

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOHN BROWN and KAREN BROWN,)
individually and on behalf of all)
others similarly situated,)
)
Plaintiffs,)
)
v.)
)
AUTO-OWNERS INSURANCE)
COMPANY,)
)
Defendant.)

Case No.: 21-cv-2597

CLASS ACTION COMPLAINT WITH JURY DEMAND

COME NOW Plaintiffs, John Brown and Karen Brown (the “Browns” or “Plaintiffs”), individually and on behalf of all others similarly situated, and for their Class Action Complaint against Auto-Owners Insurance Company (“Auto-Owners” or “Defendant”) state and allege the following:

PARTIES, RESIDENCY, JURISDICTION AND VENUE

1. Plaintiffs John and Karen Brown are residents and citizens of Lake County, Illinois.
2. Defendant Auto-Owners is an insurance company domiciled in the State of Michigan and headquartered in Lansing, Michigan. Auto-Owners is authorized to sell property insurance policies in the states of Arizona, Illinois, Kentucky, Utah, and Wisconsin.
3. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d)(2). There are more than 100 members in the proposed class, at least one member of the proposed class has state citizenship that is different than Defendant’s, and the matter in controversy exceeds \$5,000,000, exclusive of interest and costs.

4. This Court has personal jurisdiction over Defendant because it has availed itself of the privilege of conducting business and issuing insurance contracts covering structures in the State of Illinois.

5. Venue is proper in this forum pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in Winthrop Harbor, Illinois, which is situated within the Northern District of Illinois, Eastern Division. Venue is also proper pursuant to 28 U.S.C. §1391(c) because Defendant is a corporation deemed to reside in this District.

FACTS

A. The Property Insurance Policy and Casualty Loss

6. Auto-Owners is a national insurer that sells property insurance coverage for, *inter alia*, homes, mobile homes and buildings in 26 states, specifically including Arizona, Illinois, Kentucky, Utah, and Wisconsin.

7. This lawsuit only concerns property coverage for buildings, and not personal contents, such as furniture and clothes.

8. The Auto-Owners property insurance forms sold in Arizona, Illinois, Kentucky, Utah, and Wisconsin are materially identical as it relates to the contractual dispute set forth herein.

9. The laws in Arizona, Illinois, Kentucky, Utah, and Wisconsin are materially identical as it relates to the contractual dispute set forth herein, or at the least, any differences would be manageable in the class context. *See Steinberg v. Nationwide Mutual Insurance Co.*, 224 F.R.D. 67, 76 (E.D.N.Y. 2004) (involving a 46-state putative class claiming breach of standard form insurance contracts). Specifically, these states are all “replacement cost less depreciation”

states for purposes of determining actual cash value under property insurance policies or preclude the depreciation of labor by court decision or state administrative agency.

10. The Browns were insured pursuant to an insurance contract whereby Auto-Owners agreed to insure, *inter alia*, the Browns' home located at 207 Oakdale Ave., Winthrop Harbor, Illinois (the "Insured Property") against property damage, bearing Policy No. 43-776-549-02 (the "Brown Policy").

11. The Browns paid Auto-Owners premiums in exchange for insurance coverage. The required premiums were paid at all times relevant to this Complaint.

12. The Brown Policy provided insurance coverage for accidental direct physical loss to the dwelling and other structures located on the Insured Property, except as specifically excluded or limited by the Brown Policy.

13. On or about August 23, 2020, the Insured Property suffered fire damage covered by the Brown Policy.

14. The Browns timely notified Auto-Owners of their loss and made a claim against the Brown Policy.

15. Auto-Owners determined the loss to the Insured Property was covered by the terms of the Brown Policy.

16. Auto-Owners calculates its actual cash value payment obligations to its policyholders for structural damage loss by first estimating the cost to repair or replace the damage with new materials (replacement cost value, or "RCV"), and then Auto-Owners subtracts the estimated depreciation.

17. The Brown Policy, and the other property forms that are the subject of this lawsuit, do not permit the withholding of labor as depreciation as described below. In contrast with the

Brown Policy, certain policies of insurance (including forms from Auto-Owners itself) expressly allow for the depreciation of “labor” as described herein. The type of form or endorsement will be referred to herein as a “labor depreciation permissive form.” The Brown Policy does not contain a labor depreciation permissive form.

