IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JPP HOLDINGS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**No. 3:25-cv-00272**
	)	**JURY DEMANDED**
STATE FARM FIRE AND CASUALTY COMPANY,	)	
	)	
	)	
Defendant.	)	

STATE FARM FIRE AND CASUALTY COMPANY'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL APPRAISAL

Defendant, State Farm Fire and Casualty Company ("State Farm"), by and through counsel, responds in opposition to Plaintiff's Motion to Compel Appraisal (Doc. 19) as follows:

I. Factual Background

The Plaintiff is a Tennessee LLC which procured an insurance policy with State Farm providing coverage for some buildings in Oak Ridge, Tennessee. (Complaint at ¶ 6). Plaintiff claims that a "severe windstorm event" damaged its buildings "[o]n or about May 26, 2024, May 27, 2024." (*Id*. at ¶ 13). Through counsel it demanded appraisal. State Farm refused at that point because the Public Adjuster—which had recently been handling the claim prior to counsel becoming involved—had submitted a massively inflated estimate that would result in coverage being extended to areas that were not covered. The manner in which this claim was reported to State Farm is strong evidence that the insured buildings were actually damaged by a storm that took place in August of 2023, a time during which the Plaintiff had no insurance coverage with State Farm.

According to the Claim File, the claim was reported to State Farm on June 24, 2024 by the Plaintiff's Public Adjuster: Precision Public Adjusting, LLC ("PA"). Incidentally, the PA is a Georgia LLC and does not appear to be registered with the Tennessee Secretary of State. The PA stated that the date of loss was August 12, 2023 during this initial conversation:

> FOL as provided by contact: PA confirmed DOL as 8/12/**2023.** PA could not give explanation for delay in reporting. PA did relay hail and wind damages to all roofing surfaces and soft metals for all buildings. PA did relay that no tarping or mitigation has been performed.
> **CO Please confirm if policy for DOL. Possible ROR for delay in reporting. PA's requested documents.**

(Excerpt from Claim File Notes). The insurance policy's effective dates were October 20, 2023 through October 20, 2024. Two days later, on June 26, 2024 the PA called State Farm and confirmed the date of loss was August 12, 2023:

> - CS rec'd IBC from PA, Cosmo (return call) and discussed the following:
>   - PA confirmed DOL as 08/12/23.

The August 12, 2023 was then confirmed a third time on June 27, 2023 with a "Lilly" from the PA:[1]

> 06-27-2024 - 3:15 PM CDT **Performer:** Haller, Timothy **Office:**BCFR
> **File Note:** Call/vm from PA-Call back
> **Participant:** JPP HOLDINGS LLC **COL / Line (Participant):**
> **Category:** Contact - Outbound Call, Contact - Inbound Call **Sub Category:**
> Call/vm from Lilly from Precision Public adjusting asking for a call back.
> Other claim 42-69P6-28X was closed to due withdrawal.
> Called Lilly back at [redacted]. I verified DOL and DOL is correct at 8/12/23
>
> I advised that this policy number with DOL with not in force.
> She said she will need to contact the property owner to see if they have the correct policy number and will get back to me.

After the PA was told there was no insurance policy in place for the date in question, they called State Farm on June 28, 2024 to report that the storm actually took place on May 6, 2024:

[1] Phone number redacted.

06-28-2024 - 10:33 AM CDT **Performer:** Haller, Timothy **Office:**BCFR

File Note: Call/vm from PA-Call back

Participant: PRECISION PUBLIC ADJUSTING, LLC **COL / Line (Participant):**

Category: Contact - Outbound Call, Contact - Inbound Call **Sub Category:**

PA called in and left me a vm asking us to change the DOL to May 6, 2024. they have a weather benchmark pool that we can just change it to May 6,2024.

I called back PRECISION PUBLIC ADJUSTING, LLC back and spoke to Lilly and I asked what a weather benchmark is and they looked up weather and there was a wind event and based on this report.

Accuweather for 5/6/24 at loss location is 25mph wind gusts

The new date appeared to be based on the PA searching some kind of storm database which raises substantial questions about whether this entire claim is even based on a storm that really occurred.

After a property inspection involving the PA and State Farm in July of 2024, the PA offered a new, third date of loss: February 28, 2024:

I reviewed the DOL with PA Taylor. PA said that he is unsure when the damages occurred, but knows that they were reported to them earlier this year. PA agrees that we should change DOL to 2/28/2024 to reflect when the damages occurred.

Cut to the Complaint that was filed in this matter. It alleges that the windstorm in question occurred on May 26-27, 2024. (Complaint, Doc. 1 at ¶ 13). This confusing course of events establishes that over time the Plaintiff has contended that the property was damaged on four different dates: August 12, 2023, February 28, 2024, May 6, 2024, or May 26-27, 2024.

To compound matters, the PA submitted to State Farm a "Public Adjuster Contract & Letter of Representation" on June 21, 2024—the date it first reported the claim for the Plaintiff. It was signed by the PA and the insured's representative Joe Patel and states that the Date of Loss was August 12, 2023. (*See* Letter attached as Exhibit 1). The Plaintiff digitally signed the letter on June 20, 2024. Then, on June 28, 2024 the PA submitted a second representation letter and appeared to just white out the old date of loss and replace it with a new one: May 6, 2024. (*See* June 28, 2024 letter attached as Exhibit 2). The same digital time stamp appears on the second letter, i.e. the Plaintiff did not re-sign the letter. The Complaint says May 26-27, 2024.

