

## “HURRICANE PLAYERS”

Home Owners and Business Owners may suffer property and business economic loss.

Natural Disaster (whether it's a hurricane, earthquake, tornado, fire). In the event your home or business is affected by one of these devastating occurrences, the players in the processes are:

**Adjuster:** there are four types of **adjusters** and I'm not talking about the good, the bad and the ugly. They are as follows: (1) Company Adjuster; (2) Independent Adjuster; (3) Public Adjuster; and (4) Temporary Catastrophic Adjuster. **ALL ADJUSTERS IN FLORIDA REQUIRE NO FORMAL EDUCATION. YOU CAN BE A HIGH SCHOOL DROP OUT AND BE AN ADJUSTER.**

1. **Company Adjuster:** These adjusters are employees of your insurance company. They may not charge you a fee. They work for your insurance company.

2. **Independent Adjuster:** These adjusters are hired by your insurance company to represent your insurance company's interest, not yours. These adjusters are independent contractors and they may not charge a fee. They also work for your insurance company.

3. **Public Adjuster:** These adjusters do not work for or are not supposed to work for insurance companies. A person may hire them by signing their contract and agree to pay the Public Adjuster a percentage of the recovery. **The percentage cannot exceed 10% of your recovery on a residential or commercial claim.** No Public Adjuster is allowed to accept any fee or compensation prior to the settlement of a claim. **You can cancel a Public Adjuster's contract at any time. But, if you cancel the contract within 14 days you will owe the adjuster absolutely no fee.** No Public Adjuster may enter into a contract with a client if the residential property has been rendered a total loss. There are limited exceptions to this but it certainly is not recommended because of the value of the claim.

4. **Temporary Catastrophic Adjuster:** These “adjusters” are permitted to adjust claims in Florida by a special Executive Order (Florida Department of Financial Services) after a catastrophe. These folks include forklift drivers, truck drivers, mechanics, chimney sweeps, landscapers, fast order cooks, toll booth collectors and for a whopping \$50 fee, they are automatically stamped “ADJUSTER”.

5. **Building Contractors and Remediation Companies:** Be careful. These folks may or may not have licenses. You want to make sure you hire a contractor that **is licensed and insured in your state**. You can check with the Better Business Bureau, your County Office and the Division Of Corporations to make sure they are actually a Corporation.

6. **Your Lawyer:** Lawyers play a critical role in protecting your rights and making sure you collect fully and completely for your losses. A lawyer's education after high school includes performing

well in their four year degree, extensive studies for their Law School Admission Test. Then three more years of graduate school to obtain their doctorate degree. Thereafter, the lawyer has to study extensively to pass the State's Bar Examination. After practicing for at least five years (in Florida) after passing the Bar Examination, having tried a sufficient number of cases, been approved by opposing lawyers and judges, a lawyer may be eligible to study for (approximately another year) for a Board Certification Examination to finally become a Board Certified Lawyer. Your lawyer received extensive training and education in Contract Law, Insurance Law, State Statutes, the Insurance code, and Court decisions that make new law every week. A lawyer should also be licensed, insured, and very experienced. Ask for his or her experience and Martindale Hubbell rating.

**Insurance companies are out to make a profit. Make sure your biggest asset is protected and hire an experienced lawyer or law firm that has handled these types of cases for many years.**

March 10, 2005

## Hurricane Article I

Dear Denise,

Having experienced the manner in which most, if not all hurricane claims are grossly neglected, denied or underpaid by entrusted insurance companies, this article is intended to inform the citizens of their rights.

Most insured are being taken advantage of by their insurance company because most people are not fully aware of their rights. The following are specific situations that the insurance carrier is getting away with.

- **Multiple Deductibles**: The insurance companies are applying multiple deductibles for a single claim. They cannot do so unless the house was damaged by multiple hurricanes. However, 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. Hurricanes, just like earthquakes, are natural disasters and are not based on the behavior or maintenance of the property by a particular owner.
- **Estimating Program**: The estimating program used by the insurance industry, "Exactimate", fails to address the sudden increase of material and labor costs due to a regional or national catastrophe. For example, the "Exactimate" program allows approximately \$180 per square (10ft. by 10ft.area) for replacement of the basic composition shingle roofing. Home Depot in Orlando charges more than \$400 per square. The insured is entitled to have the damage restored based on prevailing market rate.
- **Loss of Power**: If the insured lost power, they are entitled to compensation for loss of food in the refrigerator as well as the cost of an electrician to survey the wiring in the house.
- **Carpeting**: Typically, insurance companies shortchange the insured in multiple ways.
  - a. The insurance company will first convince the insured that the carpet can be cleaned. However, once there is water penetration or glass breakage, the insurance company has a duty to compensate for the replacement of the carpet.
  - b. The insurance company will typically avoid paying for the extra waste of the carpet. 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. Therefore, if the insured is compensated based on yardage of 15ft. x 10 ft., the insured cannot afford replacing the carpet.

c. The insurance company will also avoid paying for the padding under the carpet. There is absolute duty to change the pad as well because over the years the carpet sticks to the pad and also the humidity damages the pad.