B. Auto-Owners’ Calculation of the Browns’ ACV Payment

18. In adjusting the Browns’ claim, Auto-Owners affirmatively and unilaterally chose to use a “replacement cost less depreciation” methodology to calculate the loss and make its ACV payment.

19. Soon after the August 23, 2020 loss, Auto-Owners sent an adjuster to inspect the damage to the Insured Property and estimate the ACV associated with the fire loss. Auto-Owners uses commercially-available computer software to estimate RCV, depreciation, and ACV. The software used by Auto-Owners to calculate the payment to the Browns is called Xactimate®.

20. As set forth in a written Xactimate® estimate provided to the Browns by Auto-Owners, Auto-Owners’ adjuster determined that the Browns had suffered a covered loss in the amount of \$32,616.18 (the RCV) to their home. The estimate included the cost of materials and labor required to complete the repairs. A copy of the Xactimate® estimate given to the Browns is attached as **Exhibit A**.

21. In calculating its ACV payment obligations to the Browns, Auto-Owners subtracted from the RCV estimate the \$500.00 deductible provided for in the Brown Policy plus an additional \$14,699.20 for depreciation. This resulted in a net ACV payment of \$17,416.98.

22. The Browns were underpaid on their ACV claim as more fully described below.

C. Auto-Owners’ Practice Of Withholding Labor As Depreciation

23. When it calculated the ACV benefits owed to the Browns pursuant to the Brown Policy, Auto-Owners withheld costs for both materials and the labor required to repair or replace the Browns' home as depreciation, even though labor does not depreciate in value over time. Auto-Owners withheld labor costs throughout its ACV calculations as depreciation. Auto-Owners also withheld labor costs as depreciation for other work necessary to repair and replace the Browns' property.

24. Like all property insurance claims estimating software, the specific commercial claims estimating software used by Auto-Owners allows for the depreciation of materials only or the depreciation of both material and labor in its depreciation option setting preferences.

25. In this pleading, whenever reference is made to withholding "labor" as depreciation, "labor" means intangible non-materials, specifically including both the labor costs and the laborers' equipment costs and contractors/laborers' overhead and profit necessary to restore property to its condition immediately prior to the loss, as well as removal costs to remove damaged property, under commercial claims estimating software.

26. Auto-Owners' withholding of labor costs as depreciation associated with the repair or replacement of the Browns' property resulted in the Browns receiving payment for their losses in an amount less than they were entitled to receive under the Brown Policy. Auto-Owners breached its obligations under the Brown Policy by improperly withholding the cost of labor as depreciation.

27. Plaintiffs themselves cannot determine the precise amount of labor that has been withheld based only upon the written estimate provided. To determine the precise amount of labor withheld, it is necessary to have access to the commercial property estimating program at issue, as well as the electronic file associated with their estimate.

28. While an insurer may lawfully depreciate material costs when calculating the amount of an ACV payment owed to an insured, it may not lawfully withhold repair labor as depreciation under the Auto-Owners policy forms at issue in Arizona, Illinois, Kentucky, Utah, and Wisconsin. Auto-Owners' failure to pay the full cost of the labor necessary to return the Insured Property back to its pre-loss condition left the Browns under-indemnified and underpaid for their loss.

29. Auto-Owners materially breached its duty to indemnify the Browns by withholding labor costs associated with repairing or replacing the Browns' property in its ACV payment as depreciation, thereby paying the Browns less than they were entitled to receive under the terms of the Brown Policy.

AMOUNT IN CONTROVERSY

30. Upon information and belief, the amount in controversy with respect to the proposed class exceeds \$5,000,000, exclusive of interest and costs.

CLASS ACTION ALLEGATIONS

31. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs bring this lawsuit as a class action on behalf of themselves and on behalf of all others similarly situated. This action satisfies the requirements of numerosity, commonality, typicality, and adequacy of representation. Only to the extent it is a requirement under applicable law, the proposed class herein is ascertainable.

32. The proposed class that Plaintiffs seek to represent is tentatively defined as follows:

All Auto-Owners policyholders (or their lawful assignees) who made: (1) a structural damage claim for property located in Arizona, Illinois, Kentucky, Utah, and Wisconsin; and (2) which resulted in an actual cash value payment during the class period from which non-material depreciation was withheld from the policyholder; or which should have resulted in an actual cash value payment but for

the withholding of non-material depreciation causing the loss to drop below the applicable deductible, for the maximum limitations period as may be allowed by law.

