

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

GLENDA SHOWS;

**THOMAS L. ARNOLD and
ANN C. ARNOLD;**

**ESTATE of ALFRED PEPPERMAN,
Deceased, DAVID PEPPERMAN,
Exectutor;**

WALTON JONES and PENNY JONES;

**ELLEN SUMMERS and
STEPHEN F. SUMMERS;**

**STEPHEN P. THOMPSON and
PATRICIA B. THOMPSON;**

WAYNE HARBOUR;

**SHERROD WILLETTE and
MARY WILLETTE;**

ROBERT C. GIVENS;

TED THOMAS and DONNA THOMAS;

ALAN LIPSKI;

SANDRA SIMPSON;

**CHARLES J. LINKEY and
JOYCE A. LINKEY;**

**MICHAEL HEITZMANN and
PATRICIA HEITZMANN;**

DALE M. HILL SR.;

**PAUL GLOYER and
CONSTANCE GLOYER;**

**RONALD E. NUGENT and
BARBARA P. NUGENT;**

CHET CARTER;

**GINGER THACKREY and
DEBRA JOINER;**

**CIVIL ACTION NO. _____
JURY TRIAL DEMANDED**

JEFFREY PICKICH;)
)
CRAIG FARON TROUB and)
MARION TROUB;)
)
Plaintiffs)
)
-vs-)
)
STATE FARM MUTUAL)
AUTOMOBILE INSURANCE)
COMPANY, an Illinois)
corporation;)
)
STATE FARM FIRE AND)
CASUALTY COMPANY,)
an Illinois corporation;)
)
FORENSIC ANALYSIS &)
ENGINEERING CORPORATION,)
a Florida corporation;)
)
ROBERT K. KOCHAN, individually,)
as agent of, and d/b/a FORENSIC)
ANALYSIS & ENGINEERING)
CORPORATION;)
)
E. A. RENFROE & COMPANY, INC.,)
a Georgia corporation;)
)
GENE RENFROE and JANA RENFROE,)
individually, as agents of)
and d/b/a E. A. RENFROE)
& COMPANY, INC.;)
)
JOHN AND JANE DOES 1-25)
)
Defendants)

**COMPLAINT FOR VIOLATION OF
RACKETEER INFLUENCED CORRUPT
ORGANIZATION ACT ("RICO") AND FOR OTHER RELIEF**

COME NOW, the Plaintiffs, GLENDA SHOWS; THOMAS L. ARNOLD and ANN C. ARNOLD; ESTATE of ALFRED PEPPERMAN Deceased, DAVID PEPPERMAN, Executor; WALTON JONES and PENNY JONES; ELLEN SUMMERS and STEPHEN F. SUMMERS; STEPHEN P. THOMPSON and PATRICIA B. THOMPSON; WAYNE HARBOUR; SHERROD WILLETTE and MARY WILLETTE;

ROBERT C. GIVENS; LUGENE STENUM and PAMELA STENUM; TED THOMAS and DONNA THOMAS; ALAN LIPSKI; SANDRA SIMPSON; CHARLES J. LINKEY and JOYCE A. LINKEY; MICHAEL HEITZMANN and PATRICIA HEITZMANN; DALE M. HILL, SR.; PAUL GLOYER and CONSTANCE GLOYER; RONALD E. NUGENT and BARBARA P. NUGENT; CHET CARTER; GINGER THACKERY and DEBRA JOINER; JEFFREY PICKICH; and CRAIG FARON TROUB and MARION TROUB; and commence this action against the Defendants STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY; STATE FARM FIRE AND CASUALTY COMPANY; FORENSIC ANALYSIS & ENGINEERING CORPORATION; ROBERT K. KOCHAN, individually, as agent of and d/b/a FORENSIC ANALYSIS & ENGINEERING CORPORATION; E.A. RENFROE & COMPANY, INC.; GENE and JANA RENFROE, individually, as agents of and d/b/a E.A. RENFROE & COMPANY, INC.; and not yet identified JOHN and JANE DOES 1-25; and bring the following causes of action to wit:

DEMAND FOR JURY TRIAL

Plaintiffs, by and through their attorneys, bring this action and demand trial by jury on all counts.

**I.
PARTIES
PLAINTIFFS**

1. Plaintiff GLENDA SHOWS is a citizen of the state of Mississippi who currently resides, and at the time of Hurricane Katrina, resided in Jackson County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under STATE FARM homeowners policy number 24-00-3138-5, covering her residence at 4010 S. Shore Drive, Pascagoula, Mississippi.

2. Plaintiffs THOMAS L. ARNOLD and ANN C. ARNOLD are citizens of the state of Arkansas who, and at the time of Hurricane Katrina, resided in Arkansas. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-CX-4572-4, covering a residence at 135 Dogwood Street, Waveland, Mississippi.

3. Plaintiff the ESTATE of ALFRED PEPPERMAN Deceased, DAVID PEPPERMAN, Executor, is for purposes of this action deemed to be a citizen of the state of Mississippi. At all times relevant to this action, Plaintiff's decedent was a named insured under STATE FARM homeowners policy number 24-00-3463-3, covering his residence at 104 Grosvenor Place, Waveland, Mississippi.

4. Plaintiffs WALTON JONES and PENNY JONES are citizens of the state of Louisiana who, at

the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-EO-7733-6, covering their residence at 302 Hoffman Lane, Waveland, Mississippi.

5. Plaintiffs ELLEN SUMMERS and STEPHEN F. SUMMERS are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 99-BB-0119-8, covering their residence at 200 Farrar Boulevard, Waveland, Mississippi.

6. Plaintiff STEPHEN P. THOMPSON and PATRICIA B. THOMPSON are citizens of the state of Mississippi who currently reside in Stone County, Mississippi, and who, at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-EO-3006-1, covering their residence at 404 Edwards Street, Waveland, Mississippi.

7. Plaintiff WAYNE HARBOUR is a citizen of the state of Mississippi who currently resides, and at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under STATE FARM homeowners policy number 24-00-3138-5, covering his residence at 4010 S. Shore Drive, Pascagoula, Mississippi.

8. Plaintiffs SHERROD WILLETTE and MARY WILLETT are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-11-6701-6, covering their residence at 126 Beach View Drive, Pass Christian, Mississippi.

9. Plaintiff ROBERT C. GIVENS is a citizen of the state of Mississippi who currently resides, and at the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under STATE FARM homeowners policy number 24-94-1765-0, covering his residence at 226 Boardman Avenue, Bay St. Louis, Mississippi.

10. Plaintiffs TED THOMAS and DONNA THOMAS are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-81-0395-3, covering their residence at 1961 Bayside Drive, Biloxi, Mississippi.

11. Plaintiff ALAN LIPSKI is a citizen of the state of Mississippi who currently resides, and at the

time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under STATE FARM homeowners policy number 24-BU-7078-1, covering his residence at 215 White Harbor Road, Long Beach, Mississippi.

12. Plaintiff SANDRA SIMPSON is a citizen of the state of Mississippi who currently resides, and at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under STATE FARM homeowners policy number 24-04-5581-4, covering her residence at 1964 Bayside Drive, Biloxi, Mississippi.

13. Plaintiffs CHARLES J. LINKEY and JOYCE A. LINKEY are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-EO-7279-2, covering their residence at 73 Poindexter Drive, Pass Christian, Mississippi.

14. Plaintiff MICHAEL HEITZMANN and PATRICIA HEITZMANN are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy number 24-CW-3519-0, covering their residence at 237 Bay Oaks Drive, Bay St. Louis, Mississippi.

15. Plaintiff DALE M. HILL, SR. is a citizen of the state of Mississippi who currently resides, and at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under a STATE FARM homeowners policy, identified as identified as number 24-75-4150-9, and covering his residence at 6106 Lapoma Street, Biloxi, Mississippi.

16. Plaintiffs PAUL GLOYER and CONSTANCE GLOYER are citizens of the state of Tennessee who, at the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy, identified as number 24-B2-4215-6, and covering their residence at 160 Adams Lane, Waveland, Mississippi.

17. Plaintiffs RONALD E. NUGENT and BARBARA P. NUGENT are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under STATE FARM homeowners policy, identified as number 24-BG-2787-7, and covering their residence at 145 Pinecrest Drive, Pass Christian, Mississippi.

18. Plaintiff CHET CARTER is a citizen of the state of Colorado, who, at the time of Hurricane

Katrina, resided in Hancock County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under a STATE FARM homeowners policy identified as number 24-CC-1612-6, and covering his residence at 115 Runnels Avenue, Long Beach, Mississippi.

19. Plaintiffs GINGER THACKERY and DEBRA JOINER are citizens of the state of Mississippi who currently reside, and at the time of Hurricane Katrina, resided in Jackson County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under a STATE FARM homeowners policy, identified as number identified as number 24-EO-0199-5, and covering their residence at 105 Hickory Street, Waveland, Mississippi.

20. Plaintiff JEFFREY PICKICH is a citizen of the state of Mississippi, who, at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiff was a named insured under a STATE FARM rental dwelling policy, identified as number 99-CE-6589-8, and covering a rental dwelling policy at 5904 St. Martin Road, Biloxi, Mississippi.

21. Plaintiffs CRAIG FARON TROUB and MARION TROUB are citizens of the state of Mississippi, who currently reside, and at the time of Hurricane Katrina, resided in Harrison County, Mississippi. At all times relevant to this action, Plaintiffs were named insureds under a STATE FARM homeowners policy, identified as number 24-92-9290-5, and covering their residence at 212 S. Lang Avenue, Long Beach, Mississippi.

DEFENDANTS
STATE FARM MUTUAL

22. Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (hereinafter "STATE FARM MUTUAL") is a foreign corporation organized and existing under the laws of the state of Illinois. STATE FARM MUTUAL is a mutual non-stock company, owned by its approximately 74 million policyholders. STATE FARM MUTUAL is the sole owner and parent company of Defendant STATE FARM FIRE AND CASUALTY COMPANY (hereinafter "STATE FARM FIRE"). Collectively, Defendant STATE FARM MUTUAL and Defendant STATE FARM FIRE are referred to in this Complaint as Defendant "STATE FARM."

23. STATE FARM MUTUAL is licensed and authorized to conduct business, and is conducting business, in the state of Mississippi and in Harrison, Hancock, Jackson and other Mississippi counties. STATE FARM MUTUAL transacts business with the general public through a territorial network of "captive" agents engaged in marketing, underwriting, selling, issuing and delivering personal lines insurance policies in the state

of Mississippi, under the branded name "STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY," or simply "STATE FARM."

24. As of February 16, 2007, STATE FARM MUTUAL had approximately 74 million policies in force, and a reported net worth of 50,187,253,481 (billion) U.S. dollars. Annual sales of STATE FARM MUTUAL are reported as being 31,947,620,956 (billion) U.S. dollars.

25. STATE FARM MUTUAL is run by Illinois attorney Edward B. Rust, Jr. ("Rust"), who is Chairman of the Board, President and Chief Operating Officer. After STATE FARM MUTUAL posted a record profit for the fiscal year 2006, Rust was rewarded with 11.6 million dollars in salary and bonuses. In 2005, the year Hurricane Katrina struck the Mississippi Gulf Coast, Rust received 6.4 million dollars in salary and bonus compensation from STATE FARM.

26. As the parent company and sole owner of Defendant STATE FARM FIRE, STATE FARM MUTUAL receives substantial fees for providing so-called "consulting services" to STATE FARM FIRE. By design, numerous management level employees of STATE FARM MUTUAL in fact work for and conduct the business of STATE FARM FIRE.

27. STATE FARM MUTUAL has managed and used STATE FARM FIRE in such a way as to make it the mere instrumentality, agent and alter ego of STATE FARM MUTUAL.

28. Pursuant to Miss. Code Ann. § 83-5-11, the Commissioner of Insurance, George Dale is STATE FARM MUTUAL's statutory agent for service of process. STATE FARM MUTUAL may be served with a summons and copy of this Complaint as required under Rule 4 of the Federal Rules of Civil Procedure, by delivery to George Dale, Mississippi Insurance Department, 501 North West Street, 1001 Woolfolk Building, Mississippi, 39201.

STATE FARM FIRE

29. Defendant STATE FARM FIRE is a foreign corporation organized and existing under the laws of the state of Illinois. STATE FARM FIRE is a subsidiary of STATE FARM MUTUAL, and its capital stock is wholly-owned by STATE FARM MUTUAL. As of March 28, 2007, STATE FARM FIRE had a reported net worth of 7,666,660,791 (billion) U.S. dollars. Annual sales of STATE FARM FIRE are currently 10,902,829,371 (billion) dollars.

30. STATE FARM FIRE is licensed and authorized to conduct business, and is conducting business, in the state of Mississippi and in Harrison, Hancock, Jackson and other Mississippi counties. STATE FARM FIRE transacts business with the general public through a territorial network of "captive" agents engaged in marketing, underwriting, selling, issuing and delivering personal lines insurance policies in the state of

Mississippi, and in Harrison, Hancock, Jackson and other Mississippi counties under the name "STATE FARM FIRE," or simply "STATE FARM." Like its parent corporation STATE FARM MUTUAL, STATE FARM FIRE uses the advertising scheme of commercial branding, the purpose of which is to portray STATE FARM FIRE and its agent network as the "good neighbor" of homeowners who, for the most part are forced by banks and consumer lenders to purchase pre-printed, adhesion insurance contracts such as STATE FARM's.

31. STATE FARM FIRE markets its copyrighted "Homeowners Policy" form FP-7955 (8/96) (herein "FP-7955"), as a pre-printed twenty-five (25) page form policy. The FP-7955 policy form contains approximately 13,859 words and is written exclusively by STATE FARM's lawyers and insurance policy writers.

32. For reference, a specimen of the FP-7955 policy form is attached as Exhibit 1 to this Complaint.

33. The cover page of the FP-7955 form policy warrants and represents that it is "one of the broadest forms available and provides outstanding value for [the policyholders'] insurance dollars."¹

34. Defendant STATE FARM FIRE is run by Illinois attorney Edward B. Rust, Jr. ("Rust"), who is Chairman of the Board of STATE FARM FIRE, and also Chairman of the Board, President and Chief Operating Officer of its parent company, STATE FARM MUTUAL.

35. Pursuant to Miss. Code Ann. § 83-5-11, the Commissioner of Insurance, George Dale is STATE FARM FIRE's statutory agent for service of process. STATE FARM FIRE may be served with a summons and copy of this Complaint as required under Rule 4 of the Federal Rules of Civil Procedure, by delivery to George Dale, statutory agent for service of process, at the Mississippi Insurance Department, 501 North West Street, 1001 Woolfolk Building, Mississippi, 39201.

FORENSIC

36. On information and belief, Defendant FORENSIC ANALYSIS & ENGINEERING CORPORATION (hereinafter "FORENSIC") is a corporation formed under Sub-Chapter S, Chapter 1, of the U.S. Internal Revenue Code, and is chartered under the laws of the state of Florida. On information and belief, no distributive shares of FORENSIC's stock have ever been issued or delivered. The principal person controlling and purporting to own FORENSIC is Robert Kimberly Kochan, a Virginia resident. FORENSIC's principal place of business is located at 5301 Capital Boulevard, Suite A, Raleigh, North Carolina 27616-2956.

37. According to its company letterhead, website and public advertisements, FORENSIC is engaged in "PRODUCT DEFECT ANALYSIS & ACCIDENT RECONSTRUCTION," and was "Established

¹ Exh. 1, specimen FP-7955 policy, cover page.

1966." On information and belief, FORENSIC wasn't actually formed until approximately 1997, when KOCHAN acquired the registered name of a defunct Florida corporation and afterwards changed its name from "Consolidated Construction" to "FORENSIC ANALYSIS & ENGINEERING CORPORATION."

38. On information and belief, FORENSIC is and has been managed and used by KOCHAN in such a way as to make it the mere instrumentality, agent and alter ego of KOCHAN.

39. At all times relevant to this action, FORENSIC was doing business in Mississippi, including in Harrison, Hancock, Jackson and other Mississippi counties; made a contract with a resident of Mississippi to be performed in whole or in part in Mississippi; committed a tort in whole or in part in Mississippi; and/or performed work or service in the state of Mississippi. FORENSIC may be served with a summons and copy of this Complaint by delivery of same upon its registered agent in Florida, Jane Kochan, under Miss. Code Ann. § 13-3-57, or by operation of law upon any statutorily appointed agent.

KOCHAN

40. Defendant ROBERT K. KOCHAN (herein "KOCHAN") is a resident of Hampton, Virginia, who purportedly owns, operates and does business as FORENSIC ANALYSIS & ENGINEERING CORPORATION. On information and belief, no distributive shares of FORENSIC's stock have ever been issued or delivered. KOCHAN has an office at FORENSIC's principal place of business, located at 5301 Capital Boulevard, Suite A, Raleigh, North Carolina 27616-2956, and at his residence in Hampton, Virginia.

41. On information and belief, KOCHAN has managed and used FORENSIC in such a way as to make it the mere instrumentality, agent and alter ego of KOCHAN.

42. At all times relevant to this action, KOCHAN was doing business in Mississippi, including in Harrison, Hancock, Jackson and other Mississippi counties; made a contract with a resident of Mississippi to be performed in whole or in part in Mississippi; committed a tort in whole or in part in Mississippi; and/or performed work or service in the state of Mississippi. KOCHAN may be served with a summons and copy of this Complaint by delivery of same upon him under Miss. Code Ann. § 13-3-57 at his Hampton, Virginia residence, or at his office located at 5301 Capital Boulevard, Suite A, Raleigh, North Carolina 27616-2956, or by operation of law upon any statutorily appointed agent.

RENFROE COMPANY

43. Defendant E.A. RENFROE COMPANY, INC. (Hereinafter "RENFROE COMPANY") is a Georgia corporation, engaged in so-called "catastrophe support services" for insurance companies, including

STATE FARM FIRE. The principal persons controlling and purporting to "own" RENFROE COMPANY are Defendants GENE and JANA RENFROE, Alabama residents. The RENFROE COMPANY's principal place of business is located at 2 Chase Corporate Drive, Hoover, Alabama 35244.

44. On information and belief, RENFROE COMPANY is and has been managed and used by GENE and JANA RENFROE in such a way as to make it the mere instrumentality, agent and alter ego of GENE and JANA RENFROE.

45. At all times relevant to this action, RENFROE COMPANY was doing business in Mississippi, including in Harrison, Hancock, Jackson and other Mississippi counties; made a contract with a resident of Mississippi to be performed in whole or in part in Mississippi; committed a tort in whole or in part in Mississippi; and/or performed work or service in the state of Mississippi. RENFROE COMPANY may be served with a summons and copy of this Complaint by delivery of same upon its registered agent under Miss. Code Ann. § 13-3-57, or by operation of law, or upon any statutorily appointed agent. RENFROE COMPANY may also be served with process by service on its agent for service of process, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.

GENE RENFROE AND JANA RENFROE

46. Defendants GENE and JANA RENFROE (sometimes referred to as "the RENFROES") are residents of Alabama, who purportedly own and operate RENFROE COMPANY. GENE and JANA RENFROE have offices at RENFROE's principal place of business, located at 2 Chase Corporate Drive, Hoover, Alabama 35244. Collectively,

47. On information and belief, GENE and JANA RENFROE have managed and used the RENFROE COMPANY in such a way as to make it the mere instrumentality, agent and alter ego of GENE and JANA RENFROE.

48. At all times relevant to this action, GENE and JANA RENFROE were doing business in Mississippi, including in Harrison, Hancock, Jackson and other Mississippi counties; made a contract with a resident of Mississippi to be performed in whole or in part in Mississippi; committed a tort in whole or in part in Mississippi; and/or performed work or service in the state of Mississippi. GENE and JANA RENFROE may be served with a summons and copy of this Complaint by delivery of same upon them under Miss. Code Ann. § 13-3-57 at their residence or corporate office located at 2 Chase Corporate Drive, Hoover, Alabama 35244, or by operation of law upon any statutorily appointed agent.

JOHN AND JANE DOES

49. Defendants JOHN and JANE DOES 1-25 are persons and/or entities affiliated with STATE FARM MUTUAL and/or STATE FARM FIRE and/or FORENSIC and/or KOCHAN and/or the RENFROE COMPANY and/or GENE and JANA RENFROE. The DOE Defendants' identities are presently unknown, but on information and belief may include, among others, The Worley Companies ("Worley"); Pilot Catastrophe Services, Inc. ("Pilot"); Rimkus Consulting Group, Inc. ("Rimkus") and/or individual officers, managers, supervisors, agents or employees of them. All allegations and claims asserted herein against STATE FARM MUTUAL and/or STATE FARM FIRE and/or FORENSIC and/or KOCHAN and/or the RENFROE COMPANY and/or GENE and JANA RENFROE are incorporated by reference against said JOHN and JANE DOES 1-25. When their identities are known, said JOHN and JANE DOES will if necessary be named and joined in this action pursuant to the Federal Rules of Civil Procedure, Rule 19 *et seq.*

II.

SUBJECT MATTER AND PERSONAL JURISDICTION

50. This Court has jurisdiction over the subject matter and the Defendants in this case pursuant to the Racketeer Influenced and Corrupt Organizations Act ("RICO") 18 U.S.C. § 1961 *et. seq.*, specifically, 18 U.S.C. § 1964(c) and 28 U.S.C. § 1331. Supplemental jurisdiction applies pursuant to 28 U.S.C. § 1367 because the state law claims are so factually related to the RICO claims that they form part of the same case or controversy under Article III of the U.S. Constitution. Alternatively, jurisdiction over the subject matter and the Defendants in this case is proper under 28 U.S.C. § 1332 as each of the Plaintiffs and the Defendants are from different states and the amount in controversy exceeds \$75,000.00 for each Plaintiff, exclusive of interest and costs.

III.

VENUE

51. Venue is proper under 18. U.S.C. 1965(a) because the Defendants are found, have agents and/or transact business within the meaning of 18. U.S.C. 1965(a) in this District. Venue is also proper in this District under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to Plaintiffs' claims, such as the sale and delivery of the subject insurance policies; the hurricane damages giving rise to policy claims; the adjustment, entry on Plaintiffs' property for inspections, procurement and alteration of inspection reports and subsequent claim denials under the subject policies; all occurred in this District. Additionally, all of the insured properties which are the subject of this action are situated in this District.

**IV.
FACTS
GENERAL AVERMENTS**

52. Prior to August 29, 2005, Plaintiffs purchased from Defendant STATE FARM FIRE a homeowners policy on form FP-7955 naming them as insured policyholders.² The FP-7955 policies insured Plaintiffs' dwellings; dwelling extensions; and personal property; and provided loss of use coverage.

53. The FP-7955 policies purchased by Plaintiffs were in effect and paid up as of August 29, 2005, the date Hurricane Katrina made landfall in Mississippi.

54. The FP-7955 policy, known in the insurance industry as an "all-risks" policy, warrants on its cover page that it is "one of the broadest forms available today and provides [the policy buyer] with outstanding value for [his or her] insurance dollars."³ The FP-7955 policy provides coverage for any and all risks of "accidental direct physical loss" to the insured dwelling and dwelling extension, unless the loss is elsewhere specifically excluded in the policy.⁴

55. A hurricane, such as the August 29, 2005, occurrence of Hurricane Katrina, is an "accidental direct physical loss" under SECTION I - LOSSES INSURED of the Plaintiffs' FP-7955 policies.

56. Prior to Hurricane Katrina, Defendant STATE FARM applied for and obtained regulatory approval to add an endorsement modifying the FP-7955 policy marketed on the Mississippi Gulf Coast. The endorsement, a so-called "Hurricane Deductible Endorsement," shifted to policyholders an increased share of the actual dollar loss in the event a hurricane struck and damaged the insured property. As approved, in the event an insured homeowner rejected the Hurricane Deductible Endorsement, STATE FARM was alternatively permitted to charge coastal homeowners a commensurate amount in increased premium. In gaining regulatory approval, STATE FARM used hurricane-specific experience ratings and computer model projections of hurricane losses.

57. Defendant STATE FARM FIRE marketed and sold the FP-7955 form policy to homeowners

² Certain of the named Plaintiffs purchased rental dwelling policies, issued under STATE FARM form FP-8103.3. For purposes of this action, the relevant policy provisions are identical to the homeowners FP-7955 policy form and for that reason, unless otherwise noted, where the Complaint refers to "FP-7955" policies, this is meant to refer to both policy forms.

³ Exh. 1, specimen FP-7955 policy, cover page.

⁴ Exh. 1, specimen FP-7955 policy, p. 7.

through a network of captive sales agents advertised to be the "good neighbors" of homeowners needing insurance. Defendant STATE FARM's sales agents represented to coastal homeowners that the subject policies, containing the words "Hurricane Deductible Endorsement," provided protection from hurricanes.

58. Plaintiffs' FP-7955 policies provide coverage for hurricane damage to the insureds' dwelling, dwelling extension (Coverage A) and to the homeowner insureds' personal property (Coverage B) subject to the policy limits in the respective declarations page.

59. Plaintiffs' FP-7955 policies also provide coverage for Loss of Use (Coverage C) in the event that Plaintiffs' covered dwellings were rendered unusable by a hurricane.

60. Plaintiffs' FP-7955 policies provide coverage for damage or loss of the dwelling, dwelling extension and personal property in the event of collapse (Section I - Additional Coverages) in the following policy provision:

SECTION I - COVERAGES

...

SECTION I - ADDITIONAL COVERAGES

...

11. **Collapse.** We insure only for direct physical loss to covered property involving the sudden, entire collapse of a building or any part of a building.

Collapse means actually fallen down or fallen into pieces. It does not include settling, cracking, shrinking, bulging, expansion, sagging or bowing.

