

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JAMES SMITH

PLAINTIFF

V.

CIVIL ACTION NO. 1:13-CV-572-KS-MTP

**STATE FARM FIRE AND CASUALTY
COMPANY**

DEFENDANT

ORDER

Plaintiff filed a Motion for Reconsideration [15] of the Court’s earlier Order [13] denying Plaintiff’s Motion to Compel [7] and Motion to Stay [9]. “It is clear . . . under Mississippi law that the purpose of an appraisal is not to determine the cause of loss or coverage under an insurance policy; rather, it is ‘limited to the function of determining the money value of the property’ at issue.” *Jefferson Davis County Sch. Dist. v. RSUI Indent.*, No. 2:08-CV-190, 2009 WL 367688, at *2 (S.D. Miss. Feb. 11, 2009) (quoting *Munn v. Nat’l Fire Ins. Co.*, 115 So. 2d 54, 55 (Miss. 1959)); *see also Pearl River County Sch. Dist. v. RSUI Indem. Co.*, No. 1:08-CV-364-HSO-JMR, 2009 WL 2553267, at *1 (S.D. Miss. Aug. 17, 2009).

According to Defendant’s Answer [3], Defendant disagrees with Plaintiff as to the extent of the damage caused by the subject fire, and Defendant claims that Plaintiff failed to mitigate his damages. Therefore, this case involves factual disputes as to the cause of loss, which necessarily lead to legal disputes as to coverage. Accordingly, an appraisal would be inappropriate at this time, and the Court **denies** Plaintiff’s Motion for Reconsideration [15]. *Pearl River*, 2009 WL 2553267 at *1;

Jefferson Davis, 2009 WL 3677688 at *2.¹

SO ORDERED AND ADJUDGED this 4th day of June, 2014.

s/ Keith Starrett
UNITED STATES DISTRICT JUDGE

¹To the extent Judge Senter's opinion in *Kuehn v. State Farm Fire & Cas. Co.*, No. 1:08-CV-577-LTS-RHW, 2009 WL 2567485 (S.D. Miss. Aug. 17, 2009), conflicts with this decision, the undersigned judge respectfully disagrees with it.