

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

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JORGE FERNANDEZ AND  
RENEE FERNANDEZ  
HUSBAND AND WIFE

VERSUS

TAMKO BUILDING PRODUCTS  
INCORPORATED AND STATE  
FARM INSURANCE COMPANY

CIVIL ACTION

NO. 12-518-BAJ-SCR

**RULING AND ORDER**

This matter is before the Court on a Motion to Dismiss (doc. 11). The motion is unopposed and there is no need for oral argument.

The Court has carefully reviewed this matter and finds that the motion should be granted for the reasons advanced in Defendant's supporting memorandum. Based upon the undisputed facts, Plaintiffs' allegations are free of any factual basis to support the claim. Specifically, State Farm Fire and Casualty Company ("State Farm") had no involvement in the installation or supplying of roofing materials, and had no involvement in the recommendation, selection, or choosing of any individual or business to install any of the roofing materials.

Further, State Farm's only involvement in the incident which give rises to the current litigation was: 1) the adjustment of a first party roof damage claim submitted by its insureds; and 2) a direct payment to the insureds and their mortgage company on said claim. Thus, there is no relationship between the parties to establish any

fiduciary or statutory duties for which State Farm can be held responsible and there is no legal basis for Plaintiffs to assert a claim of negligence against State Farm.

Therefore, Plaintiffs' claims against State Farm Fire and Casualty Company are dismissed with prejudice.

Accordingly, the Motion to Dismiss (doc. 11) is hereby **GRANTED**. Defendant's Motion for Oral Argument (doc. 12) is hereby **DENIED** as moot.

Baton Rouge, Louisiana, November 28, 2012.

A handwritten signature in black ink, appearing to read "Brian A. Jackson", written in a cursive style.

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BRIAN A. JACKSON  
UNITED STATES DISTRICT JUDGE  
MIDDLE DISTRICT OF LOUISIANA