The collapse must be directly and immediately caused only by one or more of the following:

- a. perils described in **SECTION I - LOSSES INSURED, COVERAGE B - PERSONAL PROPERTY**. These perils apply to covered building and personal property for loss insured by this Additional Coverage;⁵

61. Plaintiffs' FP-7955 all-risks policies do not exclude damage or loss to the Dwelling or Dwelling Extension (Coverage A) caused by wind borne or water borne objects, material or debris.

62. Plaintiffs' FP-7955 all-risks policies do not exclude damage or loss to the Personal Property (Coverage B) caused by wind borne or water borne objects, material or debris.

⁵ Exh. 1, specimen FP-7955 policy, p. 6.

63. Plaintiffs, whose residences were located near the Gulf of Mexico, purchased their FP-7955 policies from Defendant STATE FARM for the primary purpose of insuring against property damage resulting from tropical hurricanes and windstorms impacting the Mississippi Gulf Coast from the Gulf of Mexico.

64. On August 29, 2005, within the subject policy period, the Plaintiffs' insured dwellings, dwelling extensions (Coverage A) and personal property (Coverage B) were significantly damaged or totally destroyed by Hurricane Katrina, a hurricane with wind gusts in excess of 140 miles per hour. Plaintiffs' insured properties were subjected to tornadoes, microbursts, mesocyclones, and other convective activity typically associated with a hurricane.

65. The losses and damages to Plaintiffs' insured dwellings (Coverage A), dwelling extensions (Coverage A) and personal property (Coverage B) were proximately and efficiently caused by Hurricane Katrina, which itself is a covered risk of "accidental direct physical loss" under Plaintiffs' FP-7955 policies.

66. Hurricane Katrina's devastating and catastrophic hurricane winds, tornadoes, microbursts, and mesocyclones occurred 4-6 hours before the peak hurricane storm surge, and actually or constructively destroyed Plaintiffs' property prior to the arrival of storm surge.

67. The accidental direct physical losses and damages to Plaintiffs' insured dwellings, dwelling extensions (Coverage A) and personal property (Coverage B) were proximately and efficiently caused by Hurricane Katrina's wind, tornadoes, microbursts, mesocyclones, and/or convective activity, occurred separately, and independent of any subsequent losses or damages, if any, caused by rising water or flooding.

68. Within the time period(s) required under the policies, and in accordance with the requirements or making a claim under the subject policy, Plaintiffs notified Defendant STATE FARM of the covered losses proximately and efficiently caused by Hurricane Katrina's landfall on or about August 29, 2005.

GENERAL RICO AVERMENTS

A. THE ENTERPRISE

69. Plaintiffs are informed and believe and based thereon allege that an enterprise existed such that the Defendant STATE FARM, along with Defendants the RENFROE COMPANY, the RENFROES, KOCHAN and FORENSIC associated together for the common purpose of defrauding Plaintiffs of insurance benefits of up to \$3,974,806.47. The enterprise involved: (a) gaining entry onto the Plaintiffs' hurricane damaged properties under their insurance policies and through use of the implied covenants of cooperation thereunder; (b) procuring false or fraudulent inspection reports which attributed hurricane Katrina losses to policy exclusions for water damage; and (c) thereafter using the fraudulent inspections and reports to divest the Plaintiffs of coverage

benefits.

70. The enterprise and RICO persons are distinct from the series of predicate acts alleged with particularity here, and the enterprise is ongoing and functions as a continuing unit. The enterprise to procure corrupt property inspections and falsely contrived inspection reports for the common purpose of divesting coverage benefits has been previously utilized in other jurisdictions by STATE FARM acting through Lecky King, in collusion with the RENFROE COMPANY. When tornados struck Oklahoma City, Oklahoma in 1999, litigation ensued after STATE FARM globally denied hundreds of homeowners' claims using contrived inspection reports prepared by Haag Engineering Company to divest coverage benefits under a policy exclusion for defective construction. Approximately seventy (70) homeowners participated in a class action wherein the lead plaintiffs were awarded 13 million dollars in individual and proportionate class member damages. *Watkins v. State Farm et al*, Cause no. CJ-2000-303, District Court of Grady County, Oklahoma. In *Watkins*, the class Plaintiffs alleged Lecky King and other STATE FARM claims personnel procured corrupt inspections and contrived inspection reports from Haag Engineering, and utilized RENFROE COMPANY as adjusters, all for the purpose of divesting the insureds of coverage benefits. During the suit Lecky King was deposed and refused to answer any questions, asserting her constitutional right against self-incrimination eighty-seven (87) times.

71. A verdict form in the *Watkins* individual case states that the jury found by clear and convincing evidence that STATE FARM:

- (a) recklessly disregarded its duty to deal fairly and in good faith with the Watkins;
- (b) recklessly disregarded its duty to deal fairly and in good faith with class members in its use of Haag Engineering Company.
- (c) recklessly disregarded its duty to deal fairly and in good faith with class members in its use of independent adjusters from E.A. RENFROE Company.⁶

72. The enterprise and pattern of racketeering activity which injured the named Plaintiffs in this suit, and potentially over one hundred (100) other Katrina policyholders, is essentially a replica of the enterprise STATE FARM acting through Lecky King, the RENFROE COMPANY and Haag Engineering utilized in Oklahoma, with the exception that here FORENSIC procured the fraudulent engineering inspection reports.

⁶ Exh. 2, Verdict Form, *Watkins v. State Farm et al*, Cause no. CJ-2000-303, District Court of Grady County, Oklahoma. *Watkins* has been confidentially settled. The terms of the settlement required entry of an order vacating the judgment.

B. PATTERN OF RACKETEERING

73. The enterprise, with STATE FARM acting through Lecky King, Mark Wilcox, David Haddock, Dave Randel, Marsha Slaughter, Rayna Lynch and others; and the RENFROE COMPANY acting through GENE and JANA RENFROE and their employee claims adjusters, namely Tammy Hardison, Jeff Davis, Denny Sitze, Larry Boyd, Jamiye Woody; and FORENSIC and KOCHAN, acting through KOCHAN, Adam Sammis, Nellie Williams, Randy Down, Jack Kelly and William Forbes at the hub, engaged in a pattern of racketeering activity by: (a) gaining entry to Plaintiffs' property by artifice, allegedly to inspect hurricane losses; (b) procuring scientifically dishonest inspection reports in order to attribute losses to policy exclusions for water damage; (c) spoliating and/or altering inspection reports originally containing findings of compensable wind damage; (d) conducting sham re-inspections for the purpose of procuring inspection reports falsely attributing losses to policy exclusions for water damage; and, (e) while concealing the enterprise and pattern of racketeering activity from Plaintiffs, utilizing contrived inspection reports to divest coverage benefits. The pattern of racketeering activity involved in excess of fifty predicate acts (constituting mail fraud and wire fraud) directly affecting the named Plaintiffs, and potentially over one hundred (100) other insured policyholders whose properties were subjected to inspections under the FORENSIC scheme.

74. RENFROE COMPANY employees, including those identified in this complaint as Tammy Hardison, Jeff Davis, Denny Sitze, Larry Boyd, Jamiye Woody, conducted the pattern of racketeering activity while posing as STATE FARM employees. At all times relevant to this action, RENFROE COMPANY employees were given "id" cards identifying them to policyholders as STATE FARM employees. RENFROE COMPANY employees were provided with lap top computers issued by STATE FARM, for the purpose of logging-in their claims-related activities. RENFROE COMPANY employees wore clothing identifying them to policyholders as STATE FARM employees, and were issued identifier numbers that identified them within STATE FARM's computerized claims system.

75. The enterprise, and pattern of racketeering activity thereunder used the United States Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones and internet transmission, all of which constitutes engaging in interstate commerce for the purpose of committing fraud or deceit, or conspiring to commit fraud or deceit, and to divest Plaintiffs and other insureds of millions of dollars in coverage benefits.

C. RICO OFFENSES

76. As alleged with particularity below, Defendants and each of them are associated with the enterprise, and conducted or participated in the enterprise's affairs through a pattern of racketeering activity in violation of 18 U.S.C. § 1962 (c) or (d).

77. As alleged with particularity below, Defendants and each of them conspired with the other Defendants to violate the provisions of 18 U.S.C. § 1962 (c) or (d).

78. As alleged with particularity below, due to the concealment by the Defendants and each of them, including, the attempt to conceal and obstruct the discovery of subpoenaed evidence confirming their RICO activities, the Plaintiffs did not discover their RICO injuries immediately after their Katrina claims were denied, and Plaintiffs continue to discover injuries in an ongoing investigation.

D. PREDICATE OFFENSES

(1) Mail Fraud

79. As alleged with particularity below, Defendants and each of them devised or intended to devise a scheme or artifice to defraud Plaintiffs and potentially over one hundred (100) other insured policyholders, and in doing so used the U.S. Mail, DHL and/or other private or commercial interstate carriers to: (a) gain entry to Plaintiffs' property by artifice, allegedly to inspect hurricane losses; (b) procure scientifically dishonest inspection reports in order to attribute losses to policy exclusions for water damage; (c) spoliage and/or alter inspection reports originally containing findings of compensable wind damage; (d) conduct sham re-inspections for the purpose of procuring inspection reports falsely attributing losses to excluded water damage provisions; and (e) while concealing the enterprise and pattern of racketeering activity from Plaintiffs, utilize such inspection reports to divest Plaintiffs of coverage benefits.

(2) Wire Fraud

80. As alleged with particularity below, Defendants and each of them devised or intended to devise a scheme or artifice to defraud Plaintiffs and potentially over one hundred (100) other insured policyholders, and in doing so used the interstate telephone and telefax lines, cellular phones and internet transmission to: (a) gain entry to Plaintiffs' property by artifice, allegedly to inspect hurricane losses; (b) procure scientifically dishonest inspection reports in order to attribute losses to policy exclusions for water damage; (c) spoliage and/or alter inspection reports originally containing findings of compensable wind damage; (d) conduct sham re-inspections for the purpose of procuring inspection reports falsely attributing losses to excluded water damage provisions; and (e) while concealing the enterprise and pattern of racketeering activity from Plaintiffs, utilize such

inspection reports to divest Plaintiffs of coverage benefits.

(3) Obstruction of Justice

81. As alleged with particularity below, in carrying out the scheme or artifice to defraud, Defendants and each of them corruptly influenced, obstructed or impeded, or endeavored to corruptly influence, obstruct or impede the due administration of justice. Throughout the racketeering activity, the Defendants and each of them knew from a legal standpoint that storm surge was not clearly excluded under STATE FARM's policies and that the wording of the inspection reports "could mean a world of difference in the final payout" of coverage benefits.⁷ The Defendants and each of them knew that STATE FARM intended to use the inspection scheme "to call almost all the damage water related."⁸ Defendants and each of them knew that use of the phrase "predominant cause" in the contrived reports, and elimination of apportioned wind and water damage, along with purposeful exclusion of eyewitness evidence had the effect of corruptly influencing, obstructing or impeding the due administration of justice. By engaging in the racketeering activity, Defendants and each of them endeavored to corruptly influence, obstruct or impede the due administration of justice.

RULE 9 (b) RICO AVERMENTS A. STATE FARM'S PRE-KATRINA MEETINGS

82. Plaintiffs re-allege the text and content of each paragraph appearing in this Complaint.

83. Prior to Katrina's landfall in Mississippi, STATE FARM held Katrina claims strategy meetings at its corporate offices in Bloomington, Illinois and in Duluth, Georgia. After Katrina hit Mississippi, on September 6, 2005, STATE FARM held additional claims meetings at its Illinois corporate offices. Attending was the "Fire Claim Council" consisting of STATE FARM lawyers and various claims consultants, including, Kimberly Bray, Mark Wells, Tim Marron, Peter Martin and others. STATE FARM claims consultant Stephan Hinkle, a 30 year employee, met in Birmingham, Alabama with other key personnel to discuss Katrina claims strategy issues involving, among others, STATE FARM's "Write Your Own" ("WYO") Standard Flood Insurance Policies ("SFIP's") issued under the National Flood Insurance Program. One priority of the meeting was to isolate and identify insured properties covered by both a flood policy issued by STATE FARM, under which claims are ultimately paid with U.S. Treasury funds, and a STATE FARM homeowners policy, under which claims are paid with STATE FARM's own funds.

⁷ Exh. 3, email from FORENSIC (Williams) to KOCHAN, October 11, 2005, 10:41 AM.

⁸ Exh. 4, email from KOCHAN to FORENSIC (Williams), November 17, 2005, 11:45 PM.

84. On or about September 10, 2005, Stephan Hinkle began drafting the "Wind Water Claim Handling Protocol" (the "Hinkle Protocol") which STATE FARM ultimately utilized in denying or underpaying thousands of Katrina damage claims.

85. On September 13, 2005, STATE FARM distributed the Hinkle Protocol to its claims handlers, including RENFROE employees, working Katrina claims on the Mississippi Gulf Coast. STATE FARM applied the Hinkle Protocol to Plaintiffs' and thousands of other homeowners' Katrina claims. The Hinkle Protocol directed claims handlers to deny Katrina claims as follows:

Where wind acts concurrently with flooding to cause damage to the insured property, coverage only exists under flood coverage, if available.

The Hinkle Protocol re-wrote coverage conditions in Plaintiffs' FP-7955 policies, and, in practice and effect, stripped the policies of the all-risks coverage applicable to wind damage from a hurricane.

86. STATE FARM appointed Alexis "Lecky" King, Dave Randel, Mark Drain, Mark Wilcox, David Haddock and a team of other claims personnel, to act as the Katrina catastrophe claims team. Lecky King, STATE FARM's "team manager," was given authority to hire and fire engineers, to procure property inspections, and generally, to handle all matters related to Katrina claims handling. As in the Oklahoma scheme, Lecky King hired and associated the RENFROE COMPANY to act as adjusters for many of the insured Plaintiffs. As alleged with particularity below, inspection reports relating to Plaintiffs' properties were addressed and forwarded by U.S. Mail to RENFROE COMPANY and/or its adjuster employees (or other DOE Defendants) who, along with STATE FARM, were at all times relevant to this action, FORENSIC's "clients."

B. INITIAL CONTACT WITH FORENSIC

87. On or before September 26, 2005, STATE FARM's employee Mark Wilcox ("Wilcox"), on information and belief using interstate telephone lines, called KOCHAN and proposed that STATE FARM hire FORENSIC to furnish engineers, inspect properties and prepare inspection reports for STATE FARM's use in processing Hurricane Katrina damage claims in Mississippi. As alleged with particularity below, the purpose of the call was to lay the groundwork for the scheme or artifice to defraud Plaintiffs.

88. Anticipating a lucrative relationship with STATE FARM, after the proposal was telephoned in, allegedly over interstate lines, KOCHAN purchased with borrowed funds a \$150,000.00 luxury RV which he later came to call FORENSIC's "mobile RV office."⁹ KOCHAN's investment in the RV, itself essential to the

⁹ Exh. 5, September 26, 2005, confirmation letter, signed by Robert K. Kochan, President.

conduct of the inspection scheme, was expected to be recovered through STATE FARM's payment of a \$6,950.00 monthly fee for use of the RV.

89. On or about September 26, 2005, the proposal made in the Wilcox - KOCHAN telephone conversation was accepted and confirmed in a letter written and transmitted by KOCHAN, on information and belief, via U.S. Mail or by interstate telefax line, to Wilcox and STATE FARM.¹⁰ The purpose of the confirmation letter was to secure the financing for the scheme or artifice to defraud Plaintiffs, as alleged with particularity below.

90. Prior to KOCHAN's September 26, 2005, confirmation letter, Wilcox and STATE FARM sent to FORENSIC's Raleigh, North Carolina office, fourteen (14) inspection assignments involving Katrina damaged properties insured by STATE FARM. On information and belief, the fourteen (14) separate inspection assignments were transmitted to FORENSIC and KOCHAN by U.S. Mail and/or use of interstate telefax lines and/or over the internet.¹¹ The purpose of the transmission was to instigate the inspection scheme ultimately aimed at divesting the Plaintiffs' and other insureds' coverage benefits.

91. As alleged with particularity below, the September 26, 2005, letter transmitted by KOCHAN confirmed the rudiments of the scheme or artifice (the "FORENSIC inspection scheme") to defraud Plaintiffs out of coverage benefits owed under STATE FARM's policies.

C. THE FORENSIC INSPECTION SCHEME

92. KOCHAN's confirmation letter stated that FORENSIC "has its own fully equipped and functioning mobile office and living quarters RV set up for these type of emergency situations."¹²

93. Based on his telephone conversation with Wilcox, KOCHAN anticipated that FORENSIC's business dealings with STATE FARM would easily generate enough income to pay for the \$150,000.00 luxury RV he had purchased, plus substantial profit from FORENSIC's "proportionate share" of the 10,000 anticipated

¹⁰ Exh. 5, September 26, 2005, confirmation letter, signed by Robert K. Kochan, President.

¹¹ *Id.*

¹² It should be noted, at the time Wilcox initially called, FORENSIC had no such "mobile office." KOCHAN purchased the RV immediately after Wilcox's initial telephone call. The staff of FORENSIC consisted of a handful of employees, counting KOCHAN. FORENSIC occupied a small office in Raleigh, NC, and largely obtained its business through its website, which advertised expertise in "failure analysis." Defendant KOCHAN has never attained professional licensure as an engineer in any U.S. jurisdiction, and essentially brokers consulting engineers when prospective clients such as STATE FARM hire FORENSIC.

inspections, at the proposed rate of \$2500.00 and up per inspection.¹³

94. STATE FARM, acting through Wilcox, agreed to pay a monthly rate of \$6,950.00 for the RV office to be located in Mississippi and used as an office, living quarters and base of operations. The RV office could accommodate and house up to four persons. FORENSIC expected the arrangement to extend through the month of October and possibly "up to six or more months."

95. STATE FARM, acting through Wilcox, was to pay for FORENSIC's "expert services as they are rendered in accordance with FAEC's [FORENSIC's] most recent standard published rates for all needed professional services and associated expenses."¹⁴

96. After sending the confirmation letter, KOCHAN personally drove the RV to storm-ravaged Biloxi, Mississippi, where, by prior arrangement, he was met by Wilcox who assisted him in setting up the RV as operations center for the enterprise described herein.

97. KOCHAN hired engineer Brian Ford ("Ford"), registered in Mississippi, and engineer Emanuel "Manny" Manon, a Florida resident, to initially perform inspections as assignments were transmitted daily by STATE FARM. On information and belief Lecky King, Mark Wilcox, David Haddock and others at STATE FARM transmitted and received, and FORENSIC's field and office personnel, including Adam Sammis, Nellie Williams, Randy Down, Jack Kelly, William Forbes and KOCHAN, transmitted and received, writings, photos, emails and data used in the FORENSIC inspection scheme via U.S. Mail, DHL (or other private express mail services), by interstate telephone and telefax lines, cellular phones, and/or by the internet.

98. FORENSIC employed three (3) other engineers in addition to Ford and Manon: Randy Down, located in FORENSIC's Raleigh, North Carolina office; William C. "Bill" Forbes, located in Virginia Beach, Virginia; and John B. "Jack" Kelly, located in Ocean Springs, Mississippi.

99. KOCHAN assigned staff employee Adam Sammis ("Sammis") as a live-in administrative assistant to manage the RV office. Sammis had no experience, training or expertise as an engineer, and before the Katrina inspections were proposed by STATE FARM, was slated to be terminated by KOCHAN due to lack of work.

100. KOCHAN assigned staff employee Petranella Krynen a/k/a Nellie Espinoza, a/k/a Nellie

¹³ Exh. 5, September 26, 2005, confirmation letter, signed by Robert K. Kochan, President.

¹⁴ No fee schedule was produced when the subpoenaed confirmation letter was obtained in discovery.

Williams ("Williams") to manage and oversee the inspections and billings generated from them. For the most part, Williams worked from a home ecomputer located in Reno, Nevada, but occasionally traveled to FORENSIC's Raleigh office. Officially, Williams' job title was "Director of Operations" for FORENSIC. For much of her work activity, Williams used a desk top computer in her home at 250 Mugo Pine, Reno, Nevada, equipped with a software program allowing her to work remotely over the internet through a desk top computer physically located in FORENSIC's Raleigh, North Carolina office. From September 2005 through April 2006, (the principal period of the FORENSIC inspection scheme), Williams transmitted and received, hundreds of writings, photos, emails and data used in the inspection scheme. In doing so, Williams used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and the internet.

101. FORENSIC's website (www.FORENSIC-ANALYSIS.com) was operated and maintained by Propeller Head Software, Inc., located in Matthews, North Carolina. Williams helped Propeller Head create a feature on the website known as File Transfer Protocol ("FTP"), which functioned as a "virtual storage box" capable of holding large text and picture digital files up to three (3) megabytes. Sammis, Williams, Forbes, Kelly, Down, KOCHAN and others involved in the FORENSIC inspection scheme utilized the FTP feature on a daily basis to upload and download hundreds of inspection reports, photos, writings and/or other data. Access to the FTP feature was made through confidential user ID's and passwords.

102. While assigned to work and live in the RV, Sammis utilized lap top computers in the RV furnished by KOCHAN. Beginning in September 2005, Sammis transmitted and received hundreds of writings, photos, emails and other data used in the FORENSIC inspection scheme. In doing so, Sammis used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission. During the months following Katrina, communication was difficult due to large scale infrastructure damage. From the RV, Sammis frequently communicated allegedly over interstate lines with Lecky King, Wilcox, and Haddock at STATE FARM; with FORENSIC's employees via the FTP website; with FORENSIC's office in Raleigh, North Carolina; with KOCHAN at his office in North Carolina and home in Hampton, Virginia; with Down in Raleigh, North Carolina; with Williams in Reno, Nevada; with Forbes in Virginia Beach, Virginia; and with Kelly in Ocean Springs, Mississippi.

103. KOCHAN designated Sammis to deliver inspection reports by hand to Lecky King at her STATE FARM "cat office" in Biloxi, Mississippi. Lecky King kept at least one copy of the inspection reports under lock and key in her cat office, in a personal file drawer.

104. As alleged with particularity below, STATE FARM acting through King, Wilcox, Haddock and others caused dozens of inspection reports generated during the scheme to be fabricated, altered and/or spoliated. On information and belief, on multiple occasions King and other STATE FARM actors covertly returned reports to FORENSIC through Sammis, KOCHAN or Kelly for fabrication, alteration or spoliation. The purpose in doing so was to further the scheme or artifice to defraud Plaintiffs and potentially over one hundred (100) other insured policyholders, out of coverage benefits owed under STATE FARM's policies.

105. Largely because of instrument failure, sparse weather data existed in September and early October 2005 to document Katrina's ferocious characteristics of wind and water damage. To this end, STATE FARM had confidentially advised KOCHAN about specific weather data it wanted included in the inspection reports, particularly as to water, flooding and storm surge. KOCHAN in turn had Forbes search for desirable weather information. On October 11, 2005, Forbes remarked in an email that he "had no problem limiting the information in the report based on State Farm's requirements."¹⁵

106. Plaintiffs have not yet discovered documents specifying what "requirements" and limitations STATE FARM conveyed to Forbes and KOCHAN. However, Forbes, KOCHAN, Sammis and Williams all knew at this time that little or no wind data for August 2005 was available from NOAA, as the measuring stations were largely blown away by the Hurricane.

107. Despite Sammis' lack of any engineering credentials, KOCHAN designated Sammis to draft and insert boilerplate weather information into the inspection reports. Sammis' lap top computer in the RV was used to draft and finalize reports before delivery to Lecky King. On October 10, 2005, Forbes advised Sammis in an email that he "will be synthesizing [wind data]" . . . "to get you some ideas of how to estimate winds in particular areas."¹⁶

D. THE MARK WILCOX - ADAM SAMMIS COMMUNICATION

108. On or before October 10, 2005, Sammis had one or more telephone conversations, on information and belief using interstate lines, with STATE FARM employee Mark Wilcox concerning how to word inspection reports and tie the wording into water damage exclusions in STATE FARM's homeowner policies. In this regard, Wilcox advised Sammis that STATE FARM wanted the reports to call all water damage

¹⁵ Exh. 6, email from Forbes to FORENSIC (Williams), cc'ed to Down, KOCHAN and Sammis, October 11, 2005, 10:50 AM.

¹⁶ Exh. 7, email from Forbes to Sammis, October 10, 2005, 11:11 AM.

"flood water."¹⁷

109. Later the same day, Sammis, Williams and KOCHAN held a telephone conference call, on information and belief using interstate lines, to make sure the wording in FORENSIC's reports would comport with what STATE FARM required. During the conference call and later, in a follow-up email, Williams remarked that the decision to refer to water damage as "flooding," rather than wind-induced storm surge, "could mean a world of difference in the final payout." Williams had no engineering training, experience or expertise. The telephone conference call and follow-up email from Williams furthered the inspection scheme by preordaining specific wording to tie into policy exclusions for water damage and the Hinkle Protocol, which authorized denial if "wind acts concurrently with flooding to cause damage to the insured property."

110. On October 10, 2005, KOCHAN emailed Williams, Sammis and Down regarding Wilcox's conversation with Sammis. KOCHAN praised Williams for "bringing up a very important point," presumably Williams' insight in seeing that the reports be written with "final payout" in mind. To make sure STATE FARM was satisfied, KOCHAN told Sammis to call Wilcox again, find out exactly how STATE FARM applied its coverage, and then report back to KOCHAN and Williams. KOCHAN suggested in a follow up email that the reports might even include wording specifically tailored to STATE FARM's policy definition of water damage.¹⁸

111. STATE FARM's FP-7955 policy defined water damage as including the word "flood."¹⁹ At the time Sammis, KOCHAN, Down and Williams conspired to write FORENSIC's inspection reports with STATE FARM's "final payout" in mind, and, as requested by Wilcox, to make sure all water damage was called "flood water," a significant and as yet undecided legal issue existed in Mississippi's courts as to whether wind-induced storm surge was effectively excluded under STATE FARM's FP-7955 policy form.