In this definition, “non-material depreciation” means application of either the “depreciate removal,” “depreciate non-material” and/or “depreciate O&P” option settings within Xactimate® software or similar depreciation option settings in competing commercial software programs.

The class excludes any claims for which the applicable limits of insurance have been exhausted by initial actual cash value payments.

The class also excludes any claims arising under labor depreciation permissive policy forms, *i.e.*, those forms and endorsements expressly permitting the “depreciation” of “labor” within the text of the policy form, unless the use of those forms violate the law of the respective states at issue.

33. Plaintiffs reserve the right to amend the definition of the proposed class through discovery. The following persons are expressly excluded from the class: (1) Defendant and its subsidiaries and affiliates; (2) all persons who make a timely election to be excluded from the proposed Class; and (3) the Court to which this case is assigned and its staff.

34. Plaintiffs and members of the putative class as defined all have Article III standing as all such persons and entities, at least initially, received lower claim payments than permitted under the policy. Certain amounts initially withheld as labor may be later repaid to some policyholders with replacement cost provisions in their policies, if any. However, policyholders who have been subsequently repaid for initially withheld labor still have incurred damages, at the least, in the form of the lost “time value” of money during the period of withholding, *i.e.*, statutory prejudgment interest on the amounts improperly withheld, for the time period of withholding.

35. The members of the proposed class are so numerous that joinder of all members is impracticable. Plaintiffs reasonably believe that hundreds or thousands of people geographically

dispersed across Arizona, Illinois, Kentucky, Utah, and Wisconsin have been damaged by Auto-Owners' actions. The names and addresses of the members of the proposed class are readily identifiable through records maintained by Auto-Owners or from information readily available to Auto-Owners.

36. The relatively small amounts of damage suffered by most members of the proposed class make filing separate lawsuits by individual members economically impracticable.

37. Auto-Owners has acted on grounds generally applicable to the proposed class in that Auto-Owners has routinely withheld labor costs as described herein in its adjustment of property damage claims under its policies of insurance. It is reasonable to expect that Auto-Owners will continue to withhold labor to reduce the amount it pays to its insureds under these policies absent this lawsuit.

38. Common questions of law and fact exist as to all members of the proposed class and predominate over any questions affecting only individual members. The questions of law and fact common to the proposed class include, but are not limited to:

- a. Whether Auto-Owners' policy language allows it to withhold labor costs in its calculation of ACV payments;
- b. Whether Auto-Owners' policy language is ambiguous;
- c. Whether Auto-Owners' withholding of labor costs in its calculation of ACV payments breaches the insurance policies;
- d. Whether Auto-Owners has a custom and practice of withholding labor costs in its calculation of ACV payments;
- e. Whether Plaintiffs and members of the proposed class have been damaged as a result of Auto-Owners' withholding of labor costs in its calculation of ACV payments; and
- f. Whether Plaintiffs and members of the proposed class are entitled to a declaration, as well as potential supplemental relief, under the Declaratory Judgment Act.

39. Plaintiffs' claim is typical of the claims of the proposed class members, as they are all similarly affected by Auto-Owners' custom and practice concerning the withholding of labor. Further, Plaintiffs' claims are typical of the claims of the proposed class members because their claims arose from the same practices and course of conduct that give rise to the claims of the members of the proposed class and are based on the same factual and legal theories. Plaintiffs are not different in any material respect from any other member of the proposed class.

40. Plaintiffs and their counsel will fairly and adequately protect the interests of the members of the proposed class. Plaintiffs' interests do not conflict with the interests of the proposed class they seek to represent. Plaintiffs have retained lawyers who are competent and experienced in class action and insurance litigation. Plaintiffs and Plaintiffs' counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiffs and counsel are aware of their fiduciary responsibilities to the members of the proposed class and will diligently discharge those duties by vigorously seeking the maximum possible recovery for the proposed class while recognizing the risks associated with litigation. Plaintiffs reserve the right to have unnamed class members join them in seeking to be a class representative.

41. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Joining all proposed members of the proposed class in one action is impracticable and prosecuting individual actions is not feasible. The size of the individual claims is likely not large enough to justify filing a separate action for each claim. For many, if not most, members of the proposed class, a class action is the only procedural mechanism that will afford them an opportunity for legal redress and justice. Even if members of the proposed class had the resources to pursue individual litigation, that method would be unduly burdensome to the courts in which such cases would proceed. Individual litigation exacerbates the delay and increases the

expense for all parties, as well as the court system. Individual litigation could result in inconsistent adjudications of common issues of law and fact.

