

15-1101

IN THE CIRCUIT COURT OF WETZEL COUNTY, WEST VIRGINIA

**WILLIAM BASSETT and
SARAH BASSETT, his wife,
PLAINTIFFS,**

V.

CIVIL ACTION NO. 13-C-24-K

**BRIAN LEROY WADE and
STATE FARM MUTUAL AUTOMOBILE**

DEFENDANTS.

ORDER

This 16th day of October, 2015, came the parties, by counsel, pursuant to the Defendant's Motion to Reconsider the Court's prior ruling or in the alternative to enter a Protective Order regarding the personal information of non-parties to the present litigation.

After review of the pleadings, memoranda and arguments of counsel, the Court hereby Orders as follows, to-wit:

The Defendants' Motion to Reconsider the Court's prior ruling granting the Plaintiffs' Motion to Compel is denied.

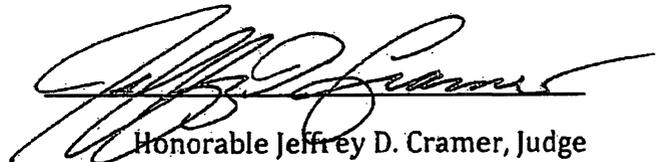
The Defendants' Motion for Protective Order regarding the personal information of the non-parties is granted in part and denied in part.

The names, addresses and telephone numbers of non-parties disclosed by the Defendants SHALL NOT BE DISCLOSED OUTSIDE THE CONTEXT OF THE PRESENT LITIGATION WITHOUT FURTHER ORDER OF THE COURT.

Further, while the Court declines at this time to prohibit the plaintiffs from contacting non-party individuals, said contact shall be performed in a manner designed to cause the least possible intrusion to the lives of said individuals. Should the Court receive complaints regarding the nature of said contact, the same may be suspended by Order of the Court without further notice or hearing.

Exceptions and objections are noted and saved on behalf of any aggrieved party.

Entered this 27th day of October, 2015.



Honorable Jeffrey D. Cramer, Judge
Second Judicial Circuit, West Virginia

I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A
TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN
MY OFFICE
ATTEST: Sharon M. Anthony DEPUTY CLERK
WETZEL CO. WEST VIRGINIA
BY: _____ DEPUTY CLERK

IN THE CIRCUIT COURT OF WETZEL COUNTY, WEST VIRGINIA

WILLIAM BASSETT AND
SARAH BASSETT,

Plaintiffs,

v.

Civil Action No. 13-c-24-C
Honorable Jeffrey D. Cramer

BRIAN LEROY WADE AND
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendants.

ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL DISCOVERY

Came the 21st day of August, 2015, the Plaintiffs, by their counsel Greg Gellner and Brent Kesner, and came State Farm Mutual Automobile Insurance Company, by its counsel Carter Elkins. Whereupon the Court did proceed with hearing of the Plaintiffs' Motion to Compel.

And the Court, having considered the Plaintiffs' Motion to Compel, Defendant State Farm's Response, and Plaintiffs' Reply, and the arguments of counsel, is of the opinion to and does hereby **ORDER** as follows:

1. With respect to Interrogatory No. 1, the Court does **GRANT** Plaintiffs' Motion to Compel, and does **ORDER** Defendant State Farm to provide the home/residential addresses of the State Farm employees involved in the Plaintiffs' claim (excluding clerical employees). Alternatively, Defendant State Farm may make the witnesses available for their depositions and for trial without the need for the formal service of Subpoenas. If State Farm elects to proceed with this alternative, the home/residential addresses of its employees involved in the Plaintiffs' claim need not be provided, and State Farm's counsel shall accept formal service of any Subpoenas seeking the production of said individuals for depositions and to testify at trial.
2. With respect to Interrogatory No. 3, the Court **GRANTS**, and does **ORDER** that State Farm provide Plaintiffs with the names, addresses, and telephone

numbers of every State Farm insured in the State of West Virginia, from 2005 to the present, who was injured by or suffered property damage as a result of the acts of an uninsured motorist and whose policy did not have uninsured motorist coverage limits at least equal to the liability limits stated in the insured's policy declarations, or \$100,000.00, whichever is greater. State Farm may exclude from its response those insureds who obtained a judgment against an uninsured tortfeasor for less than the stated uninsured motorists coverage limits afforded by the State Farm policy, or who settled his/her claim for uninsured motorist benefits for less than the State Farm uninsured motorist coverage limits afforded by the State Farm Policy.