112. Several days after the Wilcox - Sammis telephone call and aforementioned emails, on October

¹⁷ Exh. 3, email from FORENSIC (Williams) to KOCHAN, October 11, 2005, 10:41 AM.

For clarity, it should be noted that the email Exhibits attached to this Complaint contain "headers" which are not normally seen when email is displayed. The headers display calendar dates and accurate clock times for various "sent" and "received" email. The email Exhibits in this Complaint originated from three different U.S. time zones, PST (Nevada), CST (Mississippi) and EST (North Carolina, Virginia). To assure accuracy, the message internet headers are included here to show actual Greenwich Mean Time for each email.

¹⁸ Exh. 8, email from KOCHAN to FORENSIC (Williams), cc'ed to Sammis and Down, October 11, 2005, 2:54 PM.

¹⁹ Exh. 1, specimen FP-7955 policy, "Water Damage," paragraph 2.C.(1).

13, 2005, Williams advised Down in an email: "we know that a fair amount of these claims will be litigated."²⁰ Williams' email confirms the purpose of the inspection scheme was to divest coverage benefits through the procurement of contrived and false inspection reports, designed in advance to attribute losses to policy exclusions for water damage.

113. On October 13, 2005, Down replied to Williams' email by stating he thought that KOCHAN needed to discuss the issue with STATE FARM. Down expressed concern that STATE FARM was "standardizing" the reports by "lumping rising/flood water and surge," but in the same email revealed his concern that FORENSIC might not get paid if it deviated from STATE FARM's "terminology." Down remarked that STATE FARM might start "kicking our reports back to us." Down's email confirms that Defendants knew, intended and appreciated the consequences of procuring the false and contrived inspection reports in furtherance of the inspection scheme.²¹

114. As of October 10, 2005, STATE FARM acting through Wilcox, and FORENSIC and KOCHAN acting through Sammis, Williams and Down had conspired to fabricate wording in inspection reports in order to tie in with the "Water Damage" exclusion in STATE FARM's FP-7955 policies. The conspiracy was in furtherance of the scheme or artifice to defraud Plaintiffs and potentially over one hundred (100) other insured policyholders, of coverage benefits owed under STATE FARM's policies. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furtherance of the inspection scheme.

115. As evidenced by Williams' emails stating that the report wording "could mean a world of difference in the final payout" and "we know that a fair amount of these claims will be litigated," the Defendants knew, intended and appreciated that fabricating the wording of the inspection reports had the additional purpose or aim of corruptly influencing, obstructing or impeding the due administration of justice.²²

E. THE DAVID HADDOCK - RANDY DOWN COMMUNICATION

116. On or before October 13, 2005, Randy Down had one or more telephone conversations with

²⁰ Exh. 9, email from FORENSIC (Williams) to Down, October 13, 2005, 6:50 AM.

Interestingly, in a December 2006 sworn deposition Williams claimed to have no knowledge of how a wind or water finding affected payment under the policy.

²¹ Exh. 10, email from Down to FORENSIC (Williams), cc'ed to KOCHAN, October 13, 2005, 11:25 AM.

²² Exh. 3 and Exh. 9.

STATE FARM employee David Haddock ("Haddock") regarding apportioned wind and water damage, and the wording of inspection reports. Haddock instructed Down "not to apply a percentage of cause" such as "25% attributable to wind and 75% attributable to water." Haddock instructed Down that STATE FARM wanted the word "predominant" to be used when describing the cause of damage in the reports.²³

117. On or about October 13, 2005, Down sent Sammis, Forbes, KOCHAN and Williams an email marked "Urgent" and "Importance: High." Down's email confirmed the Haddock - Down conversation noted above, and arranged for two of FORENSIC's inspection reports previously delivered to STATE FARM to be spoliated, altered and/or replaced so as to eliminate apportioned wind damage and state instead that water damage was the "predominant cause" of loss.²⁴

118. After the telephone conversation with Haddock, STATE FARM acting through King and Wilcox and FORENSIC acting through Sammis, Williams and KOCHAN altered, spoliated and/or replaced inspection reports relating to policyholders Diana Fountain and Elbert Vix, and created new reports making it appear that the "predominant cause" of all damage was due to the excluded water damage. The effect of the alteration was to eliminate 25% coverage for wind damage, divest the insureds of thousands of dollars in coverage benefits, and cause the reports to falsely reflect that the "predominant cause" of all damage was attributable to a policy exclusion for water damage. Since Lecky King routinely received hand delivery of inspection reports directly from Sammis, and retained them under lock and key in her office, Diana Fountain and Elbert Vix never saw the original reports or knew their policy benefits had been fraudulently stripped.

119. The Haddock - Down telephone conversation and follow up emails furthered the inspection scheme by pre-ordaining the reports to ignore apportioned wind damage, and to tie in the water damage exclusion and the Hinkle Protocol by use of the phrase "predominant cause." STATE FARM acting through King, Wilcox and Haddock and FORENSIC acting through Sammis, Williams and KOCHAN knew, intended and appreciated that fabricating the wording of the inspection reports had the additional purpose or aim of corruptly influencing, obstructing or impeding the due administration of justice. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furthering the scheme.

120. On information and belief, STATE FARM's and RENFROE COMPANY's employees

²³ Exh. 11, email from Down to Sammis, cc'ed Forbes, KOCHAN and Williams, October 13, 2005, 11:32 AM.

²⁴ *Id.*

participated in one or more of Insurance Commissioner George Dale's sponsored mediations, the purpose of which was to induce policyholders such as Fountain and Vix to accept fractional settlement of their hurricane claims pending with STATE FARM. On information and belief, at all times relevant to the mediations, the STATE FARM and RENFROE COMPANY Defendants and their employees actively concealed the alteration and spoliation of Fountain's and Vix's original inspection reports attributing 25% of their losses to wind damage.

121. Sammis and Williams were apparently concerned that the original inspection reports of the Fountain and Vix properties attributing a percentage of loss to wind were still at large. To this end, on November 14, 2005, Sammis and Williams corresponded in an email wherein Sammis confirmed that he had located the original inspection reports with invoices. On information and belief, prior to Sammis' email, he had retrieved the original Fountain and Vix inspection reports from Lecky King's STATE FARM office.²⁵

122. On October 13, 2005, after the decision to alter and spoliage the Fountain and Vix inspection reports, Sammis emailed Down, Forbes, KOCHAN and Williams that he would "review" an additional "9 reports that went out" and "all reports that go out today." Sammis' email confirmed the scheme to alter and/or spoliage nine (9) additional inspection reports, and an undetermined number of other reports which contained language apportioning wind as a cause of damage. The affected policyholders were not identified in Sammis' email.²⁶

123. Sammis' email following the Haddock - Down telephone conversation furthered the inspection scheme by eliminating apportioned wind damage from present and future inspection reports, and adding the phrase "predominant cause" to attribute all losses to a policy exclusion for water damage. As evidenced by Williams' emails stating that the report wording "could mean a world of difference in the final payout" and "we know that a fair amount of these claims will be litigated," FORENSIC acting through Sammis, Williams, Down and KOCHAN, and STATE FARM acting through King, Wilcox and Haddock knew, intended and appreciated that fabricating the wording of the inspection reports had the additional purpose or aim of corruptly influencing, obstructing or impeding the due administration of justice. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furthering the scheme.

124. Although potentially dozens of policyholders were damaged by the scheme, for the two altered

²⁵ Exh. 12, email from Sammis to Williams, November 14, 2005, 11:12 AM.

²⁶ Exh. 13, email from Sammis to Down, cc'ed to Forbes, KOCHAN, Williams, October 13, 2005, 7:48 AM.

reports of Fountain and Vix, the immediate effect was to eliminate 25% coverage for wind damage, divest the insureds of thousands of dollars in coverage benefits, and create a specious inspection report reflecting that the "predominant cause" of damage to their properties was attributable to a policy exclusion for water damage.

F. LECKY KING "FIRES" FORENSIC

125. FORENSIC employee Brian Ford ("Ford"), unlike KOCHAN, Down, Forbes, Sammis and Williams, was a long term resident of the Coast, and before his retirement, had been employed as a fully licensed, registered engineer for Mississippi Power Company for approximately 35 years. During his tenure at Mississippi Power, Ford had been the managing engineer for disaster preparation, which included among other duties, hurricane preparedness. When KOCHAN began recruiting consulting engineers, he found Ford and talked him into hiring on as the "Senior Principal Engineer" for FORENSIC's office. For the inspection reports to be legal and in compliance with Mississippi's professional licensure laws, KOCHAN needed a resident, Mississippi-licensed engineer to putatively serve as FORENSIC's "Principal Engineer."

126. In October 2005, soon after assuming the job, Ford began to encounter severe criticism from Lecky King for including wind damage findings in inspection reports submitted to STATE FARM.

127. Roughly two weeks after the inspections began, on or about October 17, 2005, King called Sammis at FORENSIC's RV office and informed Sammis that "she was pulling all engineering work" from FORENSIC. King was angry that several inspection reports had included wind findings and failed to attribute the losses to excluded water damage. One of the reports prompting King's outrage was the inspection of Thomas and Pamela McIntosh's property by Brian Ford.²⁷ In the telephone conversation Lecky King angrily told Sammis she would now have to send another firm out "to get it right." Another Ford inspection, that of the Pepperman property, also provoked King.²⁸

128. During the telephone call to Sammis, Lecky King demanded to speak with Ford. According to Ford's memory of the call, (later reconstructed by Ford in an email sent to KOCHAN), King demanded to know why Ford had included wind findings in the McIntosh report. Explaining the basis for the report, Ford remarked that eyewitnesses "reported that the house next to the insured . . . [came] apart from wind and the debris blew into the insured's house taking out the windows and doors." King angrily replied: "you weren't there and didn't

²⁷ The alteration of the McIntosh's inspection report is the subject of a separate suit alleging fraud, *inter alia*, now pending in this Court. *Thomas C. and Pamela McIntosh v. State Farm Fire and Forensic*, Case No. 1:06-cv-1080.

²⁸ Exh. 14, email from Sammis to KOCHAN and Williams, October 17, 2005, 2:39 PM, enclosing "Conversation notes."

see that." King further warned Ford: "you should not be discussing what you [sic] opinions with the insured" and then finally advised him, "you will not be getting any more [report assignments] from SF."²⁹

129. After Lecky King told Sammis "she was pulling all engineering work" from FORENSIC, Sammis sent an email to KOCHAN and Williams detailing the conversation.³⁰

130. Minutes later Lecky King called Williams in Reno, Nevada, and in a voice Williams described as "obnoxious" and "offensive," told Williams FORENSIC's contract was terminated, to cease all work, and "send all information gathered from these inspections" to "my attention at State Farm Catastrophe Office."³¹

131. After Lecky King's telephone calls, Williams called KOCHAN and told him that FORENSIC's contract with STATE FARM had been terminated by King, recounting her tirade over Ford's reports including wind. KOCHAN emailed Ford requesting that Ford provide a written account of the Ford - King conversation. KOCHAN stated: "please reconstruct this conversation as soon as possible.and [sic] provide it to me." KOCHAN asked for "as close to a I said, she said dialogue as you can recall."³² Ford later provided KOCHAN with an email reconstructing the Lecky King conversation.³³

132. KOCHAN, who was personally obligated on a \$150,000 RV promissory note as well as for expenses and wages of consulting engineers he had hired, immediately called Lecky King by telephone and arranged for a hasty in person meeting at her STATE FARM cat office in Mississippi.

133. Lecky King's telephone calls and the emails following the calls had the effect of furthering the inspection scheme by insuring, through the use of threats and intimidation, that FORENSIC's inspection reports would not attribute losses to wind damage, thus divesting Plaintiffs and potentially over one hundred (100) other insureds of coverage benefits. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furthering the scheme.

²⁹ Exh. 15, email from Ford to KOCHAN, recounting the King - Ford conversation, October 17, 2005, 8:52 PM.

³⁰ Exh. 14.

³¹ Exh. 16, email from King to Williams, cc'ed to Dave Randel (at STATE FARM); Sandy Schmidt (at STATE FARM); David Haddock (at STATE FARM); and Lecky King, October 17, 2005, 3:33 PM.

³² Exh. 17, email from Ford to KOCHAN, undated.

³³ Exh. 15.

G. THE LECKY KING - KOCHAN MEETING OF OCTOBER 2005

134. To date Plaintiffs have been unable to discover documentary evidence confirming the details of the Lecky King - KOCHAN meeting in October 2005 at King's STATE FARM cat office in Mississippi. However, according to several emails, KOCHAN managed through his meeting to convince Lecky King to, in his words, give FORENSIC "an opportunity to earn their respect back." In an email KOCHAN wrote following the "firing" incident, KOCHAN advised FORENSIC's staff that a new inspection procedure would now apply: "as a company practice I am suggesting that eye witness statements are no longer to be relied upon in the development of our opinions." KOCHAN also informed FORENSIC's staff that Lecky King gave her approval for FORENSIC to omit any mention of "the specific initial causation of the loss" from the reports. KOCHAN notified Ford, Kelly, Sammis, Manon, Down and Williams to be available for a telephone conference call.³⁴

135. Prior to the telephone conference call, KOCHAN sent another email addressed only to Down and Williams, confidentially informing them of his discussions with King and candidly making suggestions for keeping Lecky King and STATE FARM happy. KOCHAN's email begins by saying: "I managed to get us back on the roles [sic] with SF but we need to have a frank conversation with the boys down south to be sure that we don't fall in the same trap." The "boys down south" referred to Ford and Manon.³⁵

136. KOCHAN's confidential email sent to Down and Williams before the scheduled conference call warned: "make sure we are all playing under the same guidelines."³⁶

137. Lecky King's feigned "firing," and the subsequent meeting with KOCHAN, along with the telephone calls and the emails following the meeting, had the effect of furthering the inspection scheme by insuring that FORENSIC's inspection reports would not attribute losses to wind damage, would not take eyewitness evidence into account, and would not seek to identify the initial cause of loss. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furthering the scheme.

H. RANDY DOWN'S EMAIL OF OCTOBER 18, 2005

³⁴ Exh. 18, email from KOCHAN to Ford, cc'ed to Down and Williams, October 17, 2005, 7:51 PM.

³⁵ Exh. 19, email from KOCHAN to Down and Williams, October 17, 2005, 8:17 PM.

KOCHAN's email is chronologized by context, not date. The date and time of KOCHAN's email may contain errors as the email opens with "Good Morning gang!" yet, the email indicates it was sent at 8:17 PM on the evening of October 17, 2005.

³⁶ *Id.*

138. The day after the "firing" incident and conference call to, as KOCHAN put it, "make sure we are all playing under the same guidelines," FORENSIC engineer Randy Down expressed concern about the potential for legal liability. To this end, Down wrote a confidential email questioning whether it was ethical for Lecky King to dictate the conclusions in FORENSIC's inspection reports.

139. On October 18, 2005, Down emailed KOCHAN and Williams relating his concerns with STATE FARM's lack of professional ethics and hard ball business tactics. Down's comments, excerpted and summarized from the email are as follows:

- (a) Down said he "questioned the ethics of someone who wants to fire us simply because our conclusions don't match hers;"
- (b) Down suggested that FORENSIC "find a more rational and ethical client to be dealing with;"
- (c) As an example of STATE FARM's unethical dealings, Down cited David Haddock's directive that FORENSIC eliminate apportioned wind findings because if included, STATE FARM "would then have to settle for the portion that was reportedly caused by wind;" and,
- (d) Down questioned Lecky King's demand that FORENSIC ignore eye witness accounts, stating: "eye witness accounts are standardly [sic] included" and ignoring them "would seem to be ignoring potential facts in the investigation that could hurt our credibility later."

In his closing remarks, Down's email stated:

what about the obvious fact that SF would love to see every report come through as water damage so that they can make the minimum settlement. I now see why the Attorney General's office is already involved down there. She needs to be careful about what she is doing and saying.³⁷ [Bold type added].

140. Subsequent to the email, however, and in a mere matter of hours, Down betrayed his earlier remarks. In an email confirming that he was intending to alter three (3) of Manon's inspection reports to eliminate eye witness and/or insured's accounts Down stated: "it is my understanding from our telecom and discussions, this is what we don;to [sic] want to do because it has raised a big concern with SF."³⁸

141. On October 18, 2005, KOCHAN emailed Lecky King, confirming that FORENSIC would "reexamine" Ford's inspection reports relating to the McIntosh and Pepperman properties. KOCHAN's email to King praised King and acknowledged "your time is extremely committed," then asked that King "kindly"

³⁷ Exh. 20, email from Down to KOCHAN, cc'ed to Williams, October 18, 2005, 8:54 AM.

³⁸ Exh. 21, email from Down to KOCHAN, cc'ed to Williams, October 19, 2005, 9:31 PM.

provide an email to Williams rescinding her previous directive to return all STATE FARM assignments and files.³⁹

142. Subsequent to KOCHAN's October 18, 2005, email, the conclusions of the McIntosh and Pepperman inspection reports were altered to eliminate wind findings.

143. On or about October 19, 2005, KOCHAN wrote an email to Williams and Sammis confirming that Haddock at STATE FARM had called to cancel the inspection report for policyholder Mark Lyons' property. According to KOCHAN, Haddock specified "do not write the report (even if an inspection had been done)." KOCHAN remarked: "hopefully this is one of Brian's reports that would otherwise have to be revisited" and then cryptically told Williams and Sammis: "You all know what to do."⁴⁰

144. On information and belief, King's "firing" of FORENSIC was feigned and not intended to actually terminate FORENSIC's contract so much as to insure that FORENSIC's reports stayed in line with the purpose of the inspection scheme.

145. Following the above-related events, and as a result of the Lecky King - KOCHAN meeting following the "firing" incident, KOCHAN actually and/or constructively terminated Ford's and Manon's employment with FORENSIC. Further, as a result of the Lecky King - KOCHAN meeting, KOCHAN identified and altered, spoliated and/or cancelled numerous inspection reports previously prepared and authored by Ford or Manon. In doing so, KOCHAN utilized Kelly to "re-inspect," alter and/or spoliolate the reports with Forbes located in Virginia acting as the so-called "peer reviewer."

146. The alteration and/or cancellation of Ford's and Manon's inspection reports resulted in dozens of property inspections being corruptly spoliated.

147. As a result of the Lecky King - KOCHAN meeting in October 2005 at King's STATE FARM cat office in Mississippi, and as alleged with particularity, the telephone calls and emails following it, the inspection scheme was furthered in that:

- (a) King reinstated the financial agreement with FORENSIC;
- (b) Ford and Manon were terminated from FORENSIC by KOCHAN;
- (c) the McIntosh and Pepperman inspection reports were altered, spoliated and changed to attribute losses to policy exclusions for water damage;

³⁹ Exh. 22, email from KOCHAN to King, cc'ed to Williams, October 18, 2005, 11:01 AM.

⁴⁰ Exh. 23, email from KOCHAN to Williams, Sammis and "Admin", October 19, 2005, 6:37 PM.

- (d) multiple reports generated by Ford and Manon were selectively identified by KOCHAN, then altered, spoliated or destroyed;
- (e) mention of the initial cause of damage in present and future inspection reports was purposefully omitted;
- (f) eyewitness accounts and first hand evidence was purposefully omitted from present and future reports; and,
- (g) STATE FARM acting through Wilcox furnished FORENSIC with a sample report to be utilized as a model; the sample report included, among other things, a statement that storm surge preceded the arrival of winds, and an example of a written conclusion stating that storm surge destroyed the inspected property.

148. By October 19, 2005, report alteration was so much the order of the day at FORENSIC that KOCHAN had developed a vocabulary, referring to it as: "wordsmithing [that] needed to be performed" in order to keep FORENSIC "out of hot water."⁴¹

149. Approximately seven (7) days after the "firing" incident, STATE FARM acting through King, Wilcox and/or Haddock began instructing FORENSIC to "cancel" reports, and directed FORENSIC not to send a report for certain inspections even though reports had already been prepared. An email from "Admin@Forensic-Analysis" dated October 24, 2005, and addressed to Sammis and Williams confirmed the directive to cancel nine (9) reports: "If the job report has already been done, and the report not yet sent, they say not to send the report just investigation notes, pictures, etc."⁴²

150. As of October 19, 2005, Manon was still employed but according to KOCHAN, unable to "comply with the objective" and "having a lot of problems with the wording."⁴³ In November 2005, KOCHAN fired Manon, allegedly because King mandated it.

151. To keep King and STATE FARM pleased, KOCHAN instigated a practice of deleting the causation conclusions in select reports, and marking cancelled reports with the word "DRAFT." Approximately seven (7) days after the "firing" incident, KOCHAN wrote an email to FORENSIC (Williams) stating: "consider submitting the work we have done . . . with a copy of the report marked DRAFT and Manny's conclusion

⁴¹ Exh. 24, email from KOCHAN to Down, cc'ed to Williams, October 19, 2005, 9:07 PM.

⁴² Exh. 25, email from Admin@Forensic-Analysis to Sammis, cc'ed to Williams, October 24, 2005, 6:45 AM.

⁴³ Exh. 24.

REMOVED. Just mark that section INCOMPLETED. We don't need to give them any ammunition that is not necessary and we can still bill for the investigation."⁴⁴

152. Occasionally, Forbes or another "peer reviewer" would admit there was no way to determine the cause of loss at a particular site, yet the report provided to King would ultimately conclude the damage was the result of excluded water. On October 25, 2005, Forbes wrote an email stating: "I think anything we say is speculation."⁴⁵ The day before this, referring to another property, Forbes wrote: "Anything we say seems to be speculation . . . Maybe we should bump it up to the boss."⁴⁶

153. On or about October 25, 2005, Sammis was instructed, on information and belief from Lecky King, to cancel twenty-six (26) reports which were known or believed to have found that wind was a cause of the policyholder's damage. On information and belief, in many instances the "cancelled" reports were simply spoliated after King's directive to Sammis.⁴⁷

I. STATE FARM FURNISHES A REPORT FORM AND WEATHER DATA

154. On October 28, 2005, after the Lecky King - KOCHAN meeting, STATE FARM acting through Wilcox emailed a document to FORENSIC called "a suggested format for the written evaluation of a structure." Wilcox's email stated that he was responding to questions "concerning the content" of reports, and advised: "Please consider this format in preparing any future reports." Wilcox attached to his email a sample inspection report form which included, among other things, a false statement to the effect that during Hurricane Katrina, storm surge preceded the arrival of the strongest winds. The sample report gave an example of a written conclusion that the subject property was destroyed by storm surge. The report was loaded with inspection "cues" designed to elicit a finding of water damage. No part of the sample report addressed or mentioned pre-surge wind damage as a potential cause of loss.⁴⁸ The sample report was utilized by FORENSIC as a model in writing dozens of reports thereafter.

155. Sammis, a non-engineer who sometimes drafted entire sections of FORENSIC's reports, was

⁴⁴ Exh. 26, email from KOCHAN to FORENSIC (Williams), October 24, 2005, 5:11 PM.

⁴⁵ Exh. 27, email from Forbes to FORENSIC (Williams), October 25, 2005, 6:44 AM.

⁴⁶ Exh. 28, email from Forbes to FORENSIC (Williams), October 24, 2005, 9:32 PM.

⁴⁷ Exh. 29, email from Sammis to FORENSIC (Williams), October 25, 2005, 9:35 AM.

⁴⁸ Exh. 30, email from Wilcox dated October 28, 2005, 4:48 PM.

designated by KOCHAN to insert boilerplate weather in FORENSIC's reports. By this time STATE FARM had commissioned a private company, Weather Data, Inc., to supply favorable weather information for the inspection reports. Despite the fact that Wilcox's sample report fundamentally misrepresented the arrival sequence of wind and water in Hurricane Katrina, FORENSIC used it in preparing Plaintiffs' and dozens of other policyholders' reports. FORENSIC's engineers knew the Wilcox sample report was false, yet still utilized it. In a January 2006 email Kelly admits that he knew all along that Hurricane Katrina's damaging winds arrived before the water. Writing to Forbes about new weather data Forbes found on a government website, Kelly stated:

The thing I found interesting was the lead time of the wind ahead of the water, because this is what we experienced. I can not say what speeds the winds were, but they definitely were ahead of the water by our observation.⁴⁹

156. Approximately a month after the "firing" incident and the King - KOCHAN meeting, an email of November 10, 2005, sent by Williams confirmed the plan to alter and spoliage Brian Ford's inspection reports. On that date, Williams emailed a list of property report assignments to Wilcox, copying KOCHAN, Sammis and Down, and stating: "We had completed most of these reports, but due to the decision to terminate Brian Ford's services, those reports written by Brian were not turned in and are being re-inspected."⁵⁰

157. Approximately a month after the "firing" incident and the Lecky King - KOCHAN meeting, an email of November 14, 2005, sent by Sammis confirmed the fact that Sammis retrieved the original inspection reports of Brian Ford back from STATE FARM after they were delivered to Lecky King, altered the conclusions, and kept the originals in his possession at FORENSIC's mobile RV.⁵¹

158. Approximately a month after the "firing" incident and the Lecky King - KOCHAN meeting, an email of November 14, 2005, sent by Sammis to Williams confirmed that at least six (6) inspection reports had been altered. In pertinent part, Sammis' email stated:

Case 56 has been changed . . .

Case 74 has been changed . . .

⁴⁹ Exh. 31, email from Kelly to Forbes, KOCHAN, Kelly and Forbes, cc'ed to Down, Williams, January 10, 2006, 9:26 AM.

⁵⁰ Exh. 32, email from Williams to Wilcox, cc'ed to KOCHAN, Sammis, and Down, November 10, 2005, 12:50 PM.

⁵¹ Exh. 33, email from Sammis to Williams, November 14, 2005, 11:52 AM.