42. In contrast, a class action will minimize case management difficulties and provide multiple benefits to the litigating parties, including efficiency, economy of scale, unitary adjudication with consistent results and equal protection of the rights of Plaintiffs and members of the proposed class. These benefits would result from the comprehensive and efficient supervision of the litigation by a single court.

43. Questions of law or fact common to Plaintiffs and members of the proposed class, including those identified above, predominate over questions affecting only individual members (if any), and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Class action treatment will allow a large number of similarly situated consumers to prosecute their common claims in a single forum, simultaneously, efficiently, and without the necessary duplication of effort and expense that numerous individuals would require. Further, the monetary amount due to many individual members of the proposed class is likely to be relatively small, and the burden and expense of individual litigation would make it difficult or impossible for individual members of the proposed class to seek and obtain relief. On the other hand, a class action will serve important public interests by permitting consumers harmed by Auto-Owners' unlawful practices to effectively pursue recovery of the sums owed to them, and by deterring further unlawful conduct. The public interest in protecting the rights of consumers favors disposition of the controversy in the class action form.

44. Class certification is further warranted because Auto-Owners has acted or refused to act on grounds that apply generally to the class, so final injunctive relief or corresponding declaratory relief is appropriate with respect to the class as a whole.

45. Plaintiffs may seek, in the alternative, certification of issues classes.

46. Rule 23(c)(4) provides that an action may be brought or maintained as a class action with respect to particular issues when doing so would materially advance the litigation as a whole.

**COUNT I
BREACH OF CONTRACT**

47. Plaintiffs restate and incorporate by reference all preceding allegations.

48. Auto-Owners entered into policies of insurance with the Browns and members of the proposed class. These insurance policies govern the relationship between Auto-Owners and the Browns, and members of the proposed class, as well as the manner in which claims for covered losses are handled.

49. The policies of insurance between Auto-Owners, the Browns and the other members of the proposed class are binding contracts under Arizona, Illinois, Kentucky, Utah, and Wisconsin law, supported by valid consideration in the form of premium payments in exchange for insurance coverage.

50. Auto-Owners drafted the insurance policies at issue, which are essentially identical in all respects material to this litigation concerning the withholding of labor as depreciation from ACV payments for structural loss.

51. In order to receive or be eligible to receive ACV claim payments in the first instance, the Browns and the putative class members complied with all material provisions and performed all of their respective duties with regard to their insurance policy.

52. Auto-Owners breached its contractual duty to pay the Browns and members of the proposed class the ACV of their claims by unlawfully withholding labor costs as described herein.

53. Additionally, Auto-Owners breached the Brown Policy by failing and refusing to promptly pay the amounts individually owed to the Browns as required by the terms of the Brown

Policy. As a result, the Browns have been damaged in the amount of the unpaid portion of their claim, including but not limited to the actual cash value of the damage to their dwelling.

54. Auto-Owners' actions in breaching its contractual obligations to the Browns and members of the proposed class benefitted and continue to benefit Auto-Owners. Likewise, Auto-Owners' actions damaged and continue to damage Plaintiffs and members of the proposed class.

55. Auto-Owners' actions in breaching its contractual obligations, as described herein, are the direct and proximate cause of damages to Plaintiffs and members of the proposed class.

56. In light of the foregoing, Plaintiffs and members of the proposed class are entitled to recover damages sufficient to make them whole for all amounts Auto-Owners unlawfully withheld from their ACV payments, including prejudgment interest as may be allowed by law.

COUNT II DECLARATORY JUDGMENT AND RELIEF

57. Plaintiffs restate and incorporate by reference all preceding allegations.

58. This Court is empowered by the Declaratory Judgment Act as codified at 28 U.S.C. § 2201 and Fed. R. Civ. P. 57 to declare the rights and legal relations of parties regardless of whether further relief is or could be claimed.

59. A party may seek to have insurance contracts, before or after a breach, construed to obtain a declaration of rights, status, and other legal relations thereunder adjudicated.

60. Plaintiffs and members of the proposed class have all complied with all relevant conditions precedent in their contracts.

61. Plaintiffs seek, individually and on behalf of the proposed class, a declaration that Auto-Owners' property insurance contracts prohibit the withholding of labor costs as described herein when adjusting losses under the methodology employed herein.

