

Court upholds \$14.5M verdict against State Farm

Tim Evans The Indianapolis Star

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A 2006 hailstorm battered Indianapolis resulting in more than \$1 billion in damage to cars and homes like those of Martha Moorman. State Farm Fire & Casualty lost a defamation suit against a repair contractor.

STAFF PHOTO BY KELLY WILKINSON

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INDIANAPOLIS — The largest defamation verdict in Indiana history — more than \$14.5 million awarded to a contractor who claimed State Farm Fire & Casualty ruined his business and reputation — has been upheld by the Indiana Court of Appeals.

In a decision Tuesday, a three-judge panel found that Hamilton Superior Court Judge Steven Nation correctly denied the insurance giant's request for a new trial based on a claim that roofing contractor Joseph Radcliff obtained the judgment through fraud on the court.

The case grew out of a 2006 storm that battered Central Indiana with hail and ravaged thousands of homes. The damage tally topped \$1 billion, with State Farm alone paying out more than \$200 million on about 50,000 damage claims.

The payout to Radcliff, however, was not the result of damage to homes or cars — but for what a Hamilton County jury determined was damage State Farm did to the roofing contractor's reputation.

State Farm paid the judgment in November, cutting a check for more than \$16.9 million to cover the \$14.5 million verdict and interest. But the Illinois-based insurance giant wants its money back.

The state Supreme Court has already upheld the award, which court documents indicate also is one of the largest defamation payouts in U.S. history.

So State Farm tried a new appeal based on a little-used civil trial rule that allows a judge to order a do-over in an already-decided case. That appeal cited an affidavit from a former Radcliff employee who says the contractor bribed a witness and destroyed documents revealing the company's misconduct.

The Court of Appeals panel disagreed with State Farm.

"Simply put, the record does not reveal fraud or any unfair impediment to State Farm's ability to fully and fairly defend against Radcliff's claim of defamation," the order said.

"After all, State Farm had at its beck and call the complete panoply of pretrial discovery devices, including deposition notices and demands for document production. It was offered access to depose (the former employee), if it had chosen to take advantage of that opportunity. State Farm availed itself of none of these measures. Had it done so, common sense suggests that it easily could have discovered this 'new' evidence prior to the entry of the verdict. Based on the record before us, State Farm's quest in uncovering this evidence was hampered by its own reluctance to undertake a detailed investigation. Because we will not grant State Farm relief from its own omissions, we affirm the trial court."

Julia Blackwell Gelinias, Radcliff's attorney, said the appeals court affirmed their contention that the "supposed 'new' evidence was not new."

"We obviously think the Court of Appeals got it right," she said. "State Farm was given an opportunity to fully and fairly defend itself."

State Farm has 30 days to seek a review by the Court of Appeals or ask the Indiana Supreme Court to take up the case.

"We are disappointed with the ruling and exploring our options," spokeswoman Missy Dundov said.



Joseph Radcliff