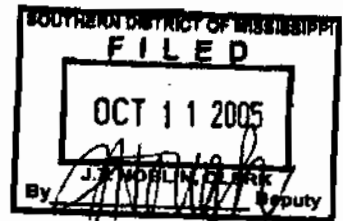
**Defendant**

**Mississippi Farm Bureau Insurance  
Company**  
*an Insurance Corporation, and all  
members of the hereinafter described*

*class of defendants*

Date Filed	#	Docket Text
10/11/2005	<u>1</u>	COMPLAINT against Mississippi Farm Bureau Insurance Company ( Filing fee \$ 250 receipt number J008323), filed by Louis Fondren, Bobbie J. Fondren. Notice of Assignment mailed. (Attachments: # 1 - Civil Cover Sheet)(jch) (Entered: 10/17/2005)

PACER Service Center			
Transaction Receipt			
10/20/2005 10:10:45			
<b>PACER Login:</b>	pd0196	<b>Client Code:</b>	19991-92
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:05-cv-00462-L.G-RHW
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.08



UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF MISSISSIPPI  
AT GULFPORT

LOUIS FONDREN AND HIS WIFE, BOBBIE J. FONDREN, AND  
ALL MEMBERS OF THE HEREINAFTER DESCRIBED CLASS OF  
PLAINTIFFS

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:05cv412 LGR/TW

MISSISSIPPI FARM BUREAU INSURANCE COMPANY, AN  
INSURANCE CORPORATION. AND ALL MEMBERS OF THE  
HEREINAFTER DESCRIBED CLASS OF DEFENDANTS

DEFENDANTS

**THE PLAINTIFFS REQUEST TRIAL BY JURY**

**COMPLAINT**

**WITH REQUEST FOR CLASS ACTION CERTIFICATION**

Come now Louis Fondren and his wife, Bobbie J. Fondren, and file the following  
Complaint with their request for class action certification pursuant to Rule 23 of the Federal  
Rules of Civil Procedure:

1. The Plaintiffs are adult resident citizens of the State of Mississippi and the Defendants  
are insurance corporations doing insurance business in the State of Mississippi. This matter in  
controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. §1332, and  
is brought as a class action pursuant to Rule 23 of the F.R.C.P.

2. **CLASS OF PLAINTIFFS:** The named Plaintiffs define themselves and all members of the Plaintiffs' class in this case as Homeowners in the State of Mississippi Gulf Coast counties of Hancock, Harrison, and Jackson County who held insurance policies for fire and extended coverages with a clause therein or an endorsement thereto which provided that **Direct loss by fire or explosion resulting from windstorm or hail damage is covered** and whose homes were caused losses by explosion resulting from Hurricane Katrina windstorm; and, whose insurance coverages were denied and who had no sufficient compensation for their losses due to amounts paid to them by Flood insurance insurer or by an insurer providing coverage in The Mississippi Windstorm Underwriting Association or any other sources of legal compensation.

3. **CLASS OF DEFENDANTS:** The named Defendant and the class of Defendants proposed for certification herein are the insurers of the aforementioned homeowners who wrote and delivered the insurance policies described in paragraph two (2) above, each of whom shall be served with process on the Mississippi Insurance Commissioner in accord with Mississippi law and local United States District Court Rule 5.1, after class certification.

4. The Plaintiffs file this action in the belief that it conforms to the Prerequisites of a class action as set forth in F.R.C.P. Rule 23 (a).

5. The members of the Plaintiffs' proposed class of Plaintiffs and the proposed class of Defendants are so numerous that the joinder of them in this Complaint is impracticable, but they are not so numerous as to not be identifiable through public notice and actual notice of their identities and addresses to be obtained from the Federal Emergency Management Agency (F.E.M.A.) through the Freedom of Information Act.

6. The Plaintiffs are represented herein by an experienced attorney, Michael L. Fondren,

and, Plaintiff, Louis Fondren, has contact with a nationally known law firm with experience in handling class actions, other complex litigation and claims of the type asserted in this action and determined that the latter firm has a positive interest and approach to this class action to the extent of committing its resources to this matter.