62. Plaintiffs further seek, individually and on behalf of the proposed class, any and all other relief available under the law arising out of a favorable declaration.

63. Plaintiffs and members of the proposed class have and will continue to suffer injuries.

JURY DEMAND

64. Plaintiffs hereby demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that this Court:

1. Enter an order certifying this action as a class action, appointing Plaintiffs as the representatives of the class, and appointing Plaintiffs' attorneys as counsel for the class;

2. Enter a declaratory judgment, declaring that Auto-Owners' withholding of labor costs as depreciation is contrary to and breaches the insurance policy issued to the Browns and members of the class;

3. Enter a declaration, and any preliminary and permanent injunction and equitable relief against Auto-Owners and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the policies, practices, customs, and usages complained of herein, as may be allowed by law;

4. Enter an order that Auto-Owners specifically perform and carry out policies, practices, and programs that remediate and eradicate the effects of its past and present practices complained of herein;

5. Award compensatory damages for all sums withheld as labor costs under the policy, plus prejudgment interest on all such sums, to Plaintiffs and members of the proposed class;

6. Award compensatory damages to Plaintiffs for all amounts to which they are entitled pursuant to the Brown Policy as a result of the subject loss;

7. Award costs, expenses, and disbursements incurred herein by Plaintiffs and members of the proposed class as may be allowed by law, including but not limited to amounts available under the common fund doctrine;

8. Pre- and Post-Judgment interest; and

9. Grant such further and additional relief as the Court deems necessary and proper.

Dated: May 13, 2021

Respectfully submitted,

/s/ Erik D. Peterson
ERIK D. PETERSON (KY Bar 93003)
Mehr, Fairbanks & Peterson
Trial Lawyers, PLLC
201 West Short Street, Suite 800
Lexington, Kentucky 40507
Telephone: 859-225-3731
Facsimile: 859-225-3830
Email: edp@austinmehr.com

Douglas J. Winters, #6311459
The Winters Law Group, LLC
190 Carondelet Plaza
Suite 1100
St. Louis, MO 63105
Tel: (314) 499-5200
Fax: (314) 499-5201
dwinters@winterslg.com

J. BRANDON McWHERTER*
(TN Bar #21600)
McWHERTER SCOTT & BOBBITT, PLC
341 Cool Springs Blvd., Suite 230
Franklin, TN 37067
(615) 354-1144
brandon@msb.law

T. JOSEPH SNODGRASS*
(MN Bar #231071)
LARSON • KING, LLP
30 E. 7th Street, Suite 2800
St. Paul, MN 55101
(651) 312-6500
jsnodgrass@larsonking.com

to be admitted *pro hac vice

Attorneys for Plaintiffs and Putative Class Representatives

Auto-Owners INSURANCE

LIFE • HOME • CAR • BUSINESS

Auto-Owners Insurance Company

Home-Owners Insurance Company
Owners Insurance Company
Property-Owners Insurance Company
Southern-Owners Insurance Company

Insured: JOHN BROWN
Business: 207 OAKDALE AVE
WINTHROP HARBOR, IL 60096

Claim Rep.: Tom Malatia
Position: Field Claim Rep
Company: Auto-Owners Insurance
Business: PO Box 39
Dundee, IL 60018

Business: (815) 347-9962
E-mail: malatia.tom@aoins.com

Estimator: Tom Malatia
Position: Field Claim Rep
Company: Auto-Owners Insurance
Business: PO Box 39
Dundee, IL 60018

Business: (815) 347-9962
E-mail: malatia.tom@aoins.com

Claim Number: 300-0339898-2020

Policy Number: 4377654902

Type of Loss: Fire

Date Contacted: 9/23/2020

Date of Loss: 9/23/2020

Date Inspected: 9/25/2020

Date Received: 9/23/2020

Date Entered: 9/25/2020 2:53 PM

Price List: ILCC8X_SEP20

New Construction

Estimate: BROWN_ESTIMATE

NOTICE: This is a repair estimate only and not an offer of settlement. All estimate figures may be subject to additional company review and approval. This is not an authorization to repair or guarantee of payment. Authorization to repair and/or guarantee of payment must come from the owner of the property. The insurer assumes no responsibility for the quality nor any deficiencies in repairs.

