

RECENT DEVELOPMENTS

INSURANCE

UNDER TEXAS LAW, IF THE INSURED DOES NOT RELY TO HIS DETRIMENT ON THE MISREPRESENTATION WHEN MAKING A DECISION THERE IS NO ACTIONABLE CLAIM

Taboada v. State Farm Lloyds, ___ F. Supp. 3d ___ (S.D. Tex. 2020).

<https://www.leagle.com/decision/infdco20200121j73>

FACTS: Plaintiffs Libardo and Lucia Taboada held an insurance policy from Defendant State Farm Lloyds. The roof of Plaintiffs' property sustained cracks and sheet rock damage during Hurricane Harvey,

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leading to Plaintiffs filing an insurance claim. However, State Farm stated that the damage was not covered because it was pre-existing or caused by uncovered events, such as foundation settlement. Plaintiffs filed suit, claiming that State Farm wrongfully denied or underpaid the insurance claim.

Plaintiffs also sought remedy under the Texas insurance Code for State Farm's alleged misrepresentation of a material fact or policy provision relating to their coverage. State Farm moved to dismiss Plaintiffs' misrepresentation claim.

HOLDING: Motion granted.

REASONING: State Farm argued that Plaintiffs' misrepresentation claim should be dismissed because the allegations referred only to post-loss statements, which are not actionable under the Texas Insurance Code.

The court agreed with State Farm, holding that, under Texas law, if the insured does not rely to his detriment on the misrepresentation when making a decision then there is no actionable claim. The court acknowledged that if State Farm represented that it was selling Plaintiffs' coverage at the time of their purchase and that coverage was not, in fact, included in the policy, then Plaintiffs would have a claim. However, the court stated that a post-loss “misrepresentation” only amounts to a contract dispute about causation of damages. Because a difference of opinion on that matter did not rise to the level of a misrepresentation of material fact regarding coverage, the Plaintiff's claim was not actionable.

Plaintiffs attempted to distinguish their case from the reliance requirement by referencing that their case was brought under the Texas Insurance Code, rather than under the DTPA. However, the court held that Plaintiffs failed to argue why cases brought under the Texas Insurance Code should be treated any differently. Because no argument was put forward for why the Plaintiff's case should be treated any differently than if it were brought under the DTPA, the court held the fact was of no consequence.