Case 23 has been changed . . .
Case 5 has been changed . . .
Case 27 has been changed significantly . . .
Case 24 has been changed significantly . . .⁵²

159. On or about November 15, 2005, Sammis emailed Williams advising her to take fourteen (14) itemized reports and have them water marked as "drafts."⁵³ Sammis confirmed in a separate email that he had already "removed the pictures and conclusions" from the reports.⁵⁴ The same day, Williams confirmed in a reply email that she had water marked the altered reports.⁵⁵

160. As alleged with particularity, STATE FARM acting through King, Wilcox and Haddock, and FORENSIC acting through Sammis, Williams, Down, Forbes, Kelly and KOCHAN conspired to fabricate the text and content of inspection reports for the purpose of furthering the inspection scheme, and to divest Plaintiffs of coverage benefits. STATE FARM was particularly interested in selecting favorable weather information to support coverage denials under the policy exclusion for water damage. As noted above, STATE FARM had commissioned a private company, Weather Data, Inc., to selectively write weather summaries favoring the water damage aspects of Katrina, and downplaying wind speed and arrival times. Wilcox, acting for STATE FARM, instructed FORENSIC acting through Sammis to add the information to the reports. (See Sammis' email: "met with Mark Wilcox this morning and he gave me some interesting weather data").⁵⁶

161. On one occasion Wilcox located weather data from a NOAA site that suggested Hurricane Katrina's winds were "in the 80-90 MPH range or less" and that Katrina was a "CAT 1 WIND storm and a CAT 4-5 WAVE hitting the area." After seeing the weather information from Wilcox, KOCHAN privately remarked in a confidential email sent only to Williams:

the visual damage just doesn't correlate to that but the NOAA data will be the insurance

⁵² Exh. 34, email from Sammis to Williams, November 14, 2005, 1:34 PM.

⁵³ Exh. 35, email from Sammis to Williams, dated November 15, 2005, 12:26 PM.

⁵⁴ Exh. 36, email from Sammis to FORENSIC (Williams), dated November 15, 2005, 2:26 PM.

⁵⁵ Exh. 37, email from Williams to Sammis, dated November 15, 2005, 2:35 PM.

⁵⁶ Exh. 38, email from Sammis to KOCHAN, Forbes, Down and Williams, November 19, 2005, 9:50 AM.

industries' hook to call almost all the damage water related . . .⁵⁷ [Bold faced type added].

162. As of this date, STATE FARM acting through King, Wilcox and Haddock, and FORENSIC and KOCHAN acting through Sammis, Williams, Forbes and Kelly had furthered the inspection scheme by utilizing a report form written by STATE FARM employees and select weather data purchased from private sources to fabricate reports. The conspiracy was in furtherance of the scheme or artifice to defraud Plaintiffs, and potentially over one hundred (100) other insured policyholders, of coverage benefits owed under STATE FARM's policies. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furtherance of the inspection scheme.

163. In December 2005, Marsha Slaughter, another STATE FARM protégé of Lecky King, called FORENSIC about Ford's reported wind findings in policyholder Sandra Simpson's report. Slaughter demanded to know why wind was "primary" if four feet of water entered the home. Down received the call and appealed to KOCHAN for advice.⁵⁸

164. KOCHAN responded to Down's email noted above by stating: "I suggest that the client be advised that we will amend the report to include ADDITIONAL statements that the high water which most assuredly came from the surge did a significant amount of damage to the home or some such wording, etc."⁵⁹

165. Trying to devise a way to alter the Simpson report without leaving a paper trail, on December 18, 2005, Kelly wrote an email to Williams, cc'ed to KOCHAN and Down stating: "I think this may be one of those jobs that one must be carefull [sic] in handling. If the report has gone out to some kind of distribution within SF, it may be better to write a letter of clarification addressing the question vs. amending the report. If the report has not been distributed and we can retrieve the original as a swap out we could re-do the report."⁶⁰

⁵⁷ Exh. 4, email from KOCHAN to FORENSIC (Williams), November 17, 2005, 11:45 AM. (KOCHAN remarked in the email that even Wilcox was skeptical of the data). *Id.*

⁵⁸ Exh. 39, email from Down to Kelly and KOCHAN, and cc'ed to Sammis and Williams, December 9, 2005, 12:00 PM.

⁵⁹ Exh. 40, email from KOCHAN to Kelly, Sammis, Down and Williams, December 9, 2005, 12:13 PM.

⁶⁰ Exh. 41, email from Kelly to Williams, cc'ed to KOCHAN and Down, December 18, 2005, 11:22 AM.

166. By this time FORENSIC's staff was aware of the problems with altering reports which had already "gone to some kind of distribution" within STATE FARM; hence the phrase Kelly used, "swap out." In reality, a "swap out" was in fact a spoliation of an original report, by replacing it with a report altering the conclusion. On information and belief Sammis and others acting for FORENSIC routinely furnished reports to King for her approval or rejection before finalizing the content and conclusions.

167. As evidenced by a survey of daily email traffic, by December 2005 and into early 2006, FORENSIC's key personnel were entrenched in the corrupt inspection scheme with STATE FARM:

January 5, 2006, Kelly to Forbes:

"It might behoove us to leave the tornadic wind issue alone in this area unless further brought up by SF"

January 12, 2006, KOCHAN to Kelly:

"Does State Farm want us to redo the report and conclusions or just be willing to in the future if needed?"

January 24, 2006, Kelly to "Admin", FORENSIC (Williams), Down and KOCHAN:

"This draft report then made its way to the insured somehow and now that person is upset because SF told her there was no report and then she got a copy of the draft . . . They want to have the report finalized so that no draft will exist which they see as being beneficial to both SF and FAEC in this particular case"

January 27, 2006, Kelly to FORENSIC (Williams), Down and KOCHAN:

"SF has a note on this file to the effect of do not discuss and a question of an addendum from FAEC. This prompted the call to me 2 days ago. They still have the report in hand and it has not been distributed to anyone according to David"

February 1, 2005, Kelly to KOCHAN:

"I spoke to Randy about this job also. Since it appears that there is quite a record in the SF electronic file on this job, it would seem better to revise the report. This can be done by acknowledging new information that has been made available"

J. ALTERATION OF THE PEPPERMAN REPORT

168. After Ford and Manon were terminated, Kelly became the person KOCHAN trusted most to alter existing reports or initially procure inspection reports to STATE FARM's liking. To this end, Kelly was instructed to fix one of Manon's inspections which included a wind finding – the Pepperman report. The problem for Kelly was how to get rid of the previous report without leaving a paper trail, and effectively replace with an altered one. Kelly and other FORENSIC personnel, Down, Williams and Forbes, had by now learned

that "swap outs" were tricky when one couldn't be sure whether the previous report had been effectively concealed or, as Kelly put it, "had gone out to . . . distribution." Being circumspect, Kelly telephoned Haddock at STATE FARM to check, and on February 1, 2006, Kelly wrote KOCHAN, Down, FORENSIC (Williams) and Forbes an email regrading Pepperman:

I spoke with David Haddock of SF to tell him that we would like to submit a revised report on this job based on additional information that we now have that we did not have at the time the report was written. This included the Weather Data, Inc [sic] report supplied to us by SF. Since the report he is now holding has not been seen outside of SF, he is mailing that original back to me and the new report will replace it.⁶¹

169. On February 6, 2006 Kelly wrote Williams to let her know that he had succeeded in recovering the original Pepperman report from STATE FARM's office. Haddock had mailed the original back to Kelly. In his email Kelly stated: "Saturday I received the original report back from SF. I'll proceed with the one under my name today."⁶² Later the same day Kelly informed Williams by email: "I've placed the replacement report on the ftp site."⁶³

170. Addressing the Pepperman report, Down sent Williams a confidential email on February 1, 2006 stating: "Had a good conversation with Jack this morning regarding one of Manny's reports . . . SF had raised an issue concerning our findings. We are using the 'out' of our standard disclaimer at the end of the report, along with the updated weather data that we received later, to justify our changing the report findings."⁶⁴ The "updated weather" Down referred to in this email is the weather information STATE FARM commissioned and purchased from the private company, Weather Data, Inc. Down's email confirms that he had contemplated what to do if FORENSIC was caught altering the report. He decided FORENSIC could rely on the boilerplate disclaimer FORENSIC recited in every report, to claim there was a justification for altering the report.

171. Kelly's last effort to fix the Pepperman report evinces FORENSIC's true motive in the corrupt inspection scheme. Now that he had successfully retrieved and spoliated the original Pepperman report, replacing it with an altered-conclusion report, Kelly wanted to know if STATE FARM could be billed again.

⁶¹ Exh. 42, email from Kelly to KOCHAN, Down, FORENSIC (Williams) and Forbes, February 1, 2006, 10:33 AM.

⁶² Exh. 43, email from Kelly to FORENSIC (Williams), February 6, 2006, 7:50 AM.

⁶³ Exh. 44, email from Kelly to FORENSIC (Williams), February 6, 2006, 1:47 PM.

⁶⁴ Exh. 45, email from Down to Williams, February 1, 2006, 11:42 AM.

Since the Pepperman report is not the only occasion when FORENSIC spoliated and replaced inspection reports at STATE FARM's request, Kelly inquired whether any precedent existed for the situation. To this end, on February 10, 2006 Kelly emailed Williams stating:

This is a report we redid. SF mailed me back the original that was submitted by Manny and Brian, which was signed by them as a final report. The issue was that they had concluded wind and I concluded predominantly water. While I did not specifically address any additional compensation from SF, in the other two reports of similar problem, we just corrected the report without any additional fees. I don't know if you want to consider this or not, just let me know. I'd like to bring [sic] the reports over to STATE FARM this morning.⁶⁵

172. As alleged with particularity, STATE FARM acting through King, Wilcox and Haddock, and FORENSIC and KOCHAN acting through Sammis, Williams, Forbes and Kelly had furthered the inspection scheme by spoliating the Pepperman original report and fabricating a counterfeit report in its place, all of which was concealed from the Plaintiff and was for the purpose of divesting coverage benefits through a policy exclusion for water damage. As alleged with particularity, the Defendants used U.S. Mail, DHL (or other private express mail services), interstate telephone and telefax lines, cellular phones, and internet transmission in furtherance of the inspection scheme.

173. By February 2006, the inspection scheme began winding down. Looking for other sources of income, KOCHAN wrote Kelly an email stating: "I believe we have one or two final cases to clean up . . . As we move forward into March . . . we would like to do whatever we can with your help to continue the income stream from that area....[sic] Should we attempt to jump to the 'dark side' and contact the plaintiff attorneys regarding helping them with client settlements . . ."⁶⁶

K. THE MULLINS INSPECTION REPORTS

174. Hancock County resident Terri Mullins ("Mullins") was a named insured under a STATE FARM rental policy when Katrina hit. Constructed from a Home Depot kit and modeled after a barn, the Mullins rental house had covered front and rear porch areas which, from a side view, made the house look like it had airfoil "wings" attached to it.⁶⁷ After the storm passed, the house had been lifted from its pier and block

⁶⁵ Exh. 46, email from Kelly to FORENSIC (Williams), February 10, 2006, 9:02 AM.

⁶⁶ Exh. 47, email from KOCHAN to Kelly, cc'ed to Down and Williams, February 28, 2006, 7:33 AM.

⁶⁷ Exh. 48, post-Katrina photo.

foundation, carried to the middle of the street, and set down facing 180 degrees opposite. Other than being moved from its footings to the street, the house was virtually intact. No water marks were identified in the house. Mullins reported the loss to STATE FARM, who initially sent Christy Sims ("Sims"), an adjuster contracted by Worley Risk Management Services (a counterpart to and industry competitor of RENFROE) to inspect the site.

175. Though obvious, Sims refused to concede that the house had been moved by wind and told Mullins an engineer would have to inspect and give an opinion. Because the house posed a danger to power lines, Corps of Engineer showed up and advised it would be demolished if not relocated within five (5) days. Although STATE FARM and their agents were repeatedly urged by Mullins to assist in getting the house out of the street, STATE FARM's only action was to send a denial of coverage letter admitting that wind may have caused some damage, but citing the ACC and water damage exclusions in the Mullins policy as the basis for denying coverage.⁶⁸

176. Forced by circumstances beyond their control to watch helplessly as the essentially undamaged house was bulldozed into a pile of rubble, the Mullins were understandably anxious to find out whether STATE FARM intended to ever pay their claim.

177. STATE FARM assigned the inspection to FORENSIC and on October 11, 2005, Manon inspected the former site of Mullins house. By this time the house had been demolished.

178. Following inspection of the former house site, Manon advised Mullins that a report would be forthcoming. For weeks, Terri Mullins called Worley adjuster Christy Sims and other direct employees of STATE FARM to find out the status of the engineering report and whether the claim for the now demolished house would be paid. Repeatedly, she was told the report had not been prepared.

179. Resorting to her investigative skill as a police detective on the New Orleans police force, Mullins decided to call FORENSIC's office in Raleigh, North Carolina and find out what was holding the report up. Mullins spoke with a person named "Wendy" (FORENSIC receptionist Wendy Nichols) who advised her, after checking the Mullins inspection file, that a report had been prepared, but she couldn't send the report without the "client's" (STATE FARM's and RENFROE's) permission. At wits end, Mullins traveled to her STATE FARM agent's office and ask the desk receptionist "Kimberly" if she would kindly call the FORENSIC

⁶⁸ The water damage exclusion in STATE FARM's Rental Dwelling Policy, FP-8103.3 (5/88) is identical to that of the FP-7955 homeowners policy form.

office in North Carolina at the number provided, and tell "Wendy" it was okay to fax the engineering report there.

180. Being clerical personnel, neither Wendy or Kimberly were insiders with respect to the inspection scheme. Kimberly advised Wendy that "yes" she was an employee of the STATE FARM agent's office in Bay St. Louis, Mississippi, and "yes" it was okay for Wendy to send the Mullins inspection report. Wendy then faxed a portion of Manon's report to the STATE FARM agent's Mississippi office, where Kimberly delivered it to Terri Mullins.

181. The report stated that "the primary and predominant cause of damage to the subject property was due to hurricane force winds."⁶⁹

182. Terri Mullins gave a copy of the report to a STATE FARM employee who was present in the agent's office that day, (later identified as Corey Smith), hoping this could bring prompt payment of the claim. Mullins was advised by Smith that he would hand carry the report document to the STATE FARM cat office in Biloxi the next day. On December 6, 2005, Corey Smith apparently delivered the Manon report document to STATE FARM's cat office.⁷⁰

183. Although Terri Mullins had no knowledge of it at the time, almost a month earlier, on November 9, 2005, KOCHAN had sent Kelly to the Mullins property to covertly "re-inspect" the Mullins property for the purpose of fabricating a substitute report altering the wind findings in Manon's report.

184. On December 6, 2005, at 10:17 AM CST Corey Smith entered the following statement into STATE FARM'S electronic CSR which was at all times accessible to any RENFROE and/or Worley employee and all STATE FARM personnel:

ins has rec;d a copy of the eng report from the engineer i will bring a copy to the cat office, please contact ms ins to review report. [sic]⁷¹

185. Christy Sims, Mullins assigned adjuster, had access to the STATE FARM electronic CSR both before and after the Corey Smith entry at 10:17 AM CST December 6, 2005, referenced above.

⁶⁹ Exh. 49, FORENSIC report (pertinent part), dated October 23, 2005, "Emmanuel 'Manny' Manon, Principal Engineer" and "Robert K. Kochan, ME, DABFET, FACFEI" (peer reviewer).

⁷⁰ Exh. 50, excerpt from STATE FARM electronic Claims Service Record ("CSR"), entry no. 26.

⁷¹ *Id.*

186. Approximately eighteen (18) minutes after Corey Smith's entry, on December 6, 2005, Mullins called and spoke with Sims. Mullins informed Sims that the report document was now at the Biloxi cat office. After the conversation, at 10:35 AM, Sims typed the following diary note into STATE FARM'S electronic CSR:

Spoke with ph this morning who informed me the report was currently at the office. I told [sic] I would review it and get back with her by the end of the week.⁷²

187. Three (3) days later, on December 9, 2005, at 10:49 AM, despite having been told by Mullins that the report document was physically in STATE FARM's cat office, and knowing the electronic CSR entry by Corey Sims confirmed this, Sims typed the following diary note into STATE FARM's electronic claims file ("CSR"):

Spoke with ph. Informed her that I still have not received her engineers report. I checked with my tm [team manager Kevin Young] and he has not received it either. Informed ph I would inform her as soon as I had any new info.⁷³

188. On December 9, 2005, Terri Mullins traveled to the STATE FARM cat office and demanded an explanation, asking to speak to the claims supervisor. When supervisor Kevin Young ("Young") confronted Mullins he denied that any engineering report had been received. At the time Young made this statement, STATE FARM's electronic CSR reflected that the report document faxed to Bay St. Louis had been brought to STATE FARM's office three (3) days prior to this by Corey Smith, and that documentation of this had been entered into the electronic CSR. When Young denied knowledge of the report document, Terri Mullins then showed Young the report document Wendy had faxed from FORENSIC's North Carolina office to Bay St. Louis. The report document concluded that the primary and predominant cause of damage to the Mullins property was due to hurricane force winds. Young's response was: "Where did you get this?" Young then tried to deny that the report document Mullins had shown him was an "official" FORENSIC report. After a pause, Young momentarily left Mullins and, then after having just denied that any engineering report was in STATE FARM's possession, momentarily returned with a second FORENSIC report bearing John Kelly's signature. Young claimed that he just realized this "official" FORENSIC report had been received the night before. The report Young now produced, signed by John Kelly, altered the conclusions of Manon's report document, negated payment under the policy, and stated that rising water had produced and caused the loss:

⁷² Exh. 50, excerpt from STATE FARM electronic Claims Service Record ("CSR"), entry no. 28.

⁷³ *Id.*

The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.⁷⁴

189. In an email dated October 24, 2005, from KOCHAN to Williams and Sammis referring to the Mullins report, KOCHAN stated: "I suggest that the conclusion be altered to indicate that it was a combination of both and not primarily the wind."⁷⁵ [Underline added]. Eventually, in the final version of the altered Mullins report, Kelly wrote the conclusion to make it appear that water was the entire cause of the loss.⁷⁶

190. KOCHAN was deposed in the Mullins suit, and admitted that he had written the word "Draft" across the top of the Manon report, even though the report showed he had signed and approved it as FORENSIC's designated "peer reviewer." On December 10, 2005, after his covert re-inspection of the Mullins property, Kelly located Manon's report and wrote across the top of the report "DO NOT USE NOR [sic] DISTRIBUTE. JBK".⁷⁷

191. On January 18, 2006, Kelly sent an email to KOCHAN advising that STATE FARM employee Rayna Lynch had demanded an explanation of how the Manon report documents had leaked out to the Mullins.⁷⁸

192. Later, when STATE FARM's furor over the leaked report had died down, KOCHAN praised Kelly for smoothing it over with STATE FARM and, as KOCHAN put it, handling "what could have become a sticky issue" for FORENSIC.⁷⁹ Eventually, KOCHAN came to exclusively rely on Kelly (and Forbes as Kelly's "peer reviewer") to alter and rewrite dozens of reports, or initially create reports to reflect water damage rather

⁷⁴ Exh. 51, FORENSIC report (pertinent part) dated January 3, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

⁷⁵ Exh. 52, email from KOCHAN to Williams and Sammis, October 24, 2005, 4:32 PM.

⁷⁶ Exh. 51, attributed loss to "buoyant force . . . rising water."

⁷⁷ Exh. 53, FORENSIC report (pertinent part), dated October 23, 2005, "Emmanuel 'Manny' Manon, Principal Engineer" and "Robert K. Kochan, ME, DABFET, FACFEI" (peer reviewer).

⁷⁸ Exh. 54, email from Kelly to KOCHAN, cc'ed to Down and FORENSIC (Williams), January 18, 2006, 3:45 PM.

⁷⁹ Exh. 55, email from KOCHAN to Kelly, Down and FORENSIC (Williams), January 18, 2006, 11:32 PM.

than wind, as the cause of loss.⁸⁰

193. Documentary and parol evidence, taken as a whole, demonstrates that STATE FARM and the other named Defendants had engaged in a conspiracy enterprise, the purpose of which was to conduct corrupt property inspections and procure contrived inspection reports, and thereby cheat STATE FARM policyholders, including Plaintiffs, of the benefits of their insurance policies. Specifically, the documentary and parol evidence shows the following:

- (a) acting through Wilcox, and at Lecky King's specific request, STATE FARM and FORENSIC had conspired to fabricate the wording of FORENSIC's inspection reports for the purpose of supporting coverage denials under the water damage policy exclusion;
- (b) acting through Haddock, and at Lecky King's specific request, STATE FARM and FORENSIC had conspired to alter and spoliage a minimum of eleven (11) existing inspection reports so as to eliminate damages apportioned to wind;
- (c) Lecky King had intentionally caused Ford to be terminated from FORENSIC after castigating him for including wind findings in the McIntosh and Pepperman inspection reports;
- (d) Lecky King had prompted the constructive or actual discharge of Manon because his reports contained wind findings;
- (e) in a feigned gesture designed to constructively gain control of FORENSIC at the inception of the scheme, Lecky King had "fired" FORENSIC and demanded that all files be returned after she became upset that FORENSIC's reports contained wind findings;
- (f) King's feigned "firing" had the intended effect of prompting KOCHAN to hurriedly fly to Mississippi for a meeting with King and Wilcox, the details of which have never been disclosed;⁸¹
- (g) subsequent to the feigned "firing," and as a result of the King - KOCHAN meeting, King reinstated FORENSIC;
- (h) subsequent to the feigned "firing," and as a result of the King - KOCHAN meeting, KOCHAN fired Ford and Manon and assigned Kelly to procure all of STATE FARM'S inspections;

⁸⁰ Exhibit 56 *et seq.*

⁸¹ Lecky King has been deposed numerous times in Katrina cases pending in this Court, and in the discovery phase of the Oklahoma tornado cases. *Watkins v. State Farm et al*, No. CJ-2000-303, District Court of Grady County, Oklahoma. To date, on advice of counsel, King has asserted her constitutional protection against self-incrimination under the fifth amendment of the U.S. Consitution, and refused to answer all questions.

- (i) subsequent to feigned "firing," and as a result of the King - KOCHAN meeting, Kelly's inspection reports almost without exception assigned the entire losses of the inspected properties to excluded water damage;
- (j) subsequent to the feigned "firing," and as a result of the King - KOCHAN meeting, FORENSIC, acting through KOCHAN, Kelly and others engaged in a conspiracy enterprise to conduct corrupt property inspections, (often without the insured property owners' knowledge of the inspection), and to procure contrived inspection reports; and,
- (k) subsequent to the feigned "firing," and as a result of the King - KOCHAN meeting, KOCHAN, Kelly and other FORENSIC personnel spoliated, altered and/or destroyed Ford's and Manon's original inspection reports.
- (l) RENFROE participated in the day to day adjustment of claims and assisted and counseled with Lecky King and STATE FARM in furtherance of the scheme.
- (m) RENFROE adjusted a number of the named Plaintiffs' claims according to the purpose of the scheme and to effectuate a coverage denial based on the policy exclusion for water damage.
- (n) in adjusting claims pursuant to King and STATE FARM's directives, RENFROE ordered engineering inspections pursuant to the inspection scheme and, as the "client" of FORENSIC and recipient of the reports, RENFROE utilized the reports in divesting the Plaintiffs coverage benefits through informal settlement negotiations or as part of the Insurance Commissioner's mediation program.
- (o) with the knowledge and complicity of GENE and JANA RENFROE, RENFROE adjusters were trained to attribute losses to water damage and use contrived engineering reports to create a basis for denial of wind claims.
- (p) RENFROE adjusters were trained to conduct staged mediations wherein knowledge of the contrived engineering reports was concealed from Plaintiffs or other policyholders subjected to the inspection scheme.

INSPECTIONS OF PLAINTIFFS' INSURED PROPERTIES

194. Plaintiffs re-allege the text and content of each paragraph appearing anywhere in this Complaint.

PLAINTIFF GLENDA SHOWS

195. On August 29, 2005, Plaintiff GLENDA SHOWS was a named insured under a STATE FARM FP-7955 policy, identified as number 24-00-3138-5, and covering her residence at 4010 S. Shore Drive, Pascagoula, Mississippi.

196. Plaintiff's FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$216,700; (Coverage A) Dwelling Extension \$21,670; (Coverage B) Personal Property \$162,525; and (Coverage C) Loss

of Use, Actual Loss Sustained.⁸²

197. Plaintiff's FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$43,340.00.⁸³

198. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.⁸⁴

199. Plaintiff presented a claim to STATE FARM under her policy number 24-00-3138-5.

200. According to FORENSIC's records, on September 29, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.⁸⁵

201. According to FORENSIC's records, on October 7, 2005, Plaintiff's property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report dated October 19, 2005, concluded: "the primary and predominant cause of loss of the residence most likely was due to tornado wind action before the storm surge took place."⁸⁶

202. Five (5) days later, on or about October 24, 2005, in furtherance of the inspection scheme STATE FARM sent a denial of coverage letter to Plaintiff by U. S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.⁸⁷

203. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection of Plaintiff's property on November 14, 2005, and drafted a substitute report which altered the finding that tornadic wind caused the loss. In pertinent part, Kelly's altered report stated: "It is the opinion of FAEC that the destruction of the house was predominately [sic] caused by

⁸² Exh. 56, Renewal Certificate.

⁸³ *Id.*

⁸⁴ Exh. 57, photos.

⁸⁵ Exh. 58, Job Assignment Information Sheet.

⁸⁶ Exh. 59, FORENSIC inspection report (pertinent part), dated October 19, 2005, "Emmanuel 'Manny' Manon, P.E." and "Robert K. Kochan, ME, DABFET, FACFEI" (peer reviewer).