3. With respect to **Interrogatory No. 4**, the Court **GRANTS** Plaintiffs' Motion to Compel, and does **ORDER** that State Farm identify the State Farm insured named in response to Interrogatory No. 3 who received payment under a State Farm policy for uninsured motorists benefits where the "Uninsured Motorist Coverage Offer" form listed more than a single premium for each optional level of uninsured motorist coverage.
4. With respect to **Interrogatory No. 5**, the Court **GRANTS** Plaintiffs' Motion to Compel, and does **ORDER** that State Farm identify every claim in the State of West Virginia from 2005 to the present where State Farm has "rolled up" or reformed an insured's stated limits of uninsured motorists coverage to an amount equal to the insured's liability coverage limits, or \$100,000.00, whichever is greater, indicating the claim number; the name, address, and telephone number of the insured; and the reason or reasons the policy was reformed.
5. The Court concludes that the discovery information requested by the Plaintiffs is reasonably calculated to lead to the discovery of relevant or admissible evidence with respect to the Plaintiffs' claims, including the Plaintiffs' claims under the West Virginia Unfair Trade Practices Act, and the Plaintiffs' claim for punitive damages.
6. To the extent that the supplemental discovery information being produced by Defendant State Farm includes private/confidential information of State Farm's employees and/or State Farm's insureds, Defendant State Farm may produce the information pursuant and subject to the Agreed Protective Order previously entered by the Court on May 9, 2015.
7. Defendant State Farm is **ORDERED** to provide the supplemental discovery information addressed by the Plaintiffs' Motion to Compel, and which is the subject of this Order, within thirty (30) days of the hearing of August 21, 2015.

To all of which the Court does note the exceptions and objections of Defendant State Farm.

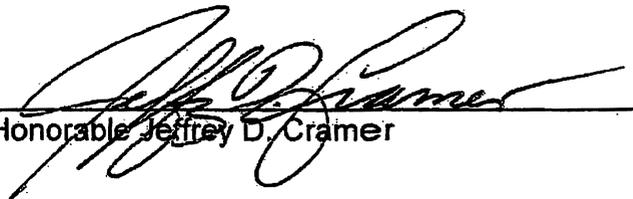
The Circuit Clerk is hereby instructed to forward certified or attested copies of this Order to counsel of record as follows:

Gregory A. Gellner, Esq.
Gellner Law Offices
1440 National Road
Wheeling, WV 26003
Counsel for Plaintiffs

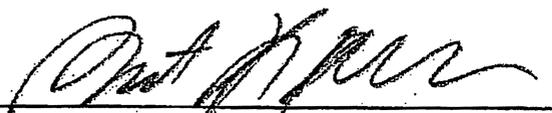
Brent K. Kesner, Esq.
Kesner & Kesner, PLLC
P.O. Box 2587
Charleston, WV 25329
Counsel for Plaintiffs

R. Carter Elkins, Esq.
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1108 Third Avenue
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Counsel for Defendant State Farm Mutual Automobile Insurance Co.

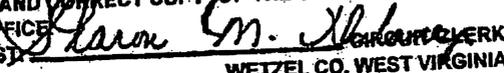
ENTER this 28TH day of September, 2015.


Honorable Jeffrey D. Cramer

PREPARED BY:


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Counsel for Plaintiffs

I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.
ATTEST: 
BY: _____
WETZEL CO. WEST VIRGINIA
DEPUTY CLERK

INSPECTED BY:

R Carter Elkins with approval

R. Carter Elkins (WVSB #11116)

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Counsel for Defendant State Farm

Mutual Automobile Insurance Co.