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## Natural Disaster Insurance Claims

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by Alan Garfinkel

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Natural disaster law is complicated. Insurance contract interpretation is difficult. Instead of trusting your claim to a public adjuster, who are usually uninsured and don't have a law degree, it's best to talk to an attorney who specializes in insurance contract law to make sure you understand your rights.

**The following areas are of specific concern when dealing with your insurance company:**

- **Multiple Deductibles:** Some insurance companies are applying multiple deductibles for a single claim. They cannot do so unless the house was damaged by multiple disasters (such as multiple storms). But if the damage is in fact severe it will help the claim, because multiple policy limits may apply.
  - **Scare Tactic of Policy Cancellation:** The policy cannot be cancelled by virtue of presenting a claim or retaining a lawyer. Natural disasters aren't based on the behavior or maintenance of the property by a particular owner.
  - **Estimating Program:** The estimating program used by the insurance industry, called "Exactimate", fails to address the sudden increase of material and labor costs due to a regional or national catastrophe. You're entitled to have the damage restored based on the prevailing market rate of materials and labor.
  - **Loss of Power:** If you lost power, you're entitled to compensation for the loss of food in your refrigerator, as well as the cost of an electrician to survey the wiring in the house.
  - **Carpeting:** Your insurance company may first try to convince you your carpet can be cleaned. But once there is water penetration or glass breakage, the insurance company has a duty to compensate you for the replacement of the carpet.
- Your insurance company may want to avoid paying for the extra carpet not actually used to carpet a room. For example, if a room is 15ft. x 10 ft., the carpet roll comes at 12 ft. wide. Therefore, there will be a waste of 2 ft. all along the 10 ft. side, and more waste on the 15 ft. side.
- An insurance company may also balk at paying for the padding under the carpet. There is also an absolute duty to change the carpeting pad as well, because over the years the carpet sticks to the pad and humidity damages the pad.
- **Asbestos:** Any structure built prior to 1978 will most likely have asbestos in the plaster, acoustic/popcorn ceiling, air ducts and so forth. If there is damage to the inside walls, the insurance company has a duty to test for asbestos and compensate you for the "abatement" (removal) of the asbestos. On an average claim, this issue costs the insurance company several thousand dollars.
  - **Mold:** Once there is mold, a claim should be presented for the remediation of the mold and repair of the affected areas. In addition, all of the contents in the house have to be cleaned or replaced (for all soft goods such as clothing, linens and so forth).
  - **Painting:** In order to paint the inside or outside of the house, a lot of prep work must be done, including moving furniture, detaching and resetting light fixtures, window coverings, electrical outlets and so forth. On a typical home, this issue will cost the insurance company several thousand dollars.
  - **Repair of walls/Insulation:** If the walls are damaged by water intrusion, the insurance adjuster typically fails to include replacement of moldings (crown or base) and the insulation.
  - **Additional Living Expenses ("ALE") :** Aside from the time during which you have to move out during the natural disaster, your policy should also cover additional living expenses for the time it will take to repair the house.

This is just a short sampling of damages which the insurance carrier should be responsible for.

When looking for a lawyer to help you, ask about his or her experience in dealing

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with insurance companies in the wake of natural disasters. And don't worry if you've already cashed the insurance company's check. An attorney may still be able to re-open the claim and get you the additional money you rightfully have coming.

**Alan Garfinkel** practices Natural Disaster Law and is AV rated by Martindale Hubbell. Alan is the founder of Garfinkel Trial Group with associates licensed to practice in numerous states across the country. Alan's website is [www.hurricanejustice.com](http://www.hurricanejustice.com)

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