⁸⁷ Exh. 60, denial of coverage letter, October 24, 2005.

those forces associated with the rising storm surge."⁸⁸

204. FORENSIC's second inspection report, altering the conclusion that tornadic wind caused Plaintiff's loss, was signed by Kelly and Forbes, FORENSIC employees.⁸⁹

205. In furtherance of the inspection scheme, Kelly's report was addressed and transmitted by U.S. Mail on January 4, 2006, to Ron Howell, an employee of RENFROE COMPANY and adjuster hired by King and STATE FARM.⁹⁰

206. On or about June 15, 2006, Plaintiff attended a mediation in Hattiesburg, Mississippi sponsored by Insurance Commissioner George Dale.⁹¹

207. On information and belief, prior to mediation of the Plaintiff's claim, Kelly's inspection report was transmitted to Ron Howell, an employee of RENFROE COMPANY and to Lecky King at STATE FARM.

208. At the mediation, Plaintiff produced a spiral bound volume of self-compiled evidence supporting her wind damage claim. Plaintiff's materials included an aerial photograph depicting the path of a tornado passing over her home. On information and belief, STATE FARM and RENFROE employees attending the mediation followed a pre-arranged script and purposefully ignored Plaintiff's evidence.⁹²

209. In furtherance of the inspection scheme, without ever disclosing the initial inspection report which concluded that the "primary and predominant cause of loss" was tornadic wind, Defendants offered Plaintiff \$59,000.00 as a lump sum settlement of her insured damage claim.⁹³

210. Having no knowledge of the Defendants' inspection scheme, Plaintiff accepted the mediation offer. Had the Plaintiff known of such scheme, she would not have accepted this amount, and any purported release executed by Plaintiff at the mediation was procured by fraud and is void.⁹⁴

⁸⁸ Exh. 61, FORENSIC inspection report (pertinent part), dated January 4, 2005 [sic], "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Exh. 62, Mediation Program Settlement Agreement, dated June 15, 2006.

⁹² Exh. 63, aerial photo.

⁹³ Exh. 62, Mediation Program Settlement Agreement, dated June 15, 2006.

⁹⁴ *Id.*

211. In furtherance of the inspection scheme, the October 19, 2005, inspection report was never disclosed to Plaintiff.

212. Evidence of the October 19, 2005, inspection report and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed. The documents obtained include a draft report showing Kelly's alterations in progress.⁹⁵

213. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$385,235.00 under Plaintiff's policy.

PLAINTIFFS THOMAS L. ARNOLD and ANN C. ARNOLD

214. On August 29, 2005, Plaintiffs THOMAS L. ARNOLD and ANN C. ARNOLD were named insureds under a STATE FARM FP-7955 policy, identified as number 24-CX-4572-4, and covering a residence at 135 Dogwood Street, Waveland, Mississippi.

215. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$166,900; (Coverage A) Dwelling Extension \$16,690; (Coverage B) Personal Property \$125,175; and (Coverage C) Loss of Rents, Actual Loss.⁹⁶

216. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$33,380.00.⁹⁷

217. Plaintiffs' FP-7955 policy included endorsement FE-5301.1 (2% Hurricane Deductible).⁹⁸

218. On August 29, 2005, Plaintiffs' dwelling was substantially damaged by Hurricane Katrina.⁹⁹

219. Plaintiffs presented a claim to STATE FARM under their policy number 24-CX-4572-4.

220. According to FORENSIC's records, on October 10, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹⁰⁰

221. According to FORENSIC's records, on October 31, 2005, Plaintiffs' property was inspected by

⁹⁵ Exh. 64, Shows inspection, draft report showing alterations (pertinent part).

⁹⁶ Exh. 65, Declarations page.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Exh. 66, photos.

¹⁰⁰ Exh. 67, Job Assignment Information Sheet.

KOCHAN.

222. On October 17, 2005, Lecky King "fired" FORENSIC and mandated that Brian Ford, FORENSIC's then Principal Engineer, was not to conduct any further inspections. As alleged with particularity above, King was upset because Ford's reports contained wind findings. KOCHAN later fired Ford. As a result of the "firing" incident and personal meeting with King thereafter, KOCHAN personally undertook to perform pending inspections assigned by King and STATE FARM.

223. Two weeks after the "firing" incident and the King - KOCHAN meeting thereafter, KOCHAN conducted an inspection of Plaintiffs' property and drafted a report which concluded: "The predominant damage to the home both internal and external to the structure was caused by the storm's rising tidal surge." In furtherance of the scheme, and to keep relations with King on good footing, KOCHAN's report made the entire damage sound like storm surge, ignoring visible evidence of large object impact to the exterior wall of house, and misrepresenting that windows and doors had remained intact.¹⁰¹

224. In furtherance of the inspection scheme, on or about January 27, 2006, KOCHAN's report was addressed and transmitted by U.S. Mail to Lisa Huey, an adjuster hired by King and STATE FARM.¹⁰²

225. According to FORENSIC's records the January 27, 2006 inspection report was delivered to Lisa Huey, an adjuster hired by King and STATE FARM.

226. In furtherance of the inspection scheme, on information and belief, on or about February 8, 2006, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' Plaintiff's FP-7955 policy.

227. Evidence of the events concerning Plaintiffs' property inspection, including the King - KOCHAN meeting and details of the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

228. In furtherance of the inspection scheme, Defendant STATE FARM tendered coverage benefits of \$2,163.36 to Plaintiffs.

229. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$320,982.00 under Plaintiffs' policy.

¹⁰¹ Exh. 68, FORENSIC inspection report (pertinent part), dated January 27, 2006, "Robert K. Kochan, ME, DABFET, FACFEI" and "John B. Kelly, P.E." (peer reviewer).

¹⁰² *Id.*

**PLAINTIFF ESTATE of ALFRED PEPPERMAN,
Deceased, DAVID PEPPERMAN, Executor**

230. Plaintiff's decedent ALFRED PEPPERMAN (herein "Plaintiff"), was a citizen of the state of Mississippi, who resided at the time of Hurricane Katrina in Hancock County, Mississippi.

231. On August 29, 2005, Plaintiff was a named insured under a STATE FARM FP-7955 policy, identified as number 24-00-3463-3, and covering his residence at 104 Grosvenor Place, Waveland, Mississippi.

232. Plaintiff's FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$86,600; (Coverage A) Dwelling Extension \$8,660; (Coverage B) Personal Property \$47,630; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁰³

233. Plaintiff's FP-7955 policy included endorsement FE-5301.1 (2% Hurricane Deductible).¹⁰⁴

234. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.¹⁰⁵

235. Plaintiff presented a claim to STATE FARM under his policy number 24-00-3463-3.

236. According to FORENSIC's records, on September 26, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.¹⁰⁶

237. According to FORENSIC's records, on October 1, 2005, Plaintiff's property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report dated October 6, 2005, concluded: "the primary and predominant cause of loss of the residence was due to hurricane force winds."¹⁰⁷

238. According to FORENSIC's records the October 6, 2005, inspection report was delivered by U.S. Mail on October 14, 2005, to Brian Hart, an employee of RENFROE COMPANY and adjuster hired by King and STATE FARM.

239. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection and drafted a substitute report which altered the finding that the

¹⁰³ Exh. 69, Renewal Certificate.

¹⁰⁴ *Id.*

¹⁰⁵ Exh. 70, photos.

¹⁰⁶ Exh. 71, Job Assignment Information Sheet.

¹⁰⁷ Exh. 72, FORENSIC inspection report (pertinent part), dated October 6, 2005, "Emmanuel Manon, P.E." and "Brian Ford, P.E." (peer reviewer).

"primary and predominant cause of loss of the residence was due to hurricane force winds." In pertinent part, Kelly's report stated: ". . . it is the opinion of FAEC that the damage to the house was predominately [sic] caused by the storm surge and waves associated with that surge."¹⁰⁸

240. FORENSIC's inspection report, altering the conclusion that hurricane force winds caused Plaintiff's loss, was signed by Kelly and Forbes, FORENSIC employees.¹⁰⁹

241. In furtherance of the inspection scheme, Kelly's report was addressed and transmitted by U.S. Mail on February 10, 2006, to Brian Hart, an employee of RENFROE COMPANY and adjuster hired by King and STATE FARM.

242. In furtherance of the inspection scheme, on or about February 18, 2006, STATE FARM sent a denial of coverage letter to Plaintiff by U.S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.¹¹⁰

243. In furtherance of the inspection scheme, the October 6, 2005, inspection report was never disclosed to Plaintiff.

244. Evidence of the October 6, 2005, inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

245. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$142,890.00 under Plaintiff's policy.

PLAINTIFFS WALTON JONES and PENNY JONES

246. On August 29, 2005, Plaintiffs WALTON JONES and PENNY JONES were named insureds under a STATE FARM FP-7955 policy, identified as number 24-EO-7733-6, and covering their residence at 302 Hoffman Lane, Waveland, Mississippi.

247. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$107,000; (Coverage A) Dwelling Extension \$57,400; (Coverage B) Personal Property \$80,250; and (Coverage C) Loss of

¹⁰⁸ Exh. 73, FORENSIC inspection report (pertinent part), dated February 10, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

¹⁰⁹ *Id.*

¹¹⁰ Exh. 74, denial of coverage letter, February 18, 2006.

Use, Actual Loss Sustained.¹¹¹

248. On August 29, 2005, Plaintiffs' residence was destroyed by Hurricane Katrina.¹¹²

249. Plaintiffs presented a claim to STATE FARM under their policy number 24-EO-7733-6.

250. Plaintiffs FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$21,400.00.

251. Plaintiffs FP-7955 policy included endorsement FE-5301.1 (2% Hurricane Deductible).

252. According to FORENSIC's records, on September 27, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹¹³

253. According to FORENSIC's records, on October 1, 2005, Plaintiffs' property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report dated October 7, 2005, concluded: "the primary cause of damage to the property has been due to hurricane force wind coming from the southeast. The damage to the southeast corner of the house indicates that a tree had already fallen on a structure already weakened by the wind from the southeast."¹¹⁴

254. According to FORENSIC's records the October 14, 2006, inspection report was delivered by U.S. Mail to Doug Hobby, an adjuster hired by King and STATE FARM.

255. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection of Plaintiffs' property and drafted a substitute report which altered the finding that hurricane force wind coming from the southeast caused the loss. In pertinent part, Kelly's report stated:

The rising water caused significant damage to the interior of the house. The damage to the building in the northwest side yard was predominately [sic] due to the storm surge. The damage to the structure in the rear yard was predominately [sic] caused by the storm surge.¹¹⁵

¹¹¹ Exh. 75, Renewal Certificate.

¹¹² Exh. 76, photos.

¹¹³ Exh. 77, Job Assignment Information Sheet.

¹¹⁴ Exh. 78, FORENSIC inspection report (pertinent part), dated October 7, 2005, "Emmanuel Manon, P.E." and "Brian Ford, P.E." (peer reviewer).

¹¹⁵ Exh. 79, FORENSIC inspection report (pertinent part), December 6, 2005, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

256. FORENSIC's second inspection report, altering the conclusion that hurricane force wind caused Plaintiffs' loss, was signed by Kelly and Forbes, FORENSIC employees.¹¹⁶

257. In furtherance of the inspection scheme, Kelly's report was addressed and transmitted by U.S. Mail on December 6, 2005, to Doug Hobby, an adjuster hired by King and STATE FARM.

258. In furtherance of the inspection scheme, on or about December 23, 2005, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.¹¹⁷

259. In furtherance of the inspection scheme, the October 7, 2005, inspection report was never disclosed to Plaintiffs.

260. In furtherance of the inspection scheme, Plaintiffs were never notified that an inspection of their hurricane-damaged property had been conducted by Kelly.

261. Evidence of the October 7, 2005, inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed. The documents obtained include draft reports showing Kelly's alterations in progress.¹¹⁸

262. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$260,050.00 under Plaintiff's policy.

PLAINTIFFS ELLEN SUMMERS and STEPHEN F. SUMMERS

263. On August 29, 2005, Plaintiffs ELLEN SUMMERS and STEPHEN F. SUMMERS were named insureds under a STATE FARM FP-8103.3 policy, identified as number 99-BB-0119-8, and covering a rental dwelling at 200 Farrar Boulevard, Waveland, Mississippi.

264. Plaintiffs' FP-8103.3 policy provided coverage limits of (Coverage A) Dwelling \$53,800; (Coverage A) Dwelling Extension \$5,380; (Coverage B) Personal Property \$2,690; and (Coverage C) Loss of Use, Actual Loss Sustained.¹¹⁹

265. On August 29, 2005, Plaintiffs' residence was destroyed by Hurricane Katrina.¹²⁰

¹¹⁶ *Id.*

¹¹⁷ Exh. 80, denial of coverage letter, December 23, 2005.

¹¹⁸ Exh. 81, Jones inspection, draft reports showing alterations (pertinent part).

¹¹⁹ Exh. 82, Renewal Certificate (for post-Katrina policy period).

¹²⁰ Exh. 83, photos.

266. Plaintiffs presented a claim to STATE FARM under their policy number 99-BB-0119-8.

267. According to FORENSIC's records, on September 27, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹²¹

268. According to FORENSIC's records, on October 14, 2005, Plaintiffs' property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report dated October 25, 2005, concluded: the initial and predominant cause of loss of the residence was due to hurricane force winds coming from the southeast direction. This conclusion is supported by the pattern of fallen trees directly around the property as well as the heavy scattering of debris around the home and property.¹²²

269. According to FORENSIC's records the October 25, 2005, inspection report was addressed and transmitted by U.S. Mail to Doug Hobby, an adjuster hired by King and STATE FARM.

270. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection of Plaintiffs' property and drafted a substitute report which altered the finding that hurricane force wind caused the loss. In pertinent part, Kelly's report stated: "It is FAEC's opinion that while the area experienced severe winds, the predominant cause of the destruction of the house was from tidal surge and possibly water-born [sic] debris."¹²³

271. FORENSIC's second inspection report, altering the conclusion that hurricane force winds caused the Plaintiffs' loss, was signed by Kelly and Down, FORENSIC employees.¹²⁴

272. In furtherance of the inspection scheme, or about December 24, 2005, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.¹²⁵

273. Without ever disclosing the October 25, 2005, inspection report which concluded that the "primary and predominant cause of loss" was hurricane force wind, Defendants offered Plaintiffs \$30,000.00 as

¹²¹ Exh. 84, Job Assignment Information Sheet.

¹²² Exh. 85, FORENSIC inspection report (pertinent part), (Manon) dated October 25, 2005.

¹²³ Exh. 86, FORENSIC inspection report (pertinent part), dated December 7, 2005, "John B. Kelly, P.E." and "Randy Down, P.E." (peer reviewer).

¹²⁴ *Id.*

¹²⁵ Exh. 87, denial of coverage letter, December 24, 2005.

a lump sum settlement of their insured hurricane damage claim.

274. Having no knowledge of the Defendants' inspection scheme, Plaintiffs accepted the mediation offer. Had the Plaintiffs known of such scheme, they would not have accepted this amount, and any purported release executed by Plaintiffs at the mediation was procured by fraud and is void.

275. In furtherance of the inspection scheme, the October 25, 2005, inspection report was never disclosed to Plaintiffs.

276. Evidence of the October 25, 2005, inspection report and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

277. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$31,870.00 under Plaintiffs' policy.

PLAINTIFFS STEPHEN P. THOMPSON and PATRICIA B. THOMPSON

278. On August 29, 2005, Plaintiffs STEPHEN P. THOMPSON and PATRICIA B. THOMPSON were named insureds under a STATE FARM FP-7955 policy, identified as number 24-EO-3006-1, and covering their residence at 404 Edwards Street, Waveland, Mississippi.

279. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$107,100; (Coverage A) Dwelling Extension \$10,710; (Coverage B) Personal Property \$80,325; and (Coverage C) Loss of Use, Actual Loss Sustained.¹²⁶

280. Plaintiffs' FP-7955 policy included endorsement FE-5301.1 (2% Hurricane Deductible).¹²⁷

281. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$21,420.00.¹²⁸

282. On August 29, 2005, Plaintiffs' residence was structurally damaged by Hurricane Katrina, which, among other things, racked and twisted the roof rafters of the house.¹²⁹

283. Plaintiffs presented a claim to STATE FARM under their policy number 24-EO-3006-1.

¹²⁶ Exh. 88, Renewal Certificate.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Exh. 89, photos.

284. According to FORENSIC's records, on September 27, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹³⁰

285. According to FORENSIC's records, on October 10, 2005, Plaintiffs' property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report dated October 17, 2005, concluded:

the initiating and predominant cause of damage to the property was the hurricane force winds. This is supported mainly by the fallen trees leading to roof damage and the damage and misalignment to the roof framing. The majority of the water damage that incurred [sic] within the residence was caused by rainwater coming in to the house through the falling [sic] trees related roof openings. FAEC recommends that a detailed structural examination of the house's structure should be performed in order to reliably assess its remaining integrity.¹³¹

286. According to FORENSIC's records the October 17, 2005, inspection report was addressed and transmitted by U.S. Mail to Doug Hobby, an adjuster hired by King and STATE FARM¹³².

287. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, on December 5, 2005, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection of Plaintiffs' property. Kelly altered and spoliated Manon's October 17, 2005, report by altering the finding that the initiating and predominant cause of damage to the property was the hurricane force winds. A document obtained by subpoena shows Kelly's hand written alterations:

The majority of the water damage that insured [sic] to the upper level residence was caused by rainwater coming in to the house through the falling [sic] trees related roof openings. The predominant cause of damage to the first floor walls and flooring was from rising water from the storm surge.¹³³

288. In furtherance of the inspection scheme, FORENSIC's report was addressed and transmitted by U.S. Mail on January 4, 2005, [sic] to Doug Hobby, an adjuster hired by King and STATE FARM.

289. In furtherance of the inspection scheme, on or about January 22, 2006, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.¹³⁴

¹³⁰ Exh. 90, Job Assignment Information Sheet.

¹³¹ Exh. 91, FORENSIC inspection report (pertinent part), dated October 17, 2005, "Emanuel Manon."

¹³² *Id.*

¹³³ Exh. 92, Manon's FORENSIC inspection report (pertinent part), dated October 25, 2005, showing hand written alterations and spoliations by Kelly.

¹³⁴ Exh. 93, denial of coverage letter, January 22, 2006.

290. Without ever disclosing the dated October 17, 2005, inspection report which concluded that "the initiating and predominant cause of damage to the property was the hurricane force winds," (or the fact that Kelly had spoliated and altered the report), STATE FARM tendered to Plaintiffs approximately \$53,026.85 for their hurricane damages.¹³⁵

291. Having no knowledge of the Defendants' inspection scheme, Plaintiffs accepted STATE FARM's tender.

292. In furtherance of the inspection scheme, the October 17, 2005, inspection report was never disclosed to Plaintiffs.

293. Kelly's second, covert inspection was conducted without Plaintiffs' knowledge or their being present. Plaintiffs learned after-the-fact from a neighbor that an engineer had entered their property on December 5, 2005. The purpose and effect of Kelly's spoliation and alteration of Manon's report was to create a basis for STATE FARM to deny payment for structural racking of the Plaintiffs' house, and for approximately \$80,000 in personal property losses.

294. Evidence of the October 25, 2005, inspection report and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

295. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$166,528.15 under Plaintiffs' policy.

PLAINTIFF WAYNE HARBOUR

296. On August 29, 2005, Plaintiff WAYNE HARBOUR was a named insured under a STATE FARM FP-7955 policy, identified as number 24-CE-1546-3, and covering his residence at 836 Clarke Avenue, Pass Christian, Mississippi.

297. On information and belief, Plaintiffs FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$93,600; (Coverage A) Dwelling Extension \$9,360; (Coverage B) Personal Property \$70,200; and (Coverage C) Loss of Use, Actual Loss Sustained.¹³⁶

298. Plaintiffs FP-7955 policy provided additional coverage under endorsement OPT ID, with

¹³⁵ Exh. 94, Summary for Hurricane, February 16, 2006.

¹³⁶ Exh. 95, Renewal Certificate.

coverage limits of \$18,720.00.¹³⁷

299. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.¹³⁸

300. Plaintiff presented a claim to STATE FARM under his policy number 24-CE-1546-3.

301. According to FORENSIC's records, on September 27, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.¹³⁹

302. According to FORENSIC's records, on October 12, 2005, Plaintiff's property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report, partially spoliated, concluded: "FAEC has concluded that the primary and predominant cause of loss of the residence was due to hurricane force winds coming from the east direction."¹⁴⁰

303. On information and belief, the inspection report prepared by Manon was addressed and transmitted by U.S. Mail to Andrew Dennis, an adjuster hired by King and STATE FARM.

304. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection of Plaintiff's property and drafted a substitute report which altered the finding that the primary and predominant cause of loss of the residence "was due to hurricane force winds." In pertinent part, Kelly's report stated: "While the hurricane force winds were in the area, it is the opinion of FAEC that the damage to the house was predominantly caused by the storm surge associated with the hurricane."¹⁴¹

305. In furtherance of the inspection scheme, FORENSIC's second report altered the conclusion that hurricane force winds caused Plaintiff's loss.

306. In furtherance of the inspection scheme, Kelly's inspection report was addressed and transmitted on January 25, 2006 by U.S. Mail to Andrew Dennis, an adjuster hired by King and STATE FARM.

307. In furtherance of the inspection scheme, on or about January 31, 2006, STATE FARM sent a

¹³⁷ *Id.*

¹³⁸ Exh. 96, photos.

¹³⁹ Exh. 97, Job Assignment Information Sheet.

¹⁴⁰ Exh. 98, FORENSIC inspection report (partial), "Emmanuel 'Manny' Manon, P.E." and "Brian Ford, P.E." (peer reviewer).

¹⁴¹ Exh. 99, FORENSIC inspection report (pertinent part), dated January 25, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

denial of coverage letter to Plaintiff by U.S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.¹⁴²

308. In furtherance of the inspection scheme, Manon's inspection report and the alteration thereof, was never disclosed to Plaintiff.

309. Evidence of the partially spoliated inspection report and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

310. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$191,880.00 under Plaintiff's policy.

PLAINTIFF SHERROD WILLETTE and MARY WILLETTE

311. On August 29, 2005, Plaintiffs SHERROD WILLETTE and MARY WILLETTE and MARY WILLETTE, were named insureds under a STATE FARM FP-7955 policy, identified as number 24-11-6701-6, and covering their residence at 126 Beach View Drive, Pass Christian, Mississippi.

312. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$111,000; (Coverage A) Dwelling Extension \$11,100; (Coverage B) Personal Property \$83,250; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁴³

313. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$22,200.00.¹⁴⁴

314. On August 29, 2005, Plaintiffs' residence was destroyed by Hurricane Katrina.¹⁴⁵

315. Plaintiffs presented a claim to STATE FARM under their policy number 24-11-6701-6.

316. According to FORENSIC's records, on September 27, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹⁴⁶

317. On October 17, 2005, Lecky King advised Brian Ford, Senior Principal Engineer with FORENSIC, that he would not be allowed to perform any more inspections for STATE FARM. Later the same

¹⁴² Exh. 100, denial of coverage letter, dated January 31, 2006.

¹⁴³ Exh. 101, Renewal Certificate.

¹⁴⁴ *Id.*

¹⁴⁵ Exh. 102, photos.

¹⁴⁶ Exh. 103, Job Assignment Information Sheet.

day, Lecky King "fired" FORENSIC.

318. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, on October 19, 2005, STATE FARM and FORENSIC acting through Kelly conducted an inspection of Plaintiff's property and drafted a report which concluded: "It is the opinion of FAEC that the damage to the house was caused by both wind and storm surge and waves."¹⁴⁷

319. According to FORENSIC's records the October 25, 2005, inspection report was addressed and transmitted by U.S. Mail to Jamye Woody, an employee of RENFROE COMPANY and adjuster hired by King and STATE FARM.

320. Later, in furtherance of the inspection scheme, and on information and belief at King's direction, Kelly rewrote his own report to state: "It is the opinion of FAEC that the damage to the house was predominately [sic] caused by storm surge and waves."¹⁴⁸

321. Kelly's revised report, prepared two (2) days after the Lecky King "firing" and the King - KOCHAN meeting, added a new conclusion that the damage to the house "was predominately [sic] caused by storm surge and waves" and deleted the reference to damage "caused by both wind and waves." Kelly's purpose and aim in altering the report was to create a basis for denying coverage benefits under the water damage exclusion of Plaintiffs' FP-7955 policy, and to comply with Wilcox's directive that the word "predominant" be utilized in formulating causation wording.

322. In furtherance of the inspection scheme, FORENSIC's report was addressed and transmitted by U.S. Mail to Jamye Woody, an employee of RENFROE COMPANY and adjuster hired by King and STATE FARM.

323. In furtherance of the inspection scheme, Kelly's November 15, 2005, inspection report altering the cause of loss from wind to storm surge was never disclosed to Plaintiffs.

324. On information and belief, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.

325. Evidence of the original inspection report assigning the damage to "wind and storm surge and

¹⁴⁷ Exh. 104, FORENSIC inspection report (pertinent part), dated October 25, 2005, "John B. Kelly, P.E." and Hurricane Katrina Structural Inspection Checklist, dated October 19, 2005;

¹⁴⁸ Exh. 105, FORENSIC inspection report (pertinent part), dated November 15, 2005, "John B. Kelly, P.E." and "Robert K. Kochan," (peer reviewer).

waves" and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

326. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$227,550.00 under Plaintiffs' policy.

PLAINTIFF ROBERT C. GIVENS

327. On August 29, 2005, Plaintiff ROBERT C. GIVENS was a named insured under a STATE FARM FP-7955 policy, identified as number 24-94-1765-0, and covering his residence at 226 Boardman Avenue, Bay St. Louis, Mississippi.

