

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

ROY B. ROBINSON and	§	
KATHLEEN ROBINSON	§	
	§	
V.	§	CIVIL ACTION NO. G-11-493
	§	
TEXAS FARMERS INSURANCE	§	
COMPANY	§	

OPINION AND ORDER

Before the Court, with the consent of the Parties under 28 U.S.C. § 636(c), is the Motion for Summary Judgment of Defendant, Texas Farmers Insurance Company (Farmers); the Motion seeks the dismissal of the remainder of the Original Petition of Plaintiffs, Roy B. Robinson and Kathleen Robinson.

The facts relevant to the proper disposition of Farmer's Motion are not even in dispute. Farmers issued an SFIP flood insurance policy on the Robinsons' property under the National Flood Insurance Program. Following Hurricane Ike, the Robinson's submitted a Proof of Loss to Farmers for \$87,882.82 and Farmers paid them a total of \$91,146.35. Subsequently, the Robinson's were told by a Galveston County building inspector that the building could not be rebuilt and the Robinson's had it demolished. The Robinson's never submitted another Proof of Loss for any more insurance proceeds or received a waiver of same from FEMA, instead, they filed this lawsuit for breach of contract¹ seeking additional money under the policy.

¹ The Robinson's other claims were previously dismissed as preempted by federal law.

It is beyond doubt that a lawsuit for additional insurance benefits under an SFIP policy cannot be legitimately pursued unless the insured strictly complies with all of the policy's requirements, including the submission of a Proof of Loss for any further benefits. Marseilles Homeowners Condominium v. Fidelity National Insurance Company, 542 F.3d 1053, 1056 (5th Cir. 2008) The Robinsons concede that they did not do so and that failure is fatal to their claim regardless of their belief that the reaction of Farmers to the building inspector's declaration was "non-sensical."

It is, therefore, **ORDERED** that the Motion for Summary Judgment (Instrument no. 18) of Defendant, Texas Farmers Insurance Company, is **GRANTED** and the Original Petition of Plaintiffs, Roy B. Robinson and Kathleen Robinson, is **DISMISSED in its entirety**.

DONE at Galveston, Texas, this _____ 10th _____ day of December, 2012.



John R. Froeschner
United States Magistrate Judge