

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
October 14, 2011 Session

**WENDY LEVERETTE, ET AL. v. TENNESSEE FARMERS
MUTUAL INSURANCE COMPANY**
Appeal from the Circuit Court for Maury County
No. 0913135 Jim T. Hamilton, Judge

No. M2011-00264-COA-R3-CV - Filed March 4, 2013

RICHARD H. DINKINS, J., concurring in part and dissenting in part.

I agree with the majority's analysis of the coverage issue in Section V and its conclusion that TFM breached the contract by denying coverage. As a result of this breach, the judgment against TFM in the amount of \$67,000 was appropriate. I concur as well with the analysis of the bad faith claims in Section VI.

While I agree that there was evidence to support the determinations that the conduct of TFM with respect to the Sanders' claim violated Tenn. Code Ann. § 56-8-108 and that such violations would support a finding of liability under the Tennessee Consumer Protection Act, I respectfully dissent from majority's affirmance of the jury's award of \$1.2 million as compensatory damages (as modified by the trial court to \$1 million) for the violation. I do not believe, under the unique facts and circumstances of this case, that the \$1 million default judgment entered against Claire Sanders in the Bedford County litigation brought by the Leverettes was "as ascertainable loss of money or property" within the meaning of Tenn. Code Ann. § 47-18-109(a)(1).

RICHARD H. DINKINS, JUDGE