

THOUGHT LEADERSHIP

News

FORT WORTH FEDERAL COURT DISMISSES ANOTHER GENERIC WIND/HAIL SUIT

Newsbrief

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Recently, Federal District Court Judge McBryde from Ft. Worth summarily dismissed all claims pled against an insurer in a typically vague lawsuit alleging severe but unspecified damage to a Fort Worth home as a result of a hailstorm and nonpayment of uncovered damages after an appraisal award. In *Ripley v. State Farm Lloyds*, 2020 WL 1643400 (Apr. 1, 2020), State Farm filed a motion to dismiss all causes of action as inadequately pleaded under Federal Rules 8 and 9(b). The court agreed with State Farm, pointing out that the plaintiffs' complaint did not allege facts to support their breach of contract or bad faith claims, but only stated legal conclusions. The court went on to observe: "the complaint never explains how or why the allegedly "material misrepresentations of fact and law" were fraudulent." As to the prompt payment claims, the court noted that there can be no prompt payment claim without a plausible breach of contract claims. The court went on to note that even if they had a valid breach of contract claim, they had failed to allege sufficient facts that could support a prompt payment claim.

The court also denied plaintiffs motion for leave to file an amended complaint. The court first noted that the motion was not in proper form as it failed to follow Judge McBryde's clear and specific local rules as it was signed by a law firm and contained a simulated signature. The court also noted plaintiffs had been given an opportunity to amend with "the specific warning that their amended pleading must comply with the requirements of the Federal Rules of Civil Procedure." Instead, the court found plaintiffs "chose to file an amended complaint that mirrored their inadequate state court petition."

Editor's note: This case is a reminder to consider early opportunities for success in federal courts, especially in cases with formulaic and generic allegations of bad faith. Early motions for dismissal under Rules 8, 9, and 12 can be powerful tools