This background information is relevant to the appraisal motion for several reasons. First, on August 12, 2023 the Plaintiff did not have an insurance policy with State Farm. (*See* effective dates of policy, Doc. 20-1 at PageID#88).[2] Second, there is a serious fact question regarding the basis for the PA's contention that a storm damaged the property on any specific date, given the wild range of dates proffered.

II. <u>Law & Argument</u>

a. <u>There is a serious and substantial coverage defense which should be decided prior to ordering any appraisal.</u>

This is not the typical case where the parties are just arguing over whether an entire roof or some shingles should be replaced—although they are arguing about that, too. In cases such as these, where there is a substantial coverage dispute and a dispute concerning the amount of loss, Courts have analyzed whether "the dispute between the parties is more appropriately described as an issue of whether the given damage is covered by the insurance policy." *Michael v. State Farm Fire & Cas. Co.*, No. 1:24-cv-01046-JDB-jay, 2024 U.S. Dist. LEXIS 128330, at *9 (W.D. Tenn. May 24, 2024). In such cases, "the court should deny the motion to compel appraisal". *Id.* As shown above, this case concerns a coverage dispute which makes appraisal inappropriate. It would

[2]

Policy Number **92-NN-5926-5**

Policy Period	**Effective Date**	**Expiration Date**
12 Months	OCT 20 2023	OCT 20 2024

The policy period begins and ends at 12:01 am standard time at the premises location.

be a waste of the Court's and parties' time and resources to undergo appraisal if the date of loss is found to be outside the coverage period.

Plaintiff attempts to preempt the coverage defense by arguing in a footnote that "by issuing an estimate and a partial payment, Defendant acknowledged that a covered event struck the Insured Buildings during the Policy's period." (Doc. 20 at PageID:75). However, State Farm plainly put the Plaintiff on notice as of June 26, 2024 when it notified the PA that there was a question whether the claimed loss "took place during the policy period." (June 26, 2024 letter attached as Exhibit 3). In the letter, State Farm said as follows:

> For these reason(s) and for other reasons which may become known, you are hereby notified that any action taken by State Farm Fire and Casualty Company or its authorized representatives to investigate the cause of loss, determine the amount of loss or damage, or attempt to adjust any claim arising out of the alleged loss shall not waive any of the terms or conditions of the policy of insurance described above, nor shall such action waive any of your rights under the policy. If we do not hear from you to the contrary, we will assume that it is acceptable for us to continue handling the case on these terms.
>
> The Company does not intend, by this letter, to waive any policy defense in addition to those stated above, but specifically reserves its right to assert such additional policy defenses at any time.

(Exhibit 3). State Farm continued adjusting the claim after the PA figured out there was no money available for the August 12, 2023 claim. They did so expressly *without waiver*.

The PA maintained repeatedly that the storm occurred on August 12, 2023. The Plaintiff *confirmed* that when he signed the letter of representation (Exhibit 1). State Farm did not insure the Plaintiff until October 20, 2023. The Policy provides that State Farm covers losses only "[d]uring the policy period shown in the Declarations." (Policy, Doc. 20-1 at PageID: 146).

Additionally, the PA admitted to State Farm that the plaintiff had reported the loss to *them* "earlier this year" in 2024. This raises a question concerning whether the Plaintiff complied with the Policy's duty to "[g]ive us prompt notice of the loss." (*Id.* at PageID: 142, ¶ c. Duties in the Event of Loss, § 1(b)). All of that to say: there are serious coverage matters that need to be resolved before a lengthy and expensive appraisal should be considered. The Court should deny the Plaintiff's Motion on those grounds.

b. <u>Plaintiff should have filed a Rule 56 Motion.</u>

Plaintiff does not cite to the Federal Rules of Civil Procedure, but by virtue of asking this Court to enforce a particular provision in the Policy, the Plaintiff is essentially demanding specific performance. Plaintiff did not sue for specific performance.

There is, of course, no Rule of Civil Procedure which authorizes a "Motion to Compel" which would require this Court to award specific performance of a provision in an insurance contract *other than* by filing a proper Rule 56 Motion. There is authority for denying the Motion on this basis. For example, in *Battles, Inc. v. Nationwide Gen. Ins. Co.*, No. 3:19-CV-13, 2020 U.S. Dist. LEXIS 204533, at *16 (E.D. Tenn. Mar. 10, 2020), the Court denied a motion to compel an appraisal clause and stated "[g]iven that federal procedure applies, the Court finds that Plaintiff failed to bring its request properly before the Court." *Id.* at *13. The Court should deny the Motion under the same logic as *Battles*.

III. Conclusion

This case is not ripe for appraisal. Rather, it is one where there is serious doubt as to when and whether a storm occurred that allegedly damaged the Plaintiff's property. As shown above, State Farm has substantial coverage defenses to this lawsuit, including but not limited to the policy period and the late notice issue. Alternatively, if the Court is inclined to consider the Motion, State Farm would move for time in which to depose the PA and obtain documents in order to supplement its briefing.

Respectfully submitted this 2nd day of October, 2025.

/s/Daniel C. Headrick
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CERTIFICATE OF SERVICE

I certify that on the 2nd day of October, 2025 the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular United States mail. Parties may access this filing through the Court's electronic filing system.

*/s/*Daniel C. Headrick