

Los Angeles Times  
June 03, 2004  
Debora Vrana

## **Farmers Is Sued Over Auto Policies**

The latest lawsuit focusing on coverage of secondary drivers says policyholders were shortchanged.

Some policyholders of Farmers Group of Insurance Cos., the second-largest auto insurer in California, don't have as much coverage as they thought when it comes to accidents involving drivers who borrowed their cars, a suit filed this week in Los Angeles County Superior Court alleges.

Limiting coverage of secondary drivers — or, as the insurance industry calls them, "permissive users" — is not illegal. But in a ruling in May, the California Supreme Court declared that the coverage limitations were unenforceable by Farmers because they were not made "conspicuous, plain or clear."

The May ruling stemmed from a 1999 lawsuit filed by Joshua Haynes, 17, a friend of a Farmers policyholder who was in an accident that resulted in \$80,000 in medical costs.

Even though the policy covered that amount in the case of the policyholder, Farmers said it would pay Haynes only the state-required minimum of \$15,000.

On Tuesday, Farmers policyholder Tracy Caviola, a Seal Beach resident, filed a new suit against Farmers subsidiary Farmers Insurance Exchange.

Although Caviola wasn't involved in a dispute over coverage of a secondary driver, her suit seeks class-action status on behalf of other policyholders and accident victims who she contends have been shortchanged by Farmers.

Mary Flynn, a spokeswoman for Farmers, noted that the California Insurance Code permits the company to limit coverage of secondary drivers. She added that the company is "disappointed with the court's determination that the endorsement was not conspicuous." Flynn declined to comment further on the suit or on whether Farmers intends to reprint its policies to make the provisions more noticeable.

Caviola wants the court to force Farmers to readjust any claims filed by California policyholders in the last four years that involved secondary drivers. It was unclear how much the adjustments could be worth, though Caviola's attorney, Michael Cohen, said they potentially could reach the "tens of millions."

The suit also asks the court to order Farmers to notify all policyholders that the clauses regarding drivers who borrow an insured car are unenforceable under the recent Supreme Court decision.

"If you have one of these policies, Farmers might have shortchanged you," said Cohen, attorney with Claremont-based Shernoff, Bidart & Darras. "With this lawsuit, we have a chance to correct that."

The case could have an effect on other auto insurers because some have similar clauses, said Mike Edwards, bureau chief in the rate regulations bureau of the state Department of Insurance. "Some, not all, have these clauses."

Caviola was unavailable for comment, said her husband, Huntington Beach attorney Jim Caviola, who represented Haynes in his 1999 lawsuit.