328. Plaintiff's FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$69,082; (Coverage A) Dwelling Extension \$6,908; (Coverage B) Personal Property \$37,995; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁴⁹

329. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.

330. Plaintiff presented a claim to STATE FARM under his policy number 24-00-3138-5.

331. According to FORENSIC's records, on September 28, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.¹⁵⁰

332. According to FORENSIC's records, on information and belief on October 13, 2005, Plaintiff's property was inspected by Ford, an engineer then employed by FORENSIC.

333. According to FORENSIC's records, the inspection report dated October 13, 2005, was addressed and transmitted by U.S. Mail to Tammy Hardison, an employee of RENFROE COMPANY and adjuster employed by STATE FARM.

334. According to FORENSIC's records, the October 13, 2005, inspection report was delivered to Tammy Hardison, an employee of RENFROE COMPANY and adjuster employed by STATE FARM.

335. On information and belief, in furtherance of the inspection scheme, the October 13, 2005, inspection report was spoliated and stamped with a water mark stating: "DRAFT."¹⁵¹

336. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, STATE FARM and FORENSIC acting through

¹⁴⁹ Exh. 106, Statement of Loss, November 29, 2005.

¹⁵⁰ Exh. 107, Job Assignment Information Sheet.

¹⁵¹ Exh. 108, FORENSIC inspection report (pertinent part), water marked "DRAFT," dated October 13, 2005.

Williams, Sammis, Kelly and KOCHAN cancelled multiple inspection reports originally prepared by Brian Ford, FORENSIC's former Senior Principal Engineer.

337. In furtherance of the inspection scheme, on October 25, 2005, approximately two (2) weeks after the aforesaid "firing" and meeting, STATE FARM cancelled twenty-six (26) inspections previously assigned to FORENSIC. Plaintiff's October 13, 2005, inspection report was among those cancelled.¹⁵²

338. In furtherance of the inspection scheme, on November 15, 2005, Sammis emailed Williams telling Williams to water mark Plaintiff's (and other insureds') inspection reports as "Drafts."¹⁵³

339. In furtherance of the inspection scheme, on November 15, 2005, FORENSIC, acting through Sammis and Williams, and, on information and belief at Lecky King's directive, spoliated Plaintiff's property inspection report by deleting the conclusions to make the report appear as a "Draft."¹⁵⁴

340. In furtherance of the inspection scheme, on November 15, 2005, Sammis emailed Williams stating: "I have removed the pictures and conclusions from what I have can you please put draft water marks on theses [sic]."¹⁵⁵

341. In furtherance of the inspection scheme, on or about December 4, 2005, STATE FARM sent a denial of coverage letter to Plaintiff by U.S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.¹⁵⁶

342. In furtherance of the inspection scheme, Defendants never disclosed to Plaintiff the fact STATE FARM and FORENSIC had spoliated Plaintiff's inspection report by deleting the conclusions to make the report appear as a "Draft."

343. Evidence of the original inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

344. As a result of the inspection scheme, STATE FARM denied and withheld available coverage

¹⁵² Exh. 29, email from Sammis to FORENSIC (Williams), October 25, 2005, 9:35 AM.

¹⁵³ Exh. 35, email from Sammis to Williams, dated November 15, 2005, 12:26 PM.

¹⁵⁴ Exh. 36, email from Sammis to FORENSIC (Williams), dated November 15, 2005, 2:26 PM.

¹⁵⁵ *Id.*

¹⁵⁶ Exh. 109, denial of coverage letter, dated December 4, 2005.

benefits of up to \$113,985.00 under Plaintiff's policy.

PLAINTIFFS TED THOMAS AND DONNA THOMAS

345. On August 29, 2005, Plaintiffs TED THOMAS and DONNA THOMAS were named insureds under a STATE FARM FP-7955 policy, identified as number 24-E1-0395-3, and covering their residence at 1961 Bayside Drive, Biloxi, Mississippi.

346. Plaintiffs FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$133,200; (Coverage A) Dwelling Extension \$13,320; (Coverage B) Personal Property \$99,900; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁵⁷

347. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$26,640.00.¹⁵⁸

348. On August 29, 2005, Plaintiffs residence was substantially damaged by Hurricane Katrina.¹⁵⁹

349. Plaintiffs presented a claim to STATE FARM under their policy number 24-81-0395-3.

350. According to FORENSIC's records, on September 29, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹⁶⁰

351. According to FORENSIC's records, on October 7, 2005, Plaintiffs' property was inspected by Ford, an engineer then employed by FORENSIC.¹⁶¹ The inspection report dated October 11, 2005, concluded: "The soffit, door and window damage was caused by wind and wind driven debris. It is FAEC's opinion that the interior damage of the structure is the result of the failure of the windows and doors due to wind."¹⁶²

352. In furtherance of the inspection scheme, after Ford's inspection report was submitted to STATE FARM and following Lecky King's "firing," Sammis covertly reclaimed the report from STATE FARM's files. On November 14, 2005, Sammis emailed Williams: "This is one of Brian's which was submitted but I have the

¹⁵⁷ Exh. 110, Renewal Certificate.

¹⁵⁸ *Id.*

¹⁵⁹ Exh. 111, photos.

¹⁶⁰ Exh. 112, Job Assignment Information Sheet.

¹⁶¹ Exh. 113, email from Sammis to Williams, November 14, 2005, 12:52 PM.

¹⁶² Exh. 114, FORENSIC inspection report (pertinent part), October 11, 2005.

original report and invoice in the file. The conclusion has been modified."¹⁶³

353. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection and drafted a substitute report which altered the findings that "wind and wind driven debris caused the damage." In pertinent part, Kelly's substitute report stated:

The soffit, roof and ceiling damage inside the house was caused by wind, wind driven debris and rain. It is FAEC's opinion that the interior damage of the structure is the predominately [sic] caused by water surge and waves.¹⁶⁴

354. In furtherance of the inspection scheme, FORENSIC's substitute report altered the original conclusions in order to attribute the Plaintiffs' personal property losses to water, rather than wind. By deleting the conclusion that doors and windows were damaged by wind, Kelly's alteration made it appear that surge caused the damage to the Plaintiffs' personal property which insured for up to \$99,900 under the policy.

355. In furtherance of the inspection scheme, on or about November 14, 2005, Kelly's report was addressed and transmitted by U.S. Mail to Rachel Savoy, an employee of Pilot Catastrophe Services, Inc. hired by King and STATE FARM.

356. In furtherance of the inspection scheme, on or about November 10, 2005, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.¹⁶⁵

357. In furtherance of the inspection scheme, without ever disclosing the alteration of the October 11, 2005, inspection report which concluded that the "door and window damage was caused by wind and wind driven debris," STATE FARM tendered \$38,874.09 in coverage benefits to Plaintiffs for personal property losses.¹⁶⁶

358. Having no knowledge of the Defendants' inspection scheme, Plaintiffs accepted the tendered sum. Had the Plaintiffs known of such scheme, they would not have accepted this amount.

359. In furtherance of the inspection scheme, the October 11, 2005, inspection report and the

¹⁶³ Exh. 113.

¹⁶⁴ Exh. 115, FORENSIC inspection report (pertinent part), dated November 14, 2005, "John B. Kelly, P.E."; and "Robert K. Kochan ME, DABFET, FACFEI", (peer reviewer).

¹⁶⁵ Exh. 116, denial of coverage letter, dated November 10, 2005.

¹⁶⁶ Exh. 117, Statement of Loss, dated November 29, 2005.

alteration thereof, was never made known to Plaintiffs.

360. Evidence of the October 11, 2005, inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

361. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$234,185.91 under Plaintiffs' policy.

PLAINTIFF ALAN LIPSKI

362. On August 29, 2005, Plaintiff ALAN LIPSKI was a named insured under a STATE FARM FP-7955 policy, identified as number 24-BU-7078-1, and covering his residence at 215 White Harbor Road, Long Beach, Mississippi.

363. Plaintiff's FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$111,435; (Coverage A) Dwelling Extension \$11,143; (Coverage B) Personal Property \$83,576; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁶⁷

364. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.¹⁶⁸

365. Plaintiff presented a claim to STATE FARM under his policy number 24-BU-7078-1.

366. According to FORENSIC's records, on September 29, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.¹⁶⁹

367. According to FORENSIC's records, on October 10, 2005, Plaintiff's property was inspected by Ford, an engineer then employed by FORENSIC. The inspection report dated October 12, 2005, concluded: "The wall, door and window damage was caused by wind and wind driven debris. It is FAEC's opinion that the interior damage is the result of the failure of the windows, walls, and doors due to wind."¹⁷⁰

368. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection of Plaintiff's property and drafted a substitute report which altered

¹⁶⁷ Exh. 118, Statement of Loss, dated January 10, 2006.

¹⁶⁸ Exh. 119, photos.

¹⁶⁹ Exh. 120, Job Assignment Information Sheet.

¹⁷⁰ Exh. 121, FORENSIC inspection report (pertinent part), dated October 12, 2005, "Brian Ford, P.E." and "Robert K. Kochan ME, DABFET, FACFEI" (peer reviewer).

the original findings that wind and wind driven debris caused the loss. In pertinent part, Kelly's substitute report stated:

It was apparent that significant winds affected this area; however the area was also subjected to a significant tidal surge with waves. It is FAEC's opinion that the structure experienced severe damage due to wind and flying debris, but that the collapse of the walls leading to complete destruction was caused by tidal surge and waves.¹⁷¹

369. FORENSIC's inspection report, altering the conclusion that wind and wind driven debris caused Plaintiff's loss, was signed by Kelly and Forbes, FORENSIC employees.¹⁷²

370. In furtherance of the inspection scheme, on or about November 16, 2005, Kelly's report was addressed and transmitted by U.S. Mail to Joe Doktorczyk, an adjuster hired by King and STATE FARM.

371. In furtherance of the inspection scheme, on or about December 4, 2005, STATE FARM acting through Mark Drain sent a denial of coverage letter to Plaintiff by U.S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.¹⁷³

372. In furtherance of the inspection scheme, without ever disclosing the October 12, 2005, inspection report which concluded that the wind and wind driven debris caused Plaintiff's loss, Defendants tendered coverage benefits of \$30,598.17 to Plaintiff.¹⁷⁴

373. In furtherance of the inspection scheme, the October 12, 2005, inspection report was never disclosed to Plaintiff.

374. Evidence of the October 12, 2005, inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed. The documents obtained include draft reports showing Kelly's alterations in progress.¹⁷⁵

375. As a result of the inspection scheme, STATE FARM denied and withheld available coverage

¹⁷¹ Exh. 122, FORENSIC inspection report (pertinent part), dated November 16, 2005, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer); Kelly's mark-up and alteration of FORENSIC inspection report (pertinent part), dated October 12, 2005, "Brian Ford, P.E." and "Robert K. Kochan ME, DABFET, FACFEI", (peer reviewer).

¹⁷² Exh. 122, FORENSIC inspection report (pertinent part), dated November 16, 2005, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

¹⁷³ Exh. 123, denial of coverage letter, December 4, 2005.

¹⁷⁴ Exh. 118, Statement of Loss, dated January 10, 2006.

¹⁷⁵ Exh. 124, Lipski inspection, draft report showing alterations (pertinent part).

benefits of up to \$175,555.83 under Plaintiff's policy.

PLAINTIFF SANDRA SIMPSON

376. On August 29, 2005, Plaintiff SANDRA SIMPSON was a named insured under a STATE FARM FP-7955 policy, identified as number 24-04-5581-4, and covering her residence at 1964 Bayside Drive, Biloxi, Mississippi.

377. On information and belief Plaintiff FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$138,890; (Coverage A) Dwelling Extension \$13,889; (Coverage B) Personal Property \$104,167; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁷⁶

378. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.¹⁷⁷

379. Plaintiff presented a claim to STATE FARM under her policy number 24-04-5581-4.

380. According to FORENSIC's reports, on September 30, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.¹⁷⁸

381. According to FORENSIC's records, on October 7, 2005, Plaintiff's insured property was inspected by Ford, an engineer then employed by FORENSIC. The inspection report dated October 10, 2005, concluded: "The roof, door, fence and window damage was caused by wind. It is FAEC's opinion that the interior damage of the structure is the result of the failure of the windows and doors due to excessive wind pressure."¹⁷⁹

382. In December 2005, subsequent to Ford's termination by KOCHAN, STATE FARM team manager Marsha Slaughter telephoned FORENSIC to complain about Ford's report containing wind findings. Slaughter demanded to know why wind was "primary" if four feet of water entered the home.¹⁸⁰

383. In furtherance of the inspection scheme, on December 9, 2005, KOCHAN wrote an email sent to Sammis, Down, Kelly and Williams KOCHAN stating: "I suggest that [STATE FARM] be advised that we

¹⁷⁶ Exh. 125, Statement of Loss, January 19, 2006.

¹⁷⁷ Exh. 126, photos.

¹⁷⁸ Exh. 127, Job Assignment Information Sheet.

¹⁷⁹ Exh. 128, FORENSIC inspection report (pertinent part), dated October 10, 2005, "Brian Ford, P.E." and "Robert K. Kochan, ME, DABFET, FACFEI," (peer reviewer).

¹⁸⁰ Exh. 39, email from Down to Kelly and KOCHAN, and cc'ed to Sammis and Williams, December 9, 2005, 12:00 PM.

will amend the report to include ADDITIONAL statements that the high water which most assuredly came from the surge did a significant amount of damage to the home or some such wording, etc."¹⁸¹

384. In furtherance of the inspection scheme, and to conceal the planned alteration of Simpson's report, on December 18, 2005, Kelly wrote an email to Williams, cc'ed to KOCHAN and Down stating:

I think this may be one of those jobs that one must be carefull [sic] in handling. If the report has gone out to some kind of distribution within SF, it may be better to write a letter of clarification addressing the question vs. amending the report. If the report has not been distributed and we can retrieve the original as a swap out we could re-do the report.¹⁸²

385. In furtherance of the inspection scheme, on or about December 28, 2005, STATE FARM covertly procured a letter prepared by Kelly altering Ford's report and the original finding that wind caused the loss. In pertinent part, the Kelly letter, sent only to an internal STATE FARM employee, stated: "It is the opinion of FAEC that this level of water in the house caused considerable damage to the house and contents to a level of about 6 ft. above the finished floor."¹⁸³

386. In furtherance of the inspection scheme, without ever disclosing the October 10, 2005, inspection report which concluded that "the roof, door, fence and window damage was caused by wind . . . [and] that the interior damage of the structure is the result of the failure of the windows and doors due to excessieve wind pressure," STATE FARM tendered coverage benefits of \$50,574.47 to Plaintiff.

387. In furtherance of the inspection scheme, STATE FARM sent a denial of coverage letter by U.S. Mail to Plaintiff citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.¹⁸⁴

388. In furtherance of the inspection scheme, the October 10, 2005, inspection report was never disclosed to Plaintiff.

389. Evidence of the October 10, 2005, inspection report and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced,

¹⁸¹ Exh. 40, email from KOCHAN to Kelly, Sammis, Down and Williams, December 9, 2005, 12:13 PM.

¹⁸² Exh. 41, email from Kelly to Williams, cc'ed to KOCHAN and Down, December 18, 2005, 11:22 AM.

¹⁸³ Exh. 129, letter from Kelly to Curt Gosda, dated December 28, 2005, signed "John B. Kelly, P.E.".

¹⁸⁴ Exh. 130, denial of coverage letter, January 19, 2006, signed by Marsha Slaughter.

printed and reviewed.

390. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$234,611.53 under Plaintiff's policy.

PLAINTIFFS CHARLES LINKEY AND JOYCE A. LINKEY

391. On August 29, 2005, Plaintiffs CHARLES J. LINKEY and JOYCE A. LINKEY were named insureds under a STATE FARM FP-7955 policy, identified as number 24-EO-7279-2, and covering their residence at 73 Poindexter Drive, Pass Christian, Mississippi.

392. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$56,300; (Coverage A) Dwelling Extension \$5,630; (Coverage B) Personal Property \$42,225; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁸⁵

393. Plaintiffs' FP-7955 policy included endorsement FE-5301.1 (2% Hurricane Deductible).¹⁸⁶

394. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$11,260.00.¹⁸⁷

395. On August 29, 2005, Plaintiffs' residence was destroyed by Hurricane Katrina.¹⁸⁸

396. Plaintiffs presented a claim to STATE FARM under their policy number 24-EO-7279-2.

397. According to FORENSIC's records, on October 4, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.¹⁸⁹

398. According to FORENSIC's records, on October 12, 2005, Plaintiffs' property was inspected by Manon, an engineer then employed by FORENSIC. The inspection report dated October 19, 2005, concluded: "FAEC concludes that the primary and predominant cause of loss of the residence most likely was due to tornado wind action before the storm surge took place."¹⁹⁰

399. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN

¹⁸⁵ Exh. 131, Renewal Certificate.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ Exh. 132, photos.

¹⁸⁹ Exh. 133, Job Assignment Information Sheet.

¹⁹⁰ Exh. 134, FORENSIC inspection report (pertinent part), dated October 19, 2005, "Emmanuel 'Manny' Manon, P.E." and "Robert K. Kochan ME, DABFET, FACFEI"; (peer reviewer).

meeting thereafter, in furtherance of the inspection scheme, STATE FARM and FORENSIC acting through Kelly covertly conducted a second inspection and drafted a substitute report which altered the finding that tornadic wind caused the loss. In pertinent part, Kelly's report stated:

It is the opinion of FAEC it is not possible to determine how much damage was caused to the house by wind before the storm surge arrived as there is insufficient evidence available to make that determination from what remains of the structure. However, with that statement made, it is the opinion of FAEC based on the observations of destroyed homes in the immediate area and the lack of anchoring to resist floatation that storm surge would have been the predominant cause of destruction to the structure.¹⁹¹

400. FORENSIC's spoliation of the October 19, 2005, inspection report, altering the conclusion that tornadic wind caused Plaintiffs' loss, was signed by Kelly and Forbes, FORENSIC employees.¹⁹²

401. In furtherance of the inspection scheme, on or about January 27, 2006, Kelly's report was addressed and transmitted by U.S. Mail to Brent Green, an adjuster hired by King and STATE FARM.

402. In furtherance of the inspection scheme, on or about February 6, 2006, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.¹⁹³

403. On or about July 17, 2006, Plaintiffs attended a mediation in Hattiesburg, Mississippi sponsored by Insurance Commissioner George Dale.¹⁹⁴

404. On information and belief, prior to mediation of the Plaintiffs' claim, FORENSIC's altered inspection report was sent and/or delivered to Lecky King at STATE FARM.

405. In furtherance of the inspection scheme, without ever disclosing the October 19, 2005, inspection report which concluded that the "primary and predominant cause of loss" was tornadic wind, (or the spoliation of same) Defendants offered Plaintiff \$25,000.00 as a lump sum settlement of their insured hurricane damage claim.¹⁹⁵

406. Having no knowledge of the Defendants' inspection scheme, Plaintiffs accepted the mediation

¹⁹¹ Exh. 135, FORENSIC inspection report (pertinent part), dated January 27, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

¹⁹² *Id.*

¹⁹³ Exh.136, denial of coverage letter, dated February 6, 2006.

¹⁹⁴ Exh. 137, Mediation Program Settlement Agreement, dated July 17, 2006.

¹⁹⁵ *Id.*

offer. Had the Plaintiffs known of such scheme, they would not have accepted this amount, and any purported release executed by Plaintiffs at the mediation was procured by fraud and is void.¹⁹⁶

407. In furtherance of the inspection scheme, the October 19, 2005, inspection report was never disclosed to Plaintiffs.

408. Evidence of the October 19, 2005, inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed. The documents obtained include draft reports showing Kelly's alterations in progress.¹⁹⁷

409. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$87,535.97 under Plaintiffs' policy.

PLAINTIFFS MICHAEL HEITZMANN and PATRICIA HEITZMANN

410. On August 29, 2005, Plaintiffs MICHAEL HEITZMANN and PATRICIA HEITZMANN were named insureds under a STATE FARM FP-7955 policy, identified as number 24-CW-3519-0, and covering their residence at 237 Bay Oaks Drive, Bay St. Louis, Mississippi.

411. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$200,000; (Coverage A) Dwelling Extension \$20,000; (Coverage B) Personal Property \$200,000; and (Coverage C) Loss of Use, Actual Loss Sustained.¹⁹⁸

412. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$40,000.00.¹⁹⁹

413. On August 29, 2005, Plaintiffs' residence was substantially damaged by Hurricane Katrina.²⁰⁰

414. Plaintiffs presented a claim to STATE FARM under their policy number 24-CW-3519-0.

415. According to FORENSIC's records, on October 4, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.²⁰¹

416. According to FORENSIC's records, on October 20, 2005, Plaintiffs' insured property was

¹⁹⁶ *Id.*

¹⁹⁷ Exh. 138, Linkey inspection, draft report showing alterations (pertinent part).

¹⁹⁸ Exh. 139, Declarations page.

¹⁹⁹ *Id.*

²⁰⁰ Exh. 140, photos.

²⁰¹ Exh. 141, Job Assignment Information Sheet.

inspected by Manon, an engineer then employed by FORENSIC. The inspection report concluded:

FAEC has concluded that the predominant and primary cause of damage to the property was due to hurricane wind force. This conclusion is based on the observed and reported damages to the roof and other structural components. Water damage to the inside of the house was caused by rainwater coming into the house through the roof openings caused by the wind. Further structural examination of the house structure is recommended in order to reliably assess its integrity.²⁰²

417. In furtherance of the inspection scheme, Manon's inspection report was altered and spoliated.

418. In furtherance of the inspection scheme, after Manon's report was altered and spoliated, Kelly prepared a substitute report stating:

It is the opinion of FAEC that wind was the predominant cause of damage to the upper level of the house, i.e. shingles, soffit, fascia, and eave [sic] trim, as well as the minor roof framing damage. It is also the opinion of FACE [sic] that the damage to the lower level of the house and the pool was predominantly due to the impact of rising water and waterborne debris from the storm surge associated with the hurricane.²⁰³

419. FORENSIC's second inspection report, altering the conclusion that the predominant and primary cause of damage to the property was due to hurricane wind force, was signed by Kelly and Forbes, FORENSIC employees.²⁰⁴

420. In furtherance of the inspection scheme, on or about January 27, 2006, Kelly's report was addressed and transmitted by U.S. Mail to Jeffrey Ellwanger, an employee of Pilot Catastrophe Services, Inc. hired by King and STATE FARM.

421. In furtherance of the inspection scheme, on or about February 17, 2006, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.²⁰⁵

422. At the mediation, on information and belief, STATE FARM and RENFROE employees attending the mediation followed a pre-arranged script and ignored Plaintiffs' evidence.

423. Without ever disclosing the spoliated inspection report which concluded that the "primary and

²⁰² Exh. 142, Heitzmann inspection, draft report showing alterations (pertinent part), dated January 27, 2006, with Manon's and KOCHAN's names deleted.

²⁰³ Exh. 143, FORENSIC inspection report (pertinent part), dated January 27, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

²⁰⁴ *Id.*

²⁰⁵ Exh. 144, denial of coverage letter, dated February 17, 2006.

predominant cause of loss" was hurricane force wind, Defendants offered Plaintiffs \$58,046.78.00 as payment of their insured hurricane damage claim.

424. Having no knowledge of the Defendants' inspection scheme, Plaintiffs accepted the mediation offer. Had the Plaintiffs known of such scheme, they would not have accepted this amount.

425. In furtherance of the inspection scheme, the spoliated inspection report was never disclosed to Plaintiffs.

426. Evidence of the spoliated inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed. The documents obtained include draft reports showing Kelly's alterations in progress.²⁰⁶

427. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$401,953.22 under Plaintiffs' policy.

PLAINTIFF DALE HILL, SR.

428. On August 29, 2005, Plaintiff DALE HILL, SR. was a named insured under a STATE FARM FP-7955 policy, identified as number 24-75-4150-9, and covering his residence at 6106 Lapoma Street, Biloxi, Mississippi.

429. On information and belief, Plaintiff's FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$57,000; (Coverage A) Dwelling Extension unknown; (Coverage B) Personal Property \$37,000; and (Coverage C) Loss of Use, Actual Loss Sustained.

430. On August 29, 2005, Plaintiff's residence was substantially damaged by Hurricane Katrina.²⁰⁷

431. Plaintiff presented a claim to STATE FARM under his policy number 24-75-4150-9.

432. According to FORENSIC's records, on October 7, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.²⁰⁸

433. According to FORENSIC's records, on November 15, 2005, Plaintiff's property was inspected by Kelly. Kelly entered the Plaintiff's property without Plaintiff being present, and without Plaintiff's knowledge.

434. Kelly's inspection report, dated January 6, 2006, concluded: "The storm surge provided a

²⁰⁶ Exh. 142.

²⁰⁷ Exh. 145, photos.

²⁰⁸ Exh. 146, Job Assignment Information Sheet.

buoyant force to the house, allowing it to float. The house traveled in a westerly direction to its final position until it rested when the water ebbed.”²⁰⁹

435. Two days prior to the inspection, Kelly had been dispatched by KOCHAN to covertly re-inspect the Mullins property. As was the case with the Mullins re-inspection, Kelly's re-inspection of the Plaintiff's property was for the purpose of creating a false basis to claim the house floated to a location 150 feet away, thus denying coverage under the policy exclusion for water damage. When Kelly was dispatched to the Mullins property two days earlier, he had written a similar report claiming that the Mullins house floated.

436. In furtherance of the inspection scheme, on or about January 6, 2006, Kelly's report was addressed and transmitted by U.S. Mail to Jeff Davis, an employee of RENFROE COMPANY and adjuster hired by King and STATE FARM.

437. STATE FARM sent a denial of coverage letter to Plaintiff by U.S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.

438. In furtherance of the inspection scheme, Kelly's inspection report was never disclosed to Plaintiff.

439. Evidence of Kelly's inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

440. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$99,700.00 under Plaintiff's policy.

