

Judge: Some Katrina insurance exclusions unenforceable

Thursday, May 25, 2006; Posted: 9:50 p.m. EDT (01:50 GMT)

A tent takes the place of a home in Waveland, Mississippi on September 19, 2005.

GULFPORT, Mississippi (AP) -- Provisions in a State Farm Fire & Casualty Co. policy that exclude certain damage from Hurricane Katrina are unenforceable, a federal judge in Mississippi has ruled.

A couple whose Long Beach home was damaged by the August 29 storm is suing State Farm for denying their claim, arguing that the wording of their policy's "flood exclusions" are ambiguous and cannot be enforced.



U.S. District Judge L.T. Senter Jr., in a ruling released Wednesday, said State Farm cannot rely on an "ambiguous" language in a clause that is used to introduce what is excluded from coverage in its policies.

The judge agreed with State Farm that tidal surge is not covered. However, he said a policy clause that purports to deny coverage when wind acts in any sequence with an excluded event, such as tidal surge, to cause damage is ambiguous.

Senter said he found "the policy is ambiguous and its weather exclusion therefore unenforceable in the context of losses attributable to wind and rain that occur during a hurricane."

State Farm spokesman Phil Supple told The Associated Press that the insurer was pleased Senter had ruled that excluding tidal surge "is enforceable and valid." But he said Senter's decision with regard to the provision known as the anti-concurrent clause "is inconsistent with prior existing court rulings in Mississippi that held State Farm policy language to be clear and unambiguous."

On Thursday, more than 240 Gulf Coast homeowners filed a joint lawsuit against Nationwide Mutual Insurance Co. for refusing to cover property damage from Hurricane Katrina.

The federal suit, the latest in a string of similar suits that attorney Richard "Dickie" Scruggs has filed against several insurance companies, claims Nationwide routinely denied policyholders' claims without investigating whether Katrina's wind or water was responsible for damage.

Instead, the suit alleges, Nationwide denied many claims on the basis of a "one-size-fits-all" engineering report that blamed all of the damage on "storm surge," or wind-driven water. The insurer's policies cover wind damage but damage from storm surge is excluded from coverage.