



FILED
DEPT. 4
IN OPEN COURT
The Honorable BRYAN CHUSCHOFF
NOV 9 2015
Pierce County Clerk
By [Signature]
DEPUTY

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

KLAUS SNYDER, individually and as the
representatives of all persons similarly
situated;

Plaintiff,

v.

FARMERS INSURANCE COMPANY OF
WASHINGTON and MID-CENTURY
INSURANCE COMPANY;

Defendants.

NO. 13-2-15638-1

ORDER GRANTING CLASS
CERTIFICATION AND DENYING
MOTION TO EXCLUDE OPINIONS OF
BERNARD A. SISKIN, PhD and DARRELL
M. HARBER

THIS MATTER has come before the Court by way of Plaintiff's Motion for Class Certification, filed on July 1, 2014 and Defendants Farmers Insurance Company of Washington and Mid-Century Insurance Company's (collectively "Farmers") Motions to Exclude Darrell M. Harber and Dr. Bernard A. Siskin, filed on December 24, 2014.

The Court has carefully reviewed these motions and their supporting materials, and the extensive responsive pleadings filed by the parties, including:

- Farmer's December 26, 2014 Response to Class Certification Motion, and Declaration of Stevan Phillips ISO,
- Plaintiff's January 13, 2015 Reply ISO Class Certification, and Declaration of Stephen M. Hansen,
- Farmer's December 26, 2014 Motion For Determination of Law,
- Plaintiff's January 21, 2015 Opposition to Motion For Determination of Law, and

ORDER GRANTING CLASS CERTIFICATION - 1

Law Offices of
STEPHEN M. HANSEN, P.S.
1821 DOCK STREET, SUITE 103
TACOMA, WASHINGTON 98402
(253) 302-5955
(253) 301-1147 Fax

ORIGINAL

0129
11/12/2015 9250

1 those market value losses resulting from physical/discernible
2 differences after repair. To the extent that there is any physical
3 damage, that is discernible damage, then under Moeller v. Farmers,
4 a Plaintiff recovers his or her entire market value loss. If purely
5 stigma damages were shown to constitute 100 % of the loss, in that
6 the repairs are completely undetectable, then a plaintiff is probably
7 not entitled to any recovery. But if a loss is not 100% caused by
8 pure stigma, then a plaintiff is entitled to the full measure of fair
9 market value loss.

10 This Court incorporates these rulings into its resolution of the motions now before it.

11 Farmers additionally filed a Motion for Summary Judgment on March 2, 2015 which
12 argued that Mr. Snyder lacked standing to represent insureds of Mid-Century Insurance Company
13 and that Farmers owned no "duty of disclosure" to Mr. Snyder and had fulfilled its obligations to
14 him. In response to this Motion, Plaintiff sought discovery as to the existence of a "juridical
15 link." On April 7, 2015 Farmers moved for a Protective Order to prevent this discovery, and
16 Plaintiff's Opposition to this motion, filed on April 13, 2015, responded to Farmers' claims about
17 the limits of class action standing in Washington courts. The Motion for a protective order was
18 argued on April 15, 2015, and denied. The Court finds that the juridical link rule of standing
19 presents a factual issue for resolution at a later date so that insureds of Mid-Century Insurance
20 Company are members of the Class.

21 The commonality requirements of Rule 23 are met: Plaintiff has demonstrated Farmers'
22 consistency in its claims handling as to diminished value claims; according to Plaintiff, Farmers
23 had a consistent practice of not informing its insureds of their right to this compensation.
24 Whether Farmers agrees with Plaintiff's characterization or not, this presents common issues of
25 law and fact for a trial. The Numerosity element is satisfied - Plaintiff has argued (and Farmers
26 has not challenged) that there are as many as 10,000 (or more) class members potentially affected
27 who can be identified from Farmers electronic records. Plaintiff has further demonstrated at this
28 time that Mr. Snyder's claims are typical so as to satisfy the CR 23 requirement of typicality.
Finally, the common issues predominate, and a class action in this case is both manageable and
superior to individual litigation. Absent Class Certification, there are conceivably many Farmers'

ORDER GRANTING CLASS CERTIFICATION - 3

Law Offices of
STEPHEN M. HANSEN, P.S.
1821 DOCK STREET, SUITE 103
TACOMA, WASHINGTON 98402
(253) 302-5955
(253) 301-1147 Fax

1 insureds who would never pursue this type of claim either because they were not informed of
2 their right to do so or because of the expense of doing so compared to the value of the claim.

3 For these reasons and the reasons explained by this Court in its oral decisions, on file and
4 incorporated herein, this Court finds, after a careful and rigorous analysis of the issues and
5 evidence presented and the statutory requirements, that the requirements of CR23 and
6 CR23(b)(3) are met in this case. The Court therefore CERTIFIES the following Class:

7 All Farmers insureds with Washington policies issued in Washington State, where
8 the insured's vehicle's damages were covered under the collision, and/or
comprehensive coverages, and

- 9 1. The repair estimates on the vehicle (including any supplements) totaled at least
10 \$1,000; and
11 2. The vehicle was no more than six years old(model year plus five years) and
had less than 90,000 miles on it at the time of the accident; and
12 3. The vehicle suffered structural (frame) damage and/or deformed sheet metal
and/or required body or paint work.

13 Excluded from the Class are (a) Claims involving leased vehicles or total losses,
14 (b) employees of Farmers, (c) the assigned judge, the judge's staff and family, (d)
claims paid under the collision or comprehensive coverage where the in force
15 policy included Endorsement J6774, (e) accidents occurring before December 12,
2007, and (f) accidents occurring after May 1, 2010.

16 The Certified Class included insureds whose policies were issued by either Farmers
17 Insurance Company of Washington or Mid-Century Insurance Company within its definition of
18 "Farmers." The Court appoints Klaus Snyder as a Class Representative for the Class and Stephen
19 M. Hansen, Debra B. Hayes, and Scott P. Nealey as Class Counsel.

20 Further, for the reasons given by the Court in its Oral ruling, and as shown in the parties
21 briefing, this Court denies the Motions to Exclude Darrell M. Harber and Dr. Bernard A. Siskin.

22 * * *

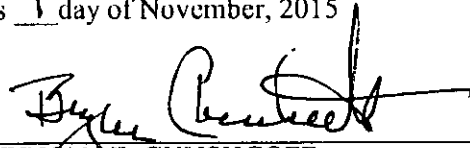
23
24
25
26
27 ORDER GRANTING CLASS CERTIFICATION - 4
28

Law Offices of
STEPHEN M. HANSEN, P.S.
1821 DOCK STREET, SUITE 103
TACOMA, WASHINGTON 98402
(253) 302-5955
(253) 301-1147 Fax


11/12/2015 9:00 0133

1 This Court finds their testimony to be admissible for purposes of class certification.

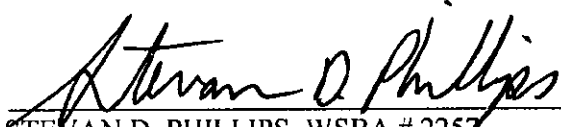
2 DONE IN OPEN COURT this 9 day of November, 2015

3
4 
5 BRYANNE CHUSHCOFF
Superior Court Judge

6 Presented By:
7 Law Offices of STEPHEN M. HANSEN, P.S.

8
9 By: 
10 STEPHEN M. HANSEN, WSBA # 15642
Of Attorneys for Plaintiff

11 Copy Received/Approved for Entry:
12 STOEL RIVES LLP

13
14 By: 
15 STEVAN D. PHILLIPS, WSBA # 2257
Of Attorneys for Defendants