PLAINTIFFS PAUL GLOYER and CONSTANCE GLOYER

441. On August 29, 2005, Plaintiffs PAUL GLOYER and CONSTANCE were named insureds under a STATE FARM FP-7955 policy, identified as number 24-B2-4215-6, and covering their residence at 160 Adams Lane, Waveland, Mississippi.

442. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$174,100; (Coverage A) Dwelling Extension N/A; (Coverage B) Personal Property \$130,575; and (Coverage C) Loss of Use, Actual Loss.²¹⁰

443. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with

²⁰⁹ Exh. 147, FORENSIC inspection report (pertinent part), dated January 6, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E. D.E.E." (peer reviewer).

²¹⁰ Exh. 148, September 6, 2005, 3:11 PM email from Brenda Knox.

coverage limits of \$34,820.00.²¹¹

444. On August 29, 2005, Plaintiffs' dwelling was destroyed by Hurricane Katrina.²¹²

445. Plaintiffs presented a claim to STATE FARM under their policy number 24-B2-4215-6.

446. According to FORENSIC's records, on October 10, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.²¹³

447. According to FORENSIC's records, on October 31, 2005, Plaintiffs' property was inspected by KOCHAN.

448. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, KOCHAN conducted an inspection of Plaintiffs' property on October 31, 2005, and drafted a report dated January 12, 2006, which concluded: "The home was relocated by high water, which was the predominant [sic] cause of destruction in the home."²¹⁴

449. In furtherance of the inspection scheme, on or about July 5, 2006, STATE FARM sent a denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.²¹⁵

450. In furtherance of the inspection scheme, Defendants tendered coverage benefits of \$14,990.88 and \$20,072.26 as lump sum payments to Plaintiffs.²¹⁶

451. Evidence of KOCHAN's inspection report and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed. The documents obtained include draft reports showing alterations in progress.²¹⁷

452. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$304,431.86 under Plaintiffs' policy.

²¹¹ *Id.*

²¹² Exh. 149, photos.

²¹³ Exh. 150, Job Assignment Information Sheet.

²¹⁴ Exh. 151, FORENSIC inspection report (pertinent part), dated January 12, 2006, "Robert K. Kochan, ME, DABFET, FACFEI" and John B. Kelly, P.E.," (peer reviewer).

²¹⁵ Exh. 152, denial of coverage letter, July 5, 2006.

²¹⁶ Exh. 153, Statement of Loss, dated July 4, 2006.

²¹⁷ Exh. 154, Gloyer inspection, draft report showing alterations (pertinent part).

PLAINTIFFS RONALD E. NUGENT and BARBARA P. NUGENT

453. On August 29, 2005, Plaintiffs RONALD E. NUGENT and BARBARA P. NUGENT were named insureds under a STATE FARM FP-7955 policy, identified as number 24-BG-2787-7, and covering their residence at 145 Pinecrest Drive, Pass Christian, Mississippi.

454. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$115,200; (Coverage A) Dwelling Extension \$11,520; (Coverage B) Personal Property \$86,400; and (Coverage C) Loss of Use, Actual Loss Sustained.²¹⁸

455. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$23,040.00.²¹⁹

456. On August 29, 2005, Plaintiffs' residence was substantially destroyed by Hurricane Katrina.²²⁰

457. Plaintiffs presented a claim to STATE FARM under their policy number 24-BG-2787-7.

458. After the Hurricane, STATE FARM, on information and belief acting through Lecky King, assigned RENFROE COMPANY adjuster Larry Boyd ("Boyd") to Plaintiffs' claim.

459. On or about September 28, 2005, Boyd met Plaintiffs at their property. Boyd advised Plaintiffs that he could not determine which damage was caused by wind or water. Boyd advised that an engineer would contact Plaintiffs to schedule an appointment for inspection.

460. Plaintiffs specifically advised Boyd they wished to be present at the inspection.

461. According to FORENSIC's records, on October 11, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.²²¹

462. According to FORENSIC's records, Kelly inspected Plaintiffs' property on November 9, 2005, without Plaintiffs' knowledge or presence.

463. As alleged with particularity above, prior to Kelly's November 2005 purported inspection, on or about October 13, 2005, STATE FARM employee David Haddock instructed FORENSIC not to apply a wind or water percentage when determining cause of damage, and to use the word "predominant" when describing the cause of damage.

²¹⁸ Exh. 155, Renewal Certificate.

²¹⁹ *Id.*

²²⁰ Exh. 156, photos.

²²¹ Exh. 157, Job Assignment Information Sheet.

464. Despite admitting evidence of obvious wind damage noted in the report, Kelly's inspection report, dated January 6, 2005, [sic] followed Haddock's instructions. In furtherance of the inspection scheme, Kelly's report stated in the conclusions section the report: "It is the opinion of FAEC that the predominant cause of damage to the structure was rising tidal surge and associated waves."²²²

465. In furtherance of the inspection scheme, on or about January 6, 2005, Kelly's report was addressed and transmitted by U.S. Mail to Larry Boyd, an employee of Defendant RENFROE COMPANY and adjuster hired by King and STATE FARM.

466. In furtherance of the inspection scheme, on January 11, 2006, STATE FARM sent a denial of coverage letter by U.S. Mail to Plaintiffs citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' FP-7955 policy.²²³

467. On or about July 25, 2006, Plaintiff participated in a mediation in Hattiesburg, Mississippi sponsored by Insurance Commissioner George Dale.

468. On information and belief employees of both RENFROE and STATE FARM attended Plaintiffs' mediation.

469. At the mediation, on information and belief, STATE FARM and RENFROE employees attending the mediation followed a pre-arranged script and ignored Plaintiffs' evidence supporting wind damage.

470. While concealing the FORENSIC inspection scheme from Plaintiffs, Defendants STATE FARM and RENFROE offered Plaintiffs \$30,000.00 as a lump sum settlement of their damage claim.²²⁴

471. Having no knowledge of the Defendants' inspection scheme, Plaintiffs accepted the mediation offer. Had the Plaintiffs known of such scheme, they would not have accepted this amount, and any purported release executed by Plaintiffs at the mediation was procured by fraud and is void.²²⁵

472. Evidence of the inspection scheme and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

²²² Exh. 158, FORENSIC inspection report (pertinent part), dated January 6, 2005, [sic] "John B. Kelly P.E." and "William C. Forbes, P.E." (peer reviewer).

²²³ Exh. 159, denial of coverage letter, January 11, 2006.

²²⁴ Exh. 160, Mediation Program Settlement Agreement, dated July 25, 2006.

²²⁵ *Id.*

473. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$206,160.00 under Plaintiffs' policy.

PLAINTIFF CHET CARTER

474. On August 29, 2005, Plaintiff CHET CARTER was a named insured under a STATE FARM FP-7955 policy, identified as number 24-CC-1612-6, and covering their residence at 115 Runnels Avenue, Long Beach, Mississippi.

475. Plaintiff's FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$58,000; (Coverage A) Dwelling Extension \$5,800; (Coverage B) Personal Property \$44,457; and (Coverage C) Loss of Use, Actual Loss Sustained.²²⁶

476. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.²²⁷

477. Plaintiff presented a claim to STATE FARM under his policy number 24-CC-1612-6.

478. According to FORENSIC's records, on October 13, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.²²⁸

479. According to FORENSIC's records, on November 10, 2005, Kelly inspected Plaintiff's property.²²⁹

480. Kelly's inspection report dated January 16, 2006, concluded:

Based on prior observations to the general area along this part of the coast, the subject property could have experienced wind damage, but FAEC has concluded that the predominant cause of damage would have been rising water due to storm surge and waves, as well as water borne and wind driven debris.²³⁰

481. The conclusions stated in Kelly's January 16, 2006, inspection report are knowingly false, and virtually identical to the conclusions written in two other inspection reports Kelly prepared around the same

²²⁶ Exh. 161, Statement of Loss, January 24, 2006.

²²⁷ Exh. 162, photos.

²²⁸ Exh. 163, Job Assignment Information Sheet.

²²⁹ Exh. 164, Hurricane Katrina Structural Inspection Checklist, November 10, 2005.

²³⁰ Exh. 165, FORENSIC inspection report (pertinent part), dated January 16, 2006, "John B. Kelly P.E." and "William C. Forbes, P.E." (peer reviewer).

time frame.²³¹

482. In furtherance of the inspection scheme, on or about January 16, 2006, Kelly's report was addressed and transmitted by U.S. Mail to Ronnie Hazelwood, an adjuster hired by King and STATE FARM.

483. As alleged with particularity above, pursuant to the inspection scheme, on January 24, 2006, STATE FARM sent a denial of coverage letter to Plaintiff by U.S. Mail citing as a basis for denial Kelly's report attributing the loss to storm surge and waves, as well as water borne and wind driven debris.²³²

484. On or about September 14, 2006, Plaintiff participated via interstate telephone line in a mediation sponsored by Insurance Commissioner George Dale.²³³

485. On or about January 24, 2006, and prior to the mediation, Kelly's inspection report was transmitted by U.S. Mail to Plaintiff at 278 Irvin Street, Plymouth, Michigan.²³⁴

486. On information and belief employees of STATE FARM attended Plaintiff's mediation.

487. While concealing the inspection scheme from Plaintiff, Defendants offered Plaintiff \$39,000.00 as a lump sum settlement of his hurricane damage claim.²³⁵

488. Having no knowledge of the Defendants' inspection scheme, Plaintiff accepted the mediation offer. Had the Plaintiff known of such scheme, he would not have accepted this amount, and any purported release executed by Plaintiff at the mediation was procured by fraud and is void.²³⁶

489. Evidence of the inspection scheme and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

490. As alleged with particularity above, pursuant to the FORENSIC inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$69,257.00 under Plaintiffs' policy.

²³¹ Exh. 166, FORENSIC inspection report (pertinent part) (Dykes property), dated January 5, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer); FORENSIC inspection report (pertinent part) (Troub property), dated January 9, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

²³² Exh. 167, denial of coverage letter, January 24, 2006.

²³³ Exh. 168, Mediation Program Settlement Agreement, dated September 14, 2006.

²³⁴ Exh. 167.

²³⁵ Exh. 168.

²³⁶ *Id.*

PLAINTIFFS GINGER L. THACKREY and DEBRA JOINER

491. On August 29, 2005, Plaintiffs GINGER L. THACKREY and DEBRA JOINER were named insureds under a STATE FARM FP-7955 policy, identified as number 24-EO-0199-5, and covering their residence at 105 Hickory Street, Waveland, Mississippi.

492. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$65,200; (Coverage A) Dwelling Extension \$6,520; (Coverage B) Personal Property \$35,860; and (Coverage C) Loss of Rents, Actual Loss.²³⁷

493. Plaintiffs' FP-7955 policy included endorsement FE-5301.1 (2% Hurricane Deductible).²³⁸

494. On August 29, 2005, Plaintiffs' dwelling was destroyed by Hurricane Katrina.²³⁹

495. Plaintiffs presented a claim to STATE FARM under their policy number 24-EO-0199-5.

496. According to FORENSIC's records, on September 29, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.²⁴⁰

497. According to FORENSIC's records, on November 1, 2005, Plaintiff's property was inspected by KOCHAN.

498. Following Lecky King's "firing" of FORENSIC on October 17, 2005, and the King - KOCHAN meeting thereafter, in furtherance of the inspection scheme, KOCHAN conducted an inspection of Plaintiffs' property on November 1, 2005, and drafted a report dated January 27, 2006, which concluded: "The home was floated off and pushed from its support foundation by flood water. The downed tree on the garage pinned that section of the structure so that it was ripped apart from the main section of the home."²⁴¹

499. In furtherance of the inspection scheme, on or about January 27, 2006, KOCHAN's report was addressed and transmitted by U.S. Mail to Rachel Savoy, an employee of Pilot Catastrophe Services, Inc. hired by King and STATE FARM.

500. In furtherance of the inspection scheme, on or about February 9, 2006, STATE FARM sent a

²³⁷ Exh. 169, Renewal Certificate (for post-Katrina policy period).

²³⁸ *Id.*

²³⁹ Exh. 170, photos.

²⁴⁰ Exh. 171, Job Assignment Information Sheet.

²⁴¹ Exh. 172, FORENSIC inspection report (pertinent part), dated January 27, 2006, "Robert K. Kochan, ME, DABFET, FACFEI" and "John B. Kelly, P.E." (peer reviewer).

denial of coverage letter to Plaintiffs by U.S. Mail citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiffs' Plaintiff's FP-7955 policy.²⁴²

501. In furtherance of the inspection scheme, Defendant STATE FARM advised Plaintiffs that their coverage benefits for wind damage were \$91.44, but because this amount was under their \$1,268.00 deductible, "a payment cannot be made."²⁴³

502. Evidence of the inspection scheme and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

503. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$107,580.00 under Plaintiffs' policy.

PLAINTIFF JEFFREY PICKICH

504. On August 29, 2005, Plaintiff JEFFREY PICKICH was a named insured under a STATE FARM FP-8103.3 policy, identified as number 99-CE-6589-8, and covering a rental dwelling policy at 5904 St. Martin Road, Biloxi, Mississippi.

505. Plaintiff's FP-8103.3 policy provided coverage limits of (Coverage A) Dwelling \$65,000; (Coverage A) Dwelling Extension \$6,500; (Coverage B) Personal Property \$3,250; and (Coverage C) Loss of Rents, Actual Loss.²⁴⁴

506. On August 29, 2005, Plaintiff's residence was destroyed by Hurricane Katrina.²⁴⁵

507. Plaintiff presented a claim to STATE FARM under his policy number 99-CE-6589-8.

508. According to FORENSIC's records, on October 13, 2005, STATE FARM assigned Plaintiff's property inspection to FORENSIC.²⁴⁶

509. According to FORENSIC's records, on November 15, 2005, Plaintiff's property was inspected by Kelly.²⁴⁷ Kelly's inspection report, dated January 6, 2006, concluded:

²⁴² Exh. 173, denial of coverage letter, February 9, 2006.

²⁴³ *Id.*

²⁴⁴ Exh. 174, Declarations page.

²⁴⁵ Exh. 175, photos.

²⁴⁶ Exh. 176, Job Assignment Information Sheet.

²⁴⁷ Exh. 177, Hurricane Katrina Structural Inspection Checklist, dated November 15, 2005.

Based on the house two properties to the north, the insured's home may have experienced wind damage to its roof and shingles. However, it is the opinion of FAEC that the damage to the dwelling was predominately [sic] caused by tidal surge and waves associated with that surge.²⁴⁸

510. As alleged with particularity above, after Ford and Manon were terminated, in furtherance of the inspection scheme, Kelly was utilized by KOCHAN to fabricate reports attributing losses a policy exclusion for water damage.

511. On January 13, 2006, STATE FARM sent a denial of coverage letter to Plaintiff citing as a basis for denial of Plaintiff's claim, the ACC provision and water damage exclusion in Plaintiff's FP-8103.3 policy.²⁴⁹

512. On or about August 9, 2006, Plaintiff participated in a mediation in Hattiesburg, Mississippi sponsored by Insurance Commissioner George Dale.

513. On information and belief, prior to mediation of the Plaintiff's claim, FORENSIC's inspection report was transmitted by U.S. Mail to Doyse McReynolds, an adjuster hired by King and STATE FARM.

514. On information and belief, STATE FARM and its employees attending the mediation followed a pre-arranged script and ignored Plaintiff's evidence.

515. While concealing the inspection scheme from Plaintiff, Defendants offered Plaintiff \$40,000.00 as a lump sum settlement of his insured hurricane damage claim.²⁵⁰

516. Having no knowledge of the Defendants' inspection scheme, Plaintiff accepted the mediation offer. Had the Plaintiff known of such scheme, he would not have accepted this amount, and any purported release executed by Plaintiff at the mediation was procured by fraud and is void.²⁵¹

517. Evidence of the inspection scheme and the details surrounding the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

518. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$34,750.00 under Plaintiff's policy.

²⁴⁸ Exh. 178, FORENSIC inspection report (pertinent part), dated January 6, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

²⁴⁹ Exh. 179, denial of coverage letter, January 13, 2006.

²⁵⁰ Exh. 180, Mediation Program Settlement Agreement, dated August 9, 2006.

²⁵¹ *Id.*

PLAINTIFFS FARON CRAIG TROUB and MARION TROUB

519. On August 29, 2005, Plaintiffs FARON CRAIG TROUB and MARION TROUB were named insureds under a STATE FARM FP-7955 policy, identified as number 24-92-9290-5, and covering their residence at 212 S. Lang Avenue, Long Beach, Mississippi.

520. Plaintiffs' FP-7955 policy provided coverage limits of (Coverage A) Dwelling \$87,300; (Coverage A) Dwelling Extension \$8,730; (Coverage B) Personal Property \$65,475; and (Coverage C) Loss of Use, Actual Loss Sustained.²⁵²

521. Plaintiffs' FP-7955 policy provided additional coverage under endorsement OPT ID, with coverage limits of \$17,460.00.²⁵³

522. On August 29, 2005, Plaintiffs' residence was destroyed by Hurricane Katrina.²⁵⁴

523. Plaintiffs presented a claim to STATE FARM under their policy number 24-92-9290-5.

524. According to FORENSIC's records, on October 13, 2005, STATE FARM assigned Plaintiffs' property inspection to FORENSIC.²⁵⁵

525. According to FORENSIC's records, on November 10, 2005, Kelly inspected Plaintiffs' property.²⁵⁶ Kelly's inspection report, dated January 9, 2006, concluded:

Based on prior observations to the general area along this part of the coast, the subject property could have experienced wind damage, but FAEC has concluded that the predominant cause of damage would have been rising water due to storm surge and waves, as well as water borne and wind driven debris.²⁵⁷

526. The conclusions stated in Kelly's January 16, 2006, inspection report are knowingly false, and virtually identical to the conclusions written in two other inspection reports Kelly prepared around the same

²⁵² Exh. 181, Declarations page.

²⁵³ *Id.*

²⁵⁴ Exh. 182, photos.

²⁵⁵ Exh. 183, Job Assignment Information Sheet.

²⁵⁶ Exh. 184, Hurricane Katrina Structural Inspection Checklist, November 10, 2005.

²⁵⁷ Exh. 185, FORENSIC inspection report (pertinent part), January 9, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." peer reviewer).

time frame.²⁵⁸

527. In furtherance of the inspection scheme, on or about January 9, 2006, Kelly's report was addressed and transmitted by U.S. Mail to Stanley Smith, an employee of Pilot Catastrophe Services, Inc. hired by King and STATE FARM.

528. In furtherance of the inspection scheme, STATE FARM sent a denial of coverage letter by U.S. Mail to Plaintiffs citing as a basis for denial of Plaintiffs' claim, the ACC provision and water damage exclusion in Plaintiff's FP-7955 policy.

529. Evidence of the inspection scheme and the details concerning the inspection scheme was first discovered in 2007 when subpoenaed documents obtained from FORENSIC were reproduced, printed and reviewed.

530. As a result of the inspection scheme, STATE FARM denied and withheld available coverage benefits of up to \$178,115.00 under Plaintiffs' policy.

VI.

APPLICATION OF JOINDER RULES

531. Each of the named Plaintiffs were insureds under a policy of property insurance issued by Defendant STATE FARM, and in effect as of August 29, 2005.

532. Each of named Plaintiffs sustained a property damage loss under their STATE FARM policies, proximately and efficiently caused by Hurricane Katrina.

533. At the direction of Alexis "Lecky" King, Catastrophe Team Manager for STATE FARM, and other key employees of STATE FARM placed in charge of Hurricane Katrina claims on the Mississippi Gulf Coast, each of the Plaintiffs' insured properties were commonly assigned to Defendant FORENSIC to be inspected for hurricane damage after STATE FARM and FORENSIC entered an agreement to conduct corrupt inspections.

534. RENFROE and other presently unidentified JOHN and JANE DOES participated, joined in and cooperated with STATE FARM and FORENSIC in the inspection of each of the Plaintiffs' insured properties at the direction of Lecky King, and pursuant to the inspection scheme.

535. The inspection scheme had as one of its illicit aims or purposes the corrupt procurement of

²⁵⁸ Exh. 186, FORENSIC inspection report (pertinent part) (Dykes property), dated January 5, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer); Exh. x, FORENSIC inspection report (pertinent part) (Carter property), dated January 16, 2006, "John B. Kelly, P.E." and "William C. Forbes, P.E." (peer reviewer).

property damage inspections and contrived inspection reports, carried out by FORENSIC and its agents at the specific direction and behest of Lecky King and other key employees of STATE FARM. Inspections were conducted for the purpose of fraudulently avoiding STATE FARM's contractual obligation to make full value payment of hurricane damage losses sustained by the Plaintiffs and others unwittingly affected by the scheme.

536. Each of the Plaintiffs' insured properties were assigned for inspection by King or others acting for STATE FARM and were in fact inspected by FORENSIC or its agents acting in concert pursuant to the scheme.

537. Each of the named Plaintiffs sustained actual, consequential and extra contractual damages as a result of the inspection scheme. Each Plaintiff suffered emotional distress and sometimes physical harm; and each Plaintiff suffered annoyance and inconvenience, all caused by the misconduct of Defendants as set out herein, and for which Defendants are liable.

538. Rule 1 of the Federal Rules of Civil Procedure states that the Rules of Civil Procedure "shall be" construed and administered to secure the just, speedy, and inexpensive determination of every action. Because of corrupt inspection scheme alleged in this action, affecting each of the named Plaintiffs and potentially 120 other insureds, this Complaint is intrinsically within the purview of Rules 1, 19, 20 and 42 of the Federal Rules of Civil Procedure. The corrupt scheme alleged herein involves causes of action having a common question of law or fact to all the named Plaintiffs, as well as to potentially 120 other insureds, and should therefore be ordered to be jointly tried or consolidated so as to avoid unnecessary costs or delay. Consolidation of Plaintiffs' claims is appropriate under Rules 1, 19, 20 and 42 of the Federal Rules of Civil Procedure, and furthers the policy of just, speedy, and inexpensive determination of every action.

V.
ACTS OF AGENTS

539. Whenever in this Complaint it is alleged that any Defendant or Defendants, including John and Does 1-25, did any act or thing, or failed to do any act or thing, it is also meant that the officers, agents, representatives or employees of the Defendant or Defendants respectively performed, participated in performing, or failed to perform, such acts or things while in the course and scope of their employment or agency relationship with the Defendant or Defendants, and in furtherance of the Defendants' business. Whenever the wrongful or negligent acts or omissions complained of herein are the result of or are caused by employees or agents of any Defendant or Defendants, Plaintiffs are further entitled to all such relief accorded to them under Miss. Code Ann. § 85-5-7.

VII.
JOINT TORTFEASORS

540. Whenever Plaintiffs sustained injury or damage to their person or property as a result of the joint acts or omissions of the Defendant or Defendants and their agents, representatives and/or employees, including John and Does 1-25, in pursuing a common plan or design, Plaintiffs are entitled to a judgment against the Defendants jointly and severally, as prescribed under Miss. Code Ann. § 85-5-7.

VII.
CLAIMS FOR RELIEF

541. Plaintiffs re-allege the text and content of each paragraph appearing anywhere in this Complaint.

FIRST CLAIM FOR RELIEF
CIVIL RICO 18 U.S.C. § 1962 (c) *et seq.*

542. As alleged with particularity above, Defendants and each of them worked together and in concert to create and carry on an enterprise engaged in racketeering activities.

543. As alleged with particularity above, the facts demonstrate that Defendants and each of them unlawfully, willingly and knowingly performed acts or omissions and conducted or participated, directly or indirectly, in the conduct of Defendants affairs through the means of a pattern of racketeering activities.

544. As alleged with particularity above, as a direct and proximate result of the aforementioned RICO conduct, the Plaintiffs were defrauded out of substantial coverage benefits, in an amount presently unascertained but not less than \$5 million. Plaintiffs reserve the right to amend this Complaint when such sums become known.

545. As alleged with particularity above, Defendants and each of them are liable to Plaintiffs for treble damages, together with all costs of this action, plus reasonable attorneys fees as provided by 18 U.S.C. § 1964.

546. To the extent permitted by law, Plaintiffs are entitled to extra-contractual, exemplary and punitive damages, plus court costs, and pre and post-judgment interest at the legally allowable limit.

SECOND CLAIM FOR RELIEF
CIVIL RICO CONSPIRACY 18 U.S.C. § 1962 (d) *et seq.*

547. As alleged with particularity above, Defendants and each of them conspired to work together and in concert to create and carry on an enterprise engaged in racketeering activities.

548. As alleged with particularity above, the facts demonstrate that Defendants and each of them conspired to unlawfully, willingly and knowingly perform acts or omissions and conduct or participate, directly

or indirectly, in the conduct of Defendants' affairs through the means of a pattern of racketeering activities.

549. As alleged with particularity above, as the direct and proximate result of the aforementioned RICO conduct, the Plaintiffs were defrauded out of substantial coverage benefits, in an amount presently unascertained but not less than \$5 million. Plaintiffs reserve the right to amend this Complaint when such sums become known.

550. As alleged with particularity above, Defendants and each of them are liable to Plaintiffs for treble damages, together with all costs of this action, plus reasonable attorneys fees as provided by 18 U.S.C. § 1964.

551. To the extent permitted by law, Plaintiffs are entitled to extra-contractual, exemplary and punitive damages, plus court costs, and pre and post-judgment interest at the legally allowable limit.

THIRD CLAIM FOR RELIEF **FRAUD, MISREPRESENTATION AND DECEIT**

552. As alleged with particularity above, Defendants and each of them made multiple verbal and written representations to Plaintiffs regarding the investigation, adjustment and claims handling of their Hurricane Katrina claims.

