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## State Farm Policyholders Win Class Cert. In \$1B RICO Suit

By **Suevon Lee**

Law360, Los Angeles (September 16, 2016, 11:38 PM EDT) -- An Illinois federal judge Friday certified a class of State Farm policyholders who had filed a Racketeer Influenced and Corrupt Organizations Act suit against the insurer and several others that allegedly funneled money into a state judge's election campaign to evade payment of a \$1 billion judgment.

On behalf of a class of 4.7 million policyholders, named plaintiffs Mark Hale, Todd Shadle and Laurie Loger allege that State Farm Mutual Automobile Insurance Co. and others carried out a RICO enterprise to defraud the policyholders of a \$1.05 billion judgment by flexing its financial muscle to help elect a judicial candidate to Illinois' top court to sway a vote on the decision.

The judge in question, Lloyd A. Karmeier, won his race for a seat on the Illinois Supreme Court in 2004 and nine months later cast a vote in State Farm's favor, overturning the \$1.05 billion judgment.

"Of course, there was no guarantee for State Farm that the appeal would not be decided before the November 2004 election, but the risk — a \$2 to \$4 million investment for a possible \$1.05 billion return — was sufficiently minimal to make it a worthwhile gamble," the policyholders alleged in its May 2012 complaint filed in Illinois federal court.

On Friday, U.S. District Judge David R. Herndon appointed the trio as lead plaintiffs and ruled that the plaintiffs had satisfied the prongs of numerosity, commonality, typicality and adequate representation. The judge ruled that common questions of law or fact predominate and that the class action is a superior method to adjudicate the controversy, since "trying these claims individually would result in a substantial amount of repetition and wasted resources."

Judge Herndon also appointed W. Gordon Ball of Gordon Ball PLLC and Robert A. Clifford of Clifford Law Offices LLP as co-lead plaintiffs' counsel, with Steven P. Blonder of Much Shelist as proposed liaison counsel.

While State Farm had argued that the proposed class counsel had conflicts because of contributions they had made in the 2004 election cycle to the Democratic Party and to a group that contributed to the campaign of Judge Karmeier's rival, the judge dismissed those arguments.

He said he agreed with the plaintiffs that those details were irrelevant to issues in the case.

"Those campaign contributions were transparent and fully disclosed and do not create a conflict of interest with the proposed class," he said. "Likewise, the court does not see a conflict with the investigators and their findings regarding the contributions."

Ball told Law360 Friday he was pleased with the ruling.

"State Farm, we believe, schemed to deprive our clients from having a fair tribunal, and we look forward to trying this case," he said.

A representative for State Farm told Law360 the company was "disappointed" with the decision and "respectfully disagree" with it.

"We intend to ask the appellate court to review this ruling in the very near future," a spokesperson said. "Plaintiffs have unsuccessfully asserted and reasserted these allegations for many years and should not be permitted to do so any longer."

The \$1.05 billion judgment at issue had sprung from a separate class action, named Avery v. State Farm, that had been filed in Illinois state court. It sought claims of breach of contract and violation of the Illinois Consumer Fraud Act on behalf of policyholders who had suffered losses after making a claim for vehicle repairs and having parts not made by the original manufacturers installed on their vehicles.

The Illinois Appellate Court upheld the judgment in 2001, and the Illinois Supreme Court accepted State Farm's appeal the following year, according to Friday's order. Shortly after, during 2003 and 2004, Judge Karmeier, then just a trial judge, was vying for a seat on the state high court bench against Appellate Judge Gordon Maag.

The RICO plaintiffs allege that State Farm deliberately sought to "recruit, finance, direct and elect a candidate to the Illinois Supreme Court who, once elected, would vote to overturn the \$1.05 billion judgment," in a plan hatched in 2003.

The other defendants include Ed Murnane, the president of Illinois Civil Justice League, and William G. Shepherd, who led a committee called Citizens for Karmeier.

The plaintiffs claim State Farm, acting in conjunction with Murnane, Shephard and the Illinois Civil Justice League, tapped into a network of contributors to pour as much as \$4 million into Karmeier's campaign — a sum representing about 80 percent of the campaign's contributions.

The crux of the RICO allegations are two communications conducted through the U.S. Postal Service: written misrepresentations allegedly sent to the Illinois Supreme Court and to the plaintiffs' counsel in 2005 and 2011 regarding the magnitude of the insurer's financial support to Karmeier's campaign.

Based on the uncovered evidence of the alleged scheme, the plaintiffs from the Avery case petitioned Illinois' top court to vacate its August 2005 decision to nix their award, but in November 2011, the court denied the petition without comment.

The RICO plaintiffs in October 2015 filed a motion to certify the class.

The plaintiffs are represented by Lief Cabraser Heimann & Bernstein LLP, Barrett Law Group PA, Hausfeld LLP, Clifford Law Offices, Much Shelist PC, Thrash Law Firm, Gordon Ball PLLC, Pendley, Baudin & Coffin LLP and Erwin Chemerinsky.

State Farm is represented by Riley Safer Holmes & Cancila; Heyl Royster; Shefsky & Froelich Ltd.; Schiff Hardin LLP; and Redgrave LLP.

The case is Mark Hale et al. v. State Farm Mutual Automobile Insurance Company et al., case number 3:12-cv-0660 in the U.S. District Court for the Southern District of Illinois.

--Editing by Kat Laskowski.

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