EXHIBIT A

Auto-Owners

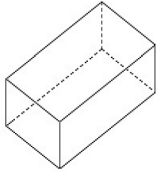
INSURANCE

LIFE • HOME • CAR • BUSINESS

Auto-Owners Insurance Company

Home-Owners Insurance Company
 Owners Insurance Company
 Property-Owners Insurance Company
 Southern-Owners Insurance Company

BROWN_ESTIMATE



MS0

Formula 60' x 36' x 14'

2688.00 SF Walls	2160.00 SF Ceiling
4848.00 SF Walls & Ceiling	2160.00 SF Floor
240.00 SY Flooring	192.00 LF Floor Perimeter
840.00 SF Long Wall	504.00 SF Short Wall
192.00 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT PRICE	TAX	O&P	RCV	DEPREC.	ACV
1. Circuit breaker - 110 volt - single pole	1.00 EA	29.86	0.47	5.98	36.31	(35.95)	0.36
2. Outlet	3.00 EA	13.99	0.33	8.40	50.70	(50.20)	0.50
3. 220 volt commercial wiring/conduit, box, outlet, switch	1.00 EA	419.13	9.42	83.82	512.37	(204.94)	307.43
4. 110 volt commercial wiring/conduit, box, outlet, switch	8.00 EA	203.55	15.68	325.68	1,969.76	(787.91)	1,181.85
5. Architectural effect lights - exterior	1.00 EA	238.69	11.75	47.74	298.18	(295.19)	2.99
6. Fluorescent - two tube - 4' - strip light	5.00 EA	86.21	14.00	86.22	531.27	(525.96)	5.31
7. Drapery roll insulation - unfaced - R11	2,160.00 SF	0.75	48.38	324.00	1,992.38	(531.30)	1,461.08
8. Overhead door & hardware - 12' x 7'	3.00 EA	993.15	151.34	595.90	3,726.69	(3,689.43)	37.26
9. Door lockset & deadbolt - exterior	2.00 EA	84.57	8.06	33.82	211.02	(208.91)	2.11
10. Door - Steel clad - pole frame - 3068	2.00 EA	506.70	35.36	202.68	1,251.44	(500.58)	750.86
11. Attic vent - gable end - metal - 12" x 18"	1.00 EA	72.28	1.29	14.46	88.03	(87.16)	0.87
12. 2" x 6" lumber (1 BF per LF)	150.00 LF	2.61	11.97	78.30	481.77	(128.47)	353.30
13. 2" x 4" lumber (.667 BF per LF)	296.00 LF	2.23	15.75	132.02	807.85	(215.42)	592.43
14. 2" x 10" lumber (1.67 BF per LF)	55.00 LF	3.54	7.55	38.94	241.19	(64.31)	176.88
15. 2" x 8" lumber - treated (1.33 BF per LF)	125.00 LF	3.61	18.03	90.26	559.54	(149.20)	410.34
16. 6" x 6" square treated wood post - laminated	51.00 LF	6.60	10.71	67.32	414.63	(110.58)	304.05
17. Wall/roof panel - ribbed - to 1" - 29 gauge - Agricultural	504.00 SF	2.14	36.34	215.72	1,330.62	(709.67)	620.95
FRONT WALL REPLACEMENT							
18. 2" x 4" lumber (.667 BF per LF)	1,205.00 LF	2.23	64.11	537.44	3,288.70	(876.99)	2,411.71
19. 2" x 6" lumber (1 BF per LF)	150.00 LF	2.61	11.97	78.30	481.77	(128.47)	353.30
20. Truss - 6/12 slope - extra-heavy loading - treated - 2-ply	291.00 LF	14.30	191.89	832.26	5,185.45	(1,382.79)	3,802.66
21. Wall/roof panel - ribbed - to 1" - 29 gauge - Agricultural	2,852.00 SF	2.14	205.63	1,220.66	7,529.57	(4,015.77)	3,513.80
22. Dumpster load - Approx. 40 yards, 7-8 tons of debris	2.00 EA	677.89	0.00	271.16	1,626.94	(0.00)	1,626.94
Totals: MS0			870.03	5,291.08	32,616.18	14,699.20	17,916.98
Line Item Totals: BROWN_ESTIMATE			870.03	5,291.08	32,616.18	14,699.20	17,916.98



Auto-Owners Insurance Company

Home-Owners Insurance Company
 Owners Insurance Company
 Property-Owners Insurance Company
 Southern-Owners Insurance Company