553. The representations were material in nature and false, and included among others, representations concerning the investigation, adjustment, claims handling and supposed merits of Plaintiffs' Hurricane Katrina claims. Such representations were deceitful and were perpetrated as part of a covert plan or scheme contrived by STATE FARM acting through King, Wilcox, Haddock, Randel, Slaughter, Lynch and others, and KOCHAN and FORENSIC acting through Sammis, Williams, Down, Kelly, Forbes and KOCHAN, and RENFROE COMPANY and GENE and JANA RENFROE acting through Tammy Hardison, Jeff Davis, Denny Sitze, Larry Boyd, Jamye Woody and other adjuster employees, to procure false and contrived inspection reports, designed in advance to attribute losses to policy exclusions for water damage.

554. Defendants and each of them knew the multiple verbal and written, false and material representations were false.

555. Defendants and each of them intended that Plaintiffs act upon the multiple verbal and written, false and material representations made to Plaintiffs in a manner the Defendants contemplated, which representations were aimed at, among other things, the divestiture of coverage benefits and/or settlement or other disposition of Plaintiffs' insured hurricane damage claims for fractional value.

556. Defendants and each of them knew Plaintiffs were ignorant of the multiple verbal and written, false and material representations, and knew that Plaintiffs had no knowledge of the covert plan or scheme

contrived by STATE FARM acting through King, Wilcox, Haddock, Randel, Slaughter, Lynch and others, and KOCHAN and FORENSIC acting through Sammis, Williams, Down, Kelly, Forbes and KOCHAN, and RENFROE COMPANY and GENE and JANA RENFROE acting through Tammy Hardison, Jeff Davis, Denny Sitze, Larry Boyd, Jamye Woody and other adjuster employees.

557. Plaintiffs relied on the multiple verbal and written representations made by the Defendants and each of them in connection with the investigation, adjustment and claims handling of their insured Hurricane Katrina damage claims.

558. Plaintiffs not only had a right to rely, and did in fact rely on the multiple verbal and written representations made by the Defendants and each of them in connection with the investigation, adjustment and claims handling of their insured Hurricane Katrina claims, but the Defendants compelled Plaintiffs under implied policy policy covenants to unwittingly cooperate with the Defendants' inspection scheme by granting repeated ingress to their insured properties.

559. Defendants' multiple verbal and written, false and material representations, including those perpetrated as part of the covert inspection scheme, were the direct and proximate cause of damages sustained by Plaintiffs.

FOURTH CLAIM FOR RELIEF **FRAUDULENT CONCEALMENT**

560. Plaintiffs' FP-7955 policies were at all times and in all respects subject to a covenant of good faith and fair dealing. As such, Plaintiffs were entitled to have their claims individually investigated and adjusted, and the results honestly and timely disclosed to them.

561. Under Mississippi law, an insurer's duty to an insured homeowner under a first party contract imposes a non-delegable obligation to make a prompt, thorough, and reasonable investigation of the merits of claims submitted. The Defendants' duty imposes an obligation to individually investigate and adjust Plaintiffs' claims with the interests of the insured equally in mind.

562. Plaintiffs, in entering into a contract for homeowners insurance with Defendant STATE FARM, purchased a homeowners policy of insurance and not an unjustified court battle.

563. Defendant STATE FARM had a duty, and continuing duty, even after suit is filed, to adjust and voluntarily pay claims timely and properly submitted, without the necessity of Plaintiffs' forcing payment through expensive, lengthy and psychologically stressful litigation.

564. At no time during the lengthy claim handling period following the accrual of Plaintiffs'

Hurricane Katrina claims did the Defendants disclose the true nature of their dealings with respect to the FORENSIC inspection scheme.

565. As alleged with particularity above, the Defendants and each of them concealed from Plaintiffs and omitted material facts related to the covert and corrupt handling of Plaintiffs' hurricane damage claims.

566. Defendants and each of them breached and willfully violated the duty of good faith and fair dealing owed to Plaintiffs which among other things required that Defendants be honest in dealing with the Plaintiffs' claims. The concealment and omission of material facts amount to affirmative actions designed to prevent, and which did prevent, the Plaintiffs from discovering facts tantamount to actionable fraud. Such acts or omissions constitute fraudulent concealment of viable cause(s) of action Plaintiffs had against the Defendants and each of them.

567. The Defendants fraudulent concealment and omission of material facts was a direct and proximate cause of damages sustained by Plaintiffs.

FIFTH CLAIM FOR RELIEF **CIVIL CONSPIRACY**

568. As alleged with particularity above, Defendants and each of them engaged in a civil conspiracy and unlawful enterprise to conduct corrupt property inspections and procure contrived inspection reports, as part of a scheme or artifice to defraud Plaintiffs of coverage benefits under their STATE FARM policies.

569. On information and belief, Defendants corrupt enterprise affected and damaged as many as 150 homeowners insureds who sustained insured property damages, and whose properties were subjected to the FORENSIC inspection scheme.

570. The corrupt enterprise of conducting scientifically dishonest property inspections, procuring contrived reports, and using the reports to divest coverage benefits, involved two or more persons or corporations, in this instance, namely: Lecky King; Mark Wilcox; David Haddock; Dave Randel; Marsha Slaughter; Rayna Lynch; STATE FARM; FORENSIC; KOCHAN; Williams; Kelly; Down; Forbes; the RENFROE COMPANY and its adjusters, including without limitation Tammy Hardison, Jeff Davis, Denny Sitze, Larry Boyd, Jamye Woody; GENE and JANA RENFROE, and DOE Defendants who are unidentified at this time.

571. The Defendants had one or more "meetings of the minds" as to the object or aim of divesting the Plaintiffs' insured hurricane damages by the corrupt enterprise of procuring scientifically dishonest property inspections and contrived inspection reports. Along with STATE FARM, the Defendant RENFROE, and its

representatives, employees and agents, were deemed at all times to be the "clients" of FORENSIC pursuant to the property inspections. As such, FORENSIC addressed and transmitted the reports to RENFROE and its agents and employees in the usual course of business.

572. The Defendants "meetings of the minds" as to the object or aim of defeating full value payment of Plaintiffs' insured hurricane damages, included, among other things, the practice of using contrived inspection reports in the course of settlement mediations conducted under the mediation program sponsored and condoned by Mississippi Insurance Commissioner George Dale. Before the mediations convened, key personnel of Defendants STATE FARM and RENFROE participated in mock mediations wherein the principal speakers for the Defendants were given scripted dialogue, assigned by STATE FARM attorneys, including attorney Doug Taber. During the actual mediation process the Defendants actively and/or passively concealed the existence of the enterprise and contrived reports, while at the same time using the fabricated conclusions of the reports to defeat full value payment of the policyholders', including Plaintiffs', insured hurricane claims. The purpose and aim of the scripted mediations was to demoralize policyholders and create the impression that no degree of forensic evidence would convince STATE FARM and/or RENFROE to pay the full value of their insured hurricane damages.

573. As set forth in the detailed fact averments in this Complaint, the corrupt enterprise involved one or more unlawful overt acts, including, without limitation, the alteration and/or concealment, cancellation and/or spoliation of dozens of inspection reports derived from and procured under the corrupt enterprise.

574. Defendants' engagement in a civil conspiracy and unlawful enterprise to procure corrupt property inspections and contrived inspection reports, all of which was accomplished under the inspection scheme, and the ostensible "service agreements" between RENFROE and STATE FARM, was the direct and proximate cause of damages sustained by Plaintiffs.

SIXTH CLAIM FOR RELIEF
AIDING AND ABETTING
(ALL DEFENDANTS EXCEPT STATE FARM)

575. As alleged with particularity above, Defendants and each of them engaged in a civil conspiracy and unlawful enterprise to conduct corrupt property inspections and procure contrived inspection reports, as part of a scheme or artifice to defraud Plaintiffs of coverage benefits under their STATE FARM policies.

576. On information and belief, Defendants' corrupt enterprise affected and damaged as many as 150 homeowners insureds who sustained insured property damages, and whose properties were subjected to the

FORENSIC inspection scheme.

577. At all times relevant to this action, FORENSIC, KOCHAN and the RENFROE COMPANY, GENE and JANA RENFROE and the DOE Defendants aided and abetted STATE FARM by, among other things, providing substantial assistance in carrying out the corrupt enterprise of conducting scientifically dishonest property inspections and procuring contrived inspection reports, as part of the FORENSIC inspection scheme.

578. At all times relevant to this action, FORENSIC, KOCHAN and the RENFROE COMPANY, GENE and JANA RENFROE and the DOE Defendants committed one or more tortious acts in concert with STATE FARM, or pursuant to a common design, engaged in same with STATE FARM.

579. At all times relevant to this action, FORENSIC, KOCHAN and the RENFROE COMPANY, GENE and JANA RENFROE and the DOE Defendants knew that STATE FARM's and/or FORENSIC's conduct in the civil conspiracy and unlawful enterprise was a breach of duty to the Plaintiffs as insured policyholders, and yet the Defendants and each of them gave substantial assistance or encouragement to STATE FARM.

580. At all times relevant to this action, FORENSIC, KOCHAN and the RENFROE COMPANY, GENE and JANA RENFROE and the DOE Defendants knew that STATE FARM's and/or FORENSIC's conduct in the civil conspiracy and unlawful enterprise was a breach of duty to the Plaintiffs' as insured policyholders, and yet the Defendants and each of them gave substantial assistance or such encouragement to STATE FARM and/or FORENSIC in accomplishing its tortious acts, that the Defendants' own actions constitute a breach of duty to Plaintiffs.

581. The Defendants' aiding and abetting a civil conspiracy and unlawful enterprise to conduct corrupt property inspections and procure contrived inspection reports was a direct and proximate cause of damages sustained by Plaintiffs.

SEVENTH CLAIM FOR RELIEF
BREACH OF CONTRACT

582. Plaintiffs re-allege the text and content of each paragraph appearing anywhere in this Complaint.

583. At all times relevant to this action, the Defendant STATE FARM owed to the Plaintiffs non-delegable, express and implied duties under their FP-7955 homeowners and other similarly worded policy forms, marketed, underwritten, sold, issued, and delivered to the Plaintiffs by STATE FARM, and its agents and

representatives, under the national "good neighbor" branding scheme.

584. The Defendant STATE FARM breached non-delegable, express and implied duties owed to the Plaintiffs as policyholders, claimants and insureds under the subject policies by, *inter alia*, repeatedly denying Plaintiffs' claims for coverage benefits, after multiple and timely requests for payment.

585. The Defendant STATE FARM breached non-delegable, express and implied duties owed to the Plaintiffs in the following, non-exclusive particulars, *inter alia*:

- (a) failing to conduct a prompt, fair, thorough and scientifically honest investigation of the Plaintiffs' Hurricane Katrina damages;
- (b) failing to single loss adjust and voluntarily pay the Plaintiffs' Hurricane Katrina damages;
- (c) failing to inform the insured of the status of claims decisions, and concealing from the insureds the manner and details of secret and corrupt claims adjustment practices utilized by Defendants;
- (d) failing to investigate, adjust and voluntarily pay for damage caused to dwellings from water borne objects, material or debris;
- (e) relying without legitimate or arguable reason on ambiguous, self-contradictory, and invalid anti-concurrent cause policy provisions to wrongfully deny coverage benefits due and owing to Plaintiffs;
- (f) relying without legitimate or arguable reason on the "Water Damage" exclusion in Plaintiffs' FP-7955 policies and other similarly worded policy forms, to wrongfully deny coverage benefits due and owing to Plaintiffs;
- (g) wrongfully and dishonestly divesting Plaintiffs of the use and benefit of coverage benefits owing under the subject policies for damages proximately and efficiently caused by Hurricane Katrina; and,
- (h) while under a continuing duty to honestly investigate, evaluate, promptly and voluntarily pay covered claims, and after knowing invalid, false and fabricated reasons were given for denial, continuously refusing to pay covered claims.

586. The Defendant's breach of the non-delegable, express and implied duties owed to the Plaintiffs as policyholders, claimants and insureds under the subject policies was a direct and proximate cause of actual damages sustained by Plaintiffs.

EIGHTH CLAIM FOR RELIEF
BREACH OF CONTRACT
(SINGLE LOSS ADJUSTING)

587. STATE FARM's FP-7955 homeowners policy, sold to Plaintiffs as a pre-printed, copyrighted form, contains approximately 13,859 words within twenty-five (25) pages, all of which was exclusively written

by STATE FARM's lawyers and insurance policy writers.

588. Under Mississippi law, Defendant STATE FARM's FP-7955 homeowners policy is an "adhesion contract."

589. Under Mississippi law, an insurer's duty to an insured homeowner under a first party contract of insurance imposes a non-delegable obligation to make a prompt, thorough, and reasonable investigation of the merits of each claim submitted.

590. The Defendants' duty imposes an obligation to individually investigate and adjust the Plaintiffs' claims with the interests of the insureds equally in mind.

591. Each of FP-7955 policies sold by STATE FARM constitutes a separate and singular contract, carrying within it a separate and singular contractual relationship between STATE FARM and the named insured – the only parties to the contract.

592. The subject policy contains no provision excusing STATE FARM from its duty to individually investigate and adjust each claim merely because the claim occurs as part of a multiple loss event, such as a hurricane. A portion of the premium paid by each insured as consideration under subject policies guarantees each insured's right to receive a prompt, fair and reasonable investigation of his or her claim, no different or less from the insured's perspective than if a single loss event had occurred. A full and un-discounted premium was paid by each of the Plaintiffs under the subject policies, and no Plaintiff received a premium discount or reduction as justification for STATE FARM to unilaterally devalue or diminish its contractual duty to individually investigate and adjust each claim as a single loss event.

593. The Defendant STATE FARM owed to Plaintiffs a duty, as prescribed by regulation, statute and common law, and under to refrain from unilaterally devaluing or diminishing the duty owed to each Plaintiff merely because the insurer processed multiple loss events from separately insured persons, occurring fortuitously at the same time as Plaintiffs'.

594. The Defendant STATE FARM breached the duty to single loss adjust the Plaintiffs' Hurricane Katrina claims by, among other things, using claims handling protocols not contained within the Plaintiffs' FP-7955 policy forms; utilizing formulaic, multiple loss adjustment practices such as "zip code" adjusting; devaluing and diminishing the duty to make a prompt, thorough, reasonable and individual investigation of the merits of each claim.

595. The covert use of claims protocols not contained in the policy, formulaic adjusting and other illicit claims practices amounting to a breach of the single loss adjusting rule, the Defendants engaged in a

pattern and practice of institutional claim denial designed to thwart and defeat the full value payment of Plaintiffs' insured hurricane damages.

596. Defendants pattern and practice of failing to single loss adjust Plaintiffs' Hurricane Katrina claims breached the express and implied duties owed to the Plaintiffs under the Plaintiffs' FP-7955 policies, and was a direct and proximate cause of damages sustained by Plaintiffs.

NINTH CLAIM FOR RELIEF
NEGLIGENCE AND GROSS NEGLIGENCE

597. At all times relevant to this action, the Defendants and each of them owed to Plaintiffs non-delegable, express and implied duties to exercise reasonable care.

598. The Defendants and each of them were negligent and grossly negligent and breached non-delegable, express and implied duties aforesaid.

599. The Defendants and each of them breached non-delegable, express and implied duties owed to the Plaintiffs in the following, non-exclusive particulars, *inter alia*:

- (a) failing to follow and apply the Defendant STATE FARM's underwriting and other guidelines in the marketing, underwriting, sale, issuance and delivery of the subject policies;
- (b) marketing and selling through its national "good neighbor" branding scheme, illusory, deceptive and ambiguous insurance contracts such the FP-7955 (8/96) Homeowners Policy, all of which under Mississippi law constitute adhesion contracts;
- (c) failing to conduct a prompt, fair, thorough and scientifically honest investigation of the Plaintiffs' insured Hurricane Katrina damage claims;
- (d) failing to make a realistic evaluation of the Plaintiffs' insured Hurricane Katrina damage claims;
- (e) failing to adjust and voluntarily pay covered and insured claims timely reported and proximately and efficiently caused by Hurricane Katrina;
- (f) failing to adjust and voluntarily pay for insured damage to dwellings caused by water borne objects, material and debris;
- (g) divesting the Plaintiffs of the use and benefit of coverage benefits owing under the subject policies for insured damages proximately and efficiently caused by Hurricane Katrina;
- (h) after the losses and damages were timely reported, relying without legitimate or arguable reason on ambiguous, self-contradictory, and invalid anti-concurrent cause provisions to wrongfully deny coverage benefits due and owing to Plaintiffs;
- (i) after the losses and damages were timely reported, relying without legitimate or arguable reason on the "Water Damage" provision of Plaintiffs' "all-risks" policies to

wrongfully coverage benefits due and owing to Plaintiffs; and,

- (j) while under a continuing duty to voluntarily, promptly pay covered and insured claims, and after knowing invalid, false and fabricated reasons were given for denial, refusing to promptly pay.

600. The Defendants negligence and/or gross negligence and breach of non-delegable, express and implied duties owed aforesaid, was a direct and proximate cause of actual damages sustained by Plaintiffs.

TENTH CLAIM FOR RELIEF (AGAINST STATE FARM)
BREACH OF FIDUCIARY DUTY

601. Defendant STATE FARM's homeowners policy form FP-7955 issued to Plaintiffs is an "adhesion contract."

602. Defendant STATE FARM at all times relevant to the action owed a non-delegable duty of good faith and fair dealing to Plaintiffs as insureds. STATE FARM's policies carry within them an implied covenant to exercise good faith and fair dealing when dealing with the Plaintiffs in their capacity as insureds.

603. Adhesion contracts such as STATE FARM's FP-7955 policy create gross economic disparity between STATE FARM and the insured policyholders, and as the weaker parties, the insureds have no real choice or control of the contract terms or the confidential manner in which the key coverage provisions are interpreted and applied to payment or non-payment of claims by the dominant party, the insurer.

604. A fiduciary relationship may arise, even under a first party insurance contract, when there appears on the one side an overmastering influence or, on the other side, weakness, dependence or trust justifiably reposed.

605. Hurricane Katrina was a statistically unprecedented catastrophic event in United States history, estimated to have caused 81 billion dollars in losses. Plaintiffs, having substantially or totally lost their insured homes and personal possessions, justifiably expected that the Defendants would deal with them fairly and in good faith. Because of their weaker financial position and lack of sophistication and knowledge with regard to adhesion insurance contracts, engineering inspection practices, hurricane claims handling and settlement practices, the Plaintiffs were at all times in a position of weakness, dependence or trust, justifiably reposed. Conversely, the Defendants were in a strong financial position, and one of superior sophistication and knowledge. Under these conditions, the weaker party to an adhesion contract deserves protection and, under Mississippi law, is accorded legal protection from overreaching by the more powerful party. Hence the imposition of a fiduciary relationship in this context is appropriate and lawful.

606. Through misconduct, as alleged with particularity above, Defendants breached and willfully

violated a fiduciary duty owed to Plaintiffs which required that Defendants exercise the utmost good faith and fair dealing in their relations with the Plaintiffs.

607. Defendants' willful breach of this fiduciary duty to the Plaintiffs was a direct and proximate cause of damages sustained by Plaintiffs.

608. As a result thereof Plaintiffs are entitled to a judgment against the Defendant STATE FARM for actual, compensatory and consequential damages in excess of the jurisdictional limit of this Court, plus court costs, litigation expenses, attorneys' fees and pre and post-judgment interest at the legally allowable limit.

609. Also, as a result thereof Plaintiffs are entitled to a judgment against the Defendant STATE FARM for extra-contractual, exemplary and punitive damages, under common law and *Miss. Code Ann. § 11-1-65 et seq.*

ELEVENTH CLAIM FOR RELIEF(AGAINST RENFROE)
PLAINTIFFS AS THIRD PARTY BENEFICIARIES;
RENFROE'S NEGLIGENT AND GROSSLY NEGLIGENT BREACH OF CONTRACT

610. Defendant RENFROE COMPANY is a company engaged in so-called "catastrophe support services" for insurance companies, including STATE FARM. When natural disasters strike, numerous companies from across the U.S. compete with the RENFROE COMPANY for the lucrative catastrophe support contracts companies such as STATE FARM dole out. Typically, competitors of the RENFROE COMPANY include companies such as The Worley Companies ("Worley") and/or Pilot Catastrophe Services, Inc. ("Pilot"). According to RENFROE COMPANY, its principals, employees, representatives and agents, when acting for RENFROE COMPANY in any capacity, are governed in their job duties by a strict Code of Conduct written and promulgated by RENFROE COMPANY. Defendant RENFROE COMPANY requires that each of its employees sign the Code of Conduct. The stated terms of the RENFROE COMPANY's "Code of Conduct" require that all RENFROE COMPANY employees recognize that they have an undivided duty of loyalty to the RENFROE COMPANY's "clients, and their customers." In this connection, in pertinent part the "Code of Conduct" states:

Renfroe expects employees to conduct the business of Renfroe in an ethical and legal manner, and to recognize that in all their transactions and at all times they have a duty of undivided loyalty to Renfroe, our clients, and their customers. These obligations demand positive action by all employees to protect those interests and to avoid situations where their self-interests actually or even appear to conflict with the interests of Renfroe, our clients and their customers.

611. In the context of this suit, the term "client" in the RENFROE COMPANY's Code of Conduct is the Defendant STATE FARM.

612. In the context of this suit, the phrase "their customers" as used in the the RENFROE

COMPANY's "Code of Conduct" refers to STATE FARM's insureds, herein the Plaintiffs.

613. Pursuant to the express and implied terms of RENFROE's Code of Conduct, the RENFROE COMPANY's principals, employees, agents and representatives had a duty at all times "of undivided loyalty" to Plaintiffs as "customers" and insureds under STATE FARM's insurance policies. The duty included an obligation to take "positive action . . . to protect" the Plaintiffs' interests, and to "to avoid situations where [RENFROE's or STATE FARM's] self-interests actually or even appear to conflict" with the interests of Plaintiffs, STATE FARM's "customers" and insureds.

614. The RENFROE COMPANY breached express and implied duties owed to the Plaintiffs under its Code of Conduct in the following, non-exclusive particulars, *inter alia*:

- (a) hiring, and performance compensating, employees who functioned as industry insiders and whom Defendant RENFROE could subordinate and control, and thus depend on to conduct covert and corrupt claims investigations designed to aid and abet STATE FARM in defeating the full value payment of Plaintiffs' insured hurricane damage claims;
- (b) participating in, and aiding and abetting in the procurement of sham engineering inspections and altered, fabricated and contrived inspection reports for the purpose of aiding and abetting STATE FARM in defeating full value payment of Plaintiffs' insured hurricane damage claims; and,
- (c) during formal mediations sponsored by the Mississippi Insurance Commissioner, and while actively attempting to settle Plaintiffs' insured hurricane damage claims for a fractional value, concealing sham inspections and the existence of altered, fabricated and contrived inspection reports.

615. The RENFROE COMPANY's negligence and/or gross negligence and breach of its express and implied duties owed to the Plaintiffs as third party beneficiaries under its Code of Conduct was a direct and proximate cause of actual damages sustained by Plaintiffs.

ACTUAL DAMAGES

616. As a result of the Defendants breach of aforesaid duties and acts and omissions as alleged with particularity above, and set forth in the preceding Claims for Relief, Plaintiffs are entitled to a judgment against the Defendants jointly and severally, for actual, compensatory and consequential damages in excess of the jurisdictional limit of this Court, plus court costs, litigation expenses, and pre and post-judgment interest at the legally allowable limit.

TREBLE DAMAGES UNDER RICO

617. As alleged with particularity above, Defendants and each of them are liable to Plaintiffs for

treble damages, together with all costs of this action, plus reasonable attorneys fees as provided by 18 U.S.C. § 1964.

VEASELY DAMAGES

618. Plaintiffs suffered damages as a result of Defendants failure to pay valid claims all of which caused adverse harm to the Plaintiffs as insureds, along with anxiety and emotional distress which would ordinarily follow such failure to pay. As a result Plaintiff have been forced to incur additional inconvenience and expense, attorneys' fees.

619. As a result of the Defendants' acts and omissions, as detailed and set forth in the Complaint, Plaintiffs are entitled to a judgment against the Defendants jointly and severally, for actual, compensatory and consequential damages due to anxiety and emotional distress and additional inconvenience and expense, and attorneys' fees resulting from STATE FARM's the breach of contract under Plaintiffs' FP-7955 policies and the necessity of filing suit to recover coverage benefits voluntarily due and owing.

**ATTORNEYS FEES,
LITIGATION EXPENSES AND COURT COSTS**

620. As the result of the Defendants' breach of aforesaid duties and acts and omissions, as alleged with particularity above in the preceding Claims for Relief, Plaintiffs are entitled to a judgment against the Defendants jointly and severally and for an award of attorneys fees, litigation expenses and courts costs, plus pre and post-judgment interest at the legally allowable limit.

**EXTRA-CONTRACTUAL,
EXEMPLARY AND PUNITIVE DAMAGES**


621. As the result of the Defendants' breach of duty and acts and omissions, as alleged with particularity above in the preceding Claims for Relief, Plaintiffs are entitled to a judgment against the Defendants jointly and severally, for extra-contractual, exemplary and punitive damages, under common law and *Miss. Code Ann. § 11-1-65 et seq.*, plus court costs, and pre and post-judgment interest at the legally allowable limit.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs bring this action and demand judgment of and from the Defendants jointly and severally, for actual, compensatory and consequential damages; for attorneys fees, litigation expenses, court costs; and for extra-contractual, exemplary and punitive damages, plus pre and post-judgment interest at the legally allowable limit, in an amount within or exceeding this Court's jurisdictional limits. Plaintiffs demand judgment for extra-contractual, exemplary and punitive damages against the

Defendants in an amount sufficient to deter and punish the Defendants from future conduct.

Respectfully submitted this the 70th day of June, 2007.

By:


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