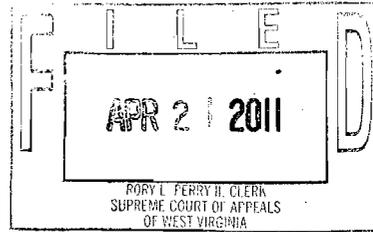


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 101556



SHEILA ANN RUTHERFORD,

Plaintiff,

v.

CIVIL ACTION NO.: 03-C-2908

Judge Jennifer F. Bailey

Circuit Court of Kanawha County,

West Virginia

OLIVE V. MCCLANAHAN and
KANAWHA COUNTY COMMISSION,

Defendants.

**PETITIONER'S REPLY TO RESPONDENT'S SUMMARY
RESPONSE AND HER CROSS-ASSIGNMENT OF ERROR**

Petitioner, State Farm Mutual Automobile Insurance Company ("State Farm"), by counsel, hereby respectfully submits its' reply to Respondent's Summary Response and Her Cross-Assignment of Error (Plaintiff's Response). State Farm reasserts the arguments and authorities set forth in the Petition for Appeal, and submits the foregoing reply only to address the Judgment Order on Jury Verdict entered in *Patton v. State Farm Mutual Automobile Insurance Company*, Civil Action No. 07-C-278, rendered by the Honorable Judge Roger L. Perry in the Circuit Court of Logan County, West Virginia (the "Patton Judgment Order"), attached as part of Exhibit 1 to Plaintiff's Response.

The *Patton* Judgment Order is misleading and irrelevant because the Logan County Circuit Court never made a final ruling on the issue of prejudgment calculation. As seen on the third page of the *Patton* Judgment Order, the undersigned counsel specifically objected to the entry of the order due to the miscalculation of prejudgment interest. Briefs were thereafter submitted to the Logan County Circuit Court on the issue, and the matter was set for hearing. However, prior to a final ruling by the Logan County Circuit Court, the lawsuit was settled by the parties. As such, the *Patton* Judgment Order is irrelevant as it is not a final ruling by the

Logan County Circuit Court on prejudgment interest. Rather, it merely demonstrates the need for the clarification of the proper method to calculate prejudgment interest by this Court.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

By Counsel,



David A. Mohler (WVSB #2589)
Greg S. Foster (WVSB #10614)
BOWLES RICE MCDAVID GRAFF & LOVE LLP
600 Quarrier Street
Post Office Box 1386
Charleston, West Virginia 25325-1386
(304) 347-1100

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 101556

SHEILA ANN RUTHERFORD,

Plaintiff,

v.

CIVIL ACTION NO.: 03-C-2908
Judge Jennifer F. Bailey
Circuit Court of Kanawha County,
West Virginia

OLIVE V. MCCLANAHAN and
KANAWHA COUNTY COMMISSION,

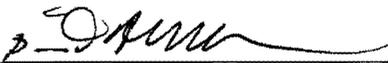
Defendants.

CERTIFICATE OF SERVICE

I, David A. Mohler, counsel for Petitioner, State Farm Mutual Automobile Insurance Company, do hereby certify that service of the *Petitioner's Reply to Respondent's Summary Response and Her Cross-Assignment of Error* was made upon the parties listed below U.S. Mail, postage prepaid, a true and exact copy thereof to:

Tim C. Carrico, Esquire
Carrico Law Offices
602 Virginia Street, East, Suite 300
Charleston, West Virginia 25301
Counsel for Plaintiff

this 20th day of April, 2011.


David A. Mohler (WVSB #2589)