- **Asbestos:** Any structure built prior to 1978, will most likely have asbestos in the plaster, acoustic/popcorn ceiling, air ducts, etc. If there is damage to the inside walls, the company has a duty to test for the asbestos and to compensate the insured for the abatement of the asbestos. On an average claim, this issue costs the insurance company several thousand dollars.
- **Mold:** This is where the insurance companies are categorically denying tests and payment. Once there is mold, a claim should be presented for the remediation of the mold and the repair of the effected areas. In addition, all of the contents in the house have to be cleaned or replaced (for all soft goods such as clothing, linens, etc.).
- **Painting:** In order to paint the inside or outside of the house, a lot of preparatory work needs to be done. For example, moving furniture, detaching and resetting light fixtures, window coverings, electrical outlets, etc. 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, typically the insurance adjuster fails to pay for replacement of moldings (crown or base) and the insulation.
- **Additional Living Expenses (ALE):** Aside from the time that the insured had to move out during the hurricane, the policy also covers additional living expenses for the time it will take to repair the house.

This is just the tip of the iceberg of situations that the insured is not aware of and because of this, the insurance carrier is taking advantage of its insured.

Therefore, in the event you hire a lawyer, ask for his expertise and years of experience handling these matters.

Natural disaster law is complicated. Insurance contract interpretation is difficult. Do not trust your claim with a public adjuster. They are usually uninsured and do not have a law degree. If a public adjuster is sued he cannot defend himself.

Beginning on a terrifying Friday the 13<sup>th</sup> in August of 2004, four massive hurricanes struck Florida, three squarely in Central Florida, in the most devastating hurricane season in the history of the world according to National Geographic. Charley: August 13, 2004; Frances: September 5, 2004; Ivan: September 16, 2004; and Jeanne: September 25, 2004.

The Orlando Sentinel, Front-Page headline was titled “Insurance Nightmare”. Three pages of the Sunday paper detail how insurance companies are systematically offering their own insureds pennies on the dollar resulting from billions of dollars of hurricane damages. “Months after three hurricanes hit Central Florida, many residents have sued insurers to get enough money to fix their homes”, the Orlando Sentinel, Sunday, March 6, 2005 (Front Page).

Since the hurricane swept through Florida and left massive destruction to those in its path, Florida homeowners have reached out unsuccessfully to their own insurance companies for help with their claims. To this date, hundreds of thousands of claims have been filed, and those families and businesses are still struggling with their own insurance companies.

According to the Associated Press, the State created property insure of last resort has taken over thousands of hurricane damage claims mishandled by private adjusters and the State acknowledges delays in at least 116,000 claims after the four major hurricanes hit Florida last August and September. Several insurance companies are being investigated by the State’s Chief Financial Officer regarding claims that have been delayed or denied. The most effective way to address these claims is to obtain a law firm experienced in handling natural disaster claims. However, some lawyers and law firms and public adjusters are holding themselves out as specialists in hurricane claims. This representation is prohibited by the Florida Bar. The Garfinkel Trial Group has a division that has focused exclusively on natural disaster claims for over a dozen years.

“The bottom line is we have gotten no money, the building is deteriorating” said Sarah Brown, a citizens property insurance corporation customer whose business was damaged by a hurricane on September 16, 2004. Gannett Newspaper reports that continued delays may put her out of business. State officials warn of unlicensed practices and illegal contracting. According to the law firm’s founder, Alan Garfinkel, insurance companies are delaying or denying their customers hurricane damage claims by using the following scare tactics, intimidation and misinformation. For example, insurance companies are applying multiple deductibles for a single claim, raising the amount of a customer’s deductible by two or three times in some cases. Some insurance companies are using the scare tactic of policy cancellation. The policy cannot be cancelled by virtue of presenting a claim or obtaining a lawyer. Hurricanes, just like earthquakes, are natural disasters and are not based on the behavior or maintenance of the property by a particular owner.

Another specific example of how insurance companies are not being fair with their customers is that their estimating program used by most insurance companies, Exactime, fails to address the sudden increase of material and labor costs due to a regional or national catastrophe. For example, the

Exactime program allows approximately \$180 per square (10 ft. x 10 ft. area) for replacement of the basic composition shingle roofing. Home Depot in Orlando, FL charges more than \$400 per square. The customer/insured is entitled to have the damage restored based on the prevailing market rate.

National statistics have indicated, when consumers go directly to the insurance companies without the help of a qualified attorney, their settlement amounts are drastically reduced. According to NBC Nightly News with Brian Williams “most insurance companies have refused to pay for hurricane damage throughout Florida saying damage is due to building defects not the hurricanes”.

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