7. The Plaintiff Louis Fondren does not have a copy of the applicable insurance policy in this case and has made requests of the named Defendant for a copy of the applicable insurance policy in this case without Farm Bureau's compliance with those requests at this time.

8. Further, a diligent search for the Plaintiffs' copy of said policy among the rubble of the hurricane Katrina yielded no result.

9. Pursuant to Plaintiff's request, the agent for the named Defendant, Mississippi Farm Bureau Insurance Company has furnished the Plaintiffs a copy of the Declaration of Coverage page of the Farm Bureau Insurance Fire Policy on the Plaintiffs' home reflecting Total Insurance of \$144,000.00 with a \$500.00 deductible. A copy of this Declaration page is annexed as Exhibit "A" hereto and incorporated herein by this reference.

10. On August 29, 2005, the Plaintiffs' insured home at 1413 Beach Boulevard in Pascagoula, Jackson County, Mississippi was totally destroyed during the unprecedented onslaught on property within the time and distance covered by hurricane Katrina, and, in particular, the destruction of their home was a direct loss by explosion resulting from windstorm damage, all within the meaning and intent of the "Windstorm or Hail Exclusion Endorsement" which states that "Direct loss by fire or explosion resulting from windstorm or hail damage is covered." (Quotation from Exhibit B)

11. The Plaintiffs have received the named Defendant's letter dated September 28, 2005

in which the aforesaid Endorsement is cited as the reason for not honoring the Plaintiffs' claim. A copy of this letter is annexed as Exhibit "B" hereto and incorporated herein by this reference.

12. The Plaintiffs submit that their home was the victim of explosion resulting from the windstorm and that it is wrongful bad faith to deny their claim.

13. The Plaintiffs home was immediately and explosively rendered a total loss by the windstorm caused explosion, which was a loss exceeding \$200,000.00.

14. The named Defendant, Mississippi Farm Bureau, should pay its policy coverage of \$144,000.00 less the \$500.00 deductible and less any other sums paid for the loss in value of said house due to other sources of compensation such as F.E.M.A. and the wind pool insurance.

15. Further, the Plaintiffs are entitled to a copy of their destroyed policy and to add by amendment any other benefit which is given them by said policy but is not listed on the aforesaid Declaration of Coverage page.

16. Further, the Plaintiff, Louis Fondren, verily believes from his personal observations that the Plaintiffs' class consists of over 200 Mississippi Coast Home Owners but less than 2,000 Mississippi Coast Home Owners. Defendants' class has lesser numerosity.

17. Due to personal health treatments, the Plaintiff, Louis Fondren, requests that the Court delay his appearance in Court on the Rule 23 Class Action Certification issues until after December 1, 2005. His treating physician, Dr. Frank Critz, formerly of Fulton, Mississippi will terminate light radiation therapy of Mr. Fondren at the end of November, 2005. Typically, no further treatment will be required.


18. The named Defendant, Farm Bureau, and other Defendants in the proposed class did fail to investigate with any care before the above described perfunctory denial of the Plaintiffs'

facts, circumstances. Losses and the proximate contributing causes of said losses. All of these lacks of care directly and proximately contributed to the Defendants' wrongful and perfunctory denial of the Plaintiffs' claims, including the total loss of their residences.

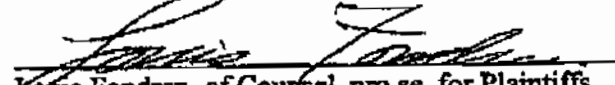
WHEREFORE, THE PLAINTIFFS PRAY:

- A. That process on the named Defendant be issued;
- B. That the Court determine by order whether to certify this action as a class action within the guidelines of the RULE 23. CLASS ACTIONS.
- C. That, pursuant to a jury trial which is hereby requested, the Plaintiffs be awarded judgments duly based upon jury verdicts for actual and punitive damages, and such economic and non-economic damages, attorneys' fees, and expenses as allowed by law, plus prejudgment and post-judgment interest..
- D. And the Plaintiff's pray for general relief.

