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Insurers fight suit over policy charges

Judge reviewing case that seeks refunds

By **Berny Morson, Rocky Mountain News**
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Insurance companies Thursday asked a district court judge to dismiss a suit claiming motorists were charged several times for the same coverage.

Lawyers who brought the suit say 41 companies covering 80 percent of Colorado motorists wrongfully collected billions of dollars since 1979.

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Plaintiffs estimate more than 100,000 motorists may be eligible for refunds.

Insurance company lawyers say a million policies may be involved. But dollar amounts on the additional coverage is negligible, they say.

The insurance lawyers told Judge D.D. Mallard that plaintiffs should have gone to the state insurance commissioner, who has jurisdiction over rates.

Mallard set no date to issue a written decision.

At issue is coverage for injuries inflicted by uninsured motorists.

For years, companies added the same coverage - for an additional premium - to policies on a second or third vehicle.

In 2001, the Colorado Supreme Court, interpreting part of state insurance law on the books since 1979, decided that it is the person, not the vehicle, who is covered for injuries by uninsured motorists.

That means coverage on the first vehicle extends to injuries received in all other vehicles.

The suit filed last year under fraud and consumer protection statutes demands that companies return all the excess premiums collected since the 1979 law was passed.

Robert Hill, a lawyer for the 31 plaintiffs, told Mallard that the companies had an obligation to tell customers they were getting no additional coverage by tacking the same provisions onto multiple policies.

"What we allege is, material facts were not disclosed," Hill said.

Michael McCarthy, an attorney for State Farm, who spoke for all the insurance companies, said the firms had no way of knowing before the 2001 Supreme Court ruling that they were not complying with the law.

McCarthy said following the hearing that the companies may not in fact have earned any additional revenue by adding the same coverage to multiple policies.

Since rates are set by an estimate of risk, the premium would have been the same, regardless of whether the policy was attached to three cars or to one person who owns three cars, McCarthy said.

"We think there's a strong probability not only that there's no liability, but no damages," he said.

If Mallard lets the suit proceed, plaintiffs will ask her to declare it a class action, meaning everyone who has purchased insurance in Colorado since 1979 would be eligible for part of the money awarded - if any.

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