

No. 23993 - John Paul Miller v. Aaron P. Fluharty and Susan Fluharty and State Farm Mutual Automobile Insurance Company, an insurance company, and William Wilson, individually and in the capacity of an agent of State Farm Mutual Automobile Insurance Company, Defendants below, Appellants.

Maynard, Justice, dissenting:

I strenuously dissent in this case because I believe that if a policyholder is not required to prove the insurance carrier's actions were wrongful or unreasonable, as this decision provides, every insurance carrier might as well pay the policyholder the limits of the policy the moment the demand is made. That is simply unfair and will cause insurance costs to skyrocket. The only other option for defendants such as these is to gamble and go to trial with every claim made. Further, I believe this decision will encourage every potential plaintiff to obstruct settlement negotiations with his or her insurance carrier, to intentionally delay settlement, then to later demand the payment of the limits of the first-party policy, plus attorney's fees and costs.

The majority opinion does what the law should never do. It punishes innocent parties. Insurance carriers who do *absolutely nothing wrong* will have to pay policyholders' attorneys' fees, consequential damages and other net economic losses, as well as damages for aggravation and inconvenience. It also denies insurance carriers their right to investigate and defend claims, which will encourage fraud and abuse.

Of course, the real losers here are purchasers of insurance who will have to pay even higher premiums in order to support the escalating insurance costs resulting from the majority opinion. Accordingly, I respectfully dissent.