Grand Total Areas:

2,688.00 SF Walls	2,160.00 SF Ceiling	4,848.00 SF Walls and Ceiling
2,160.00 SF Floor	240.00 SY Flooring	192.00 LF Floor Perimeter
840.00 SF Long Wall	504.00 SF Short Wall	192.00 LF Ceil. Perimeter
0.00 Floor Area	0.00 Total Area	0.00 Interior Wall Area
0.00 Exterior Wall Area	0.00 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

**Auto-Owners Insurance Company**

Home-Owners Insurance Company
 Owners Insurance Company
 Property-Owners Insurance Company
 Southern-Owners Insurance Company

Summary for Other Structures

Line Item Total	26,455.07
Overhead	2,645.54
Profit	2,645.54
Material Sales Tax	870.03
Replacement Cost Value	\$32,616.18
Less Depreciation	(14,699.20)
Actual Cash Value	\$17,916.98
Less Deductible	(500.00)
Net Claim	\$17,416.98
Total Depreciation	14,699.20
Less Residual Amount Over Limit(s)	(966.18)
Total Recoverable Depreciation	13,733.02
Net Claim if Depreciation is Recovered	\$31,150.00

Tom Malatia
 Field Claim Rep



Auto-Owners Insurance Company

Home-Owners Insurance Company
 Owners Insurance Company
 Property-Owners Insurance Company
 Southern-Owners Insurance Company

Recap of Taxes, Overhead and Profit

	Overhead (10%)	Profit (10%)	Material Sales Tax (7%)	Food & Med State Tax (1%)	Food & Med Local Tax (1.25%)
Line Items	2,645.54	2,645.54	870.03	0.00	0.00
Total	2,645.54	2,645.54	870.03	0.00	0.00



Auto-Owners Insurance Company

Home-Owners Insurance Company
Owners Insurance Company
Property-Owners Insurance Company
Southern-Owners Insurance Company

NOTICE: This is an estimate for repairs and a copy of this document does not constitute settlement of your claim and is not a confirmation of coverage. The above figures may be subject to additional company review and approval. Please review your applicable policy for specific coverages, terms and conditions.

CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS

JOHN BROWN and KAREN BROWN, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Lake (Except in U.S. plaintiff cases)

(c) Attorneys (firm name, address, and telephone number)

Mehr Fairbanks & Peterson Trial Lawyers, PLLC
201 W Short Street, Suite 800, Lexington, KY 40507 (859-225-3731)

DEFENDANTS

AUTO-OWNERS INSURANCE COMPANY

County of Residence of First Listed Defendant (In U.S. plaintiff cases only)

Note: In land condemnation cases, use the location of the tract of land involved.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Check one box, only.)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government not a party.)
4 Diversity (Indicate citizenship of parties in Item III.)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.)

(Check one box, only for plaintiff and one box for defendant.)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business in This State, Incorporated and Principal Place of Business in Another State, Foreign Nation.

IV. NATURE OF SUIT (Check one box, only.)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, BANKRUPTCY, IMMIGRATION, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAXES, OTHER STATUTES. Includes various legal codes and descriptions.

V. ORIGIN (Check one box, only.)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

28 U.S.C. § 1332(d); Breach of insurance contract

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

Check if this is a class action under Rule 23, F.R.CV.P.

Demand \$

CHECK Yes only if demanded in complaint:

Jury Demand: Yes No

IX. RELATED CASE(S) IF ANY (See instructions):

Judge Case Number

X. Is this a previously dismissed or remanded case?

Yes No If yes, Case # Name of Judge

Date: May 13, 2021

Signature of Attorney of Record S/ Erik D. Peterson

Authority for Civil Cover Sheet

The ILND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

JOHN BROWN and KAREN BROWN, individually
and on behalf of others similarly situated

Plaintiff

v.

AUTO-OWNERS INSURANCE COMPANY

Defendant

)
)
)
)
)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* AUTO-OWNERS INSURANCE COMPANY
c/o Director of Insurance
Illinois Department of Insurance
320 W. Washington St.
Springfield, IL 62701

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Douglas J. Winters
The Winters Law Group LLC
190 Carondelet Plaze, Suite 1100
St. Louis MO 63105
dwinters@winterslg.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Auto-Owners Insurance Unlawfully Withheld Labor Costs from Property Damage Claims, Lawsuit Alleges](#)