RESPECTFULLY SUBMITTED BY:

  
Michael L. Fondren  
Attorney for the Plaintiffs  
520 Live Oak Ave.  
Pascagoula, MS. 39567

Phone: 228-762-5110  
MS. State Bar No. 8941

  
Louis Fondren, of Counsel, pro se, for Plaintiffs  
C/O 520 Live Oak Avenue, Pascagoula, MS. 39567

Cellular Phone: 228-219-1359  
Alternate Phone: 228-762-5110  
MS. State Bar No. 5400

**THE PLAINTIFF REQUESTS TRIAL TRIAL BY JURY.**

F 582087

FARM BUREAU INSURANCE FIRE POLICY

09/15/05 09:24:30

STATUS: PD EXP DT: 07/14/06 AGENT: 14757 CO: 30 MAIL CO: 30 COMPANY: MUTUAL

LOUIS FONDREN  
1413 BEACH BLVD  
PASCAGOULA MS 39567-1208

MEMBER # : 619478 DATE DUE : 7/14/05  
ENDORS # : 00 DIVID DUE : .00  
CATEGORY : 00 AMOUNT DUE : .00  
REWRITE YR: 2008 AMT PRE-PD:  
TOWN CODE : 06 LAST PAYMT: 622.86  
DEDUCTIBLE: 500 PREM PAID : 622.86  
W&H DEDUCT: ACCT DATE : 1/06/21/05  
ACT DISC : CONTRACT #:

LOCATION: USE PF10 TO DISPLAY LOCATION

FORMS: MFB-1,402,MFB-8

TOTAL INSURANCE: 144,000

CLEAR-EXIT PF1-MENU PF2- INQ PF3-RETURN PF4-MORTGAGEES  
PF5-ITEMS PF9-HELP PF10-PLAI MS1717B  
ITEM 582087 STANDARD FIRE ITEMS 09/15/05 MS1717C

FIRE/				FIRE			EC					
IT	EC	INS	AEC	INS	COLLAPSE	DESCRIPTION OF ITEM	OC	CT	CLS	CP	FB	CLS
01		144,000	144,000			DWELLING	O	M	029	38	10	114

CLEAR-EXIT PF1-MENU PF3-RETURN

*Exhibit "A" to the Complaint Condren et al. v. Farm Bureau of Tr*



# MISSISSIPPI FARM BUREAU INSURANCE

P.O. Box 1972 • Jackson, Mississippi 39215-1972 • (601) 957-3200

September 28, 2005

Mr. Louis Fondren  
1413 Beach Boulevard  
Pascagoula, MS 39567

Re: Claim No.: 5T16502  
Policy No.: F 582087  
Insured: Louis Fondren  
Date of Loss: 08-29-05

Dear Mr. Fondren:

You have reported damage to your property following Hurricane Katrina. Our records indicate your policy had the – WINDSTORM OR HAIL EXCLUSION ENDORSEMENT - MFB-8 attached to it.

The WINDSTORM OR HAIL EXCLUSION ENDORSEMENT states:

For a premium credit, we do not cover loss caused directly or indirectly from windstorm or hail.

Direct loss by fire or explosion resulting from windstorm or hail damage is covered.

All other provisions of this policy apply.

We are sorry to inform you we will be unable to honor your claim, since your policy contained the WINDSTORM OR HAIL EXCLUSION ENDORSEMENT.

If you carried windstorm and hail coverage through the Mississippi Windstorm Underwriting Association you can contact them at 1-800-931-9548 or [www.fairplanclaims.com](http://www.fairplanclaims.com) to report your claim.

If you have other information concerning your coverage, please contact the claims department at 1-800-821-9803.

Mississippi Farm Bureau Claims Department

SM/dt

Southern Farm Bureau Casualty Insurance Company  
Southern Farm Bureau Life Insurance Company

Mississippi Farm Bureau Mutual Insurance Company  
Mississippi Farm Bureau Casualty Insurance Company

Rural Insurance Agency, Inc.

*Exhibit "B" to the Complaint andrew et al v. Farm Bureau et al*