

Bad Faith Insurance: Looking Out for Number One – And it isn't You

By Gordon Gibb, Lawyers & Settlements

Beaumont, TX: Freddie and Zohreh Shahrodi know all about what their insurance policy SAYS. It's what their insurer didn't deliver that has the Jefferson County couple up in arms, and battling in court—yet another lawsuit against *bad faith insurance*.

According to an article in the Southeast Texas Record the couple's insurer, Fire Insurance Exchange denied the couple their full claim from damages caused in the wake of Hurricane Rita. The lawsuit, filed with the Jefferson County District Court on May 30th of this year, alleges that the insurer denied a portion of the claim without conducting an adequate investigation. Nor did they explain the reasons for the reduced settlement.

It used to be, according to popular belief, that ne'r-do-wells with neither the cash nor the common sense, would drive their vehicles without *insurance*. The reason? The fines for a first offence were less expensive than the premium.

Thankfully, penalties for driving without insurance have been beefed up, and most law-abiding individuals would not dare step into a car, let alone drive one, without being adequately protected. After

all, it's the law, and it's the right thing to do.

Lord knows it's costing you enough. A high premium, coupled with a hefty deductible, means that you're only making a claim if your car - or your home, for that matter - is severely damaged. To do otherwise would be unthinkable, as it would put a claim on your record, and your rate would go up.

So pay your premiums, we are told. Keep a good driving record, they say. And for small claims, y'know it just might be better to fund it yourself than trigger the policy, even if the claim is above the deductible, in order to protect your good rate. Thanks for your excellent payment record. Have a nice day.

Oh, and by the way - make sure you're aware of the terms and conditions. Know what is covered, and what is not.

And so we do - we pay our premiums, we view our deductible like the good chair that's only reserved for company, we read our policies, and we drive responsibly. We keep our roofs repaired and our homes fire-safe, and we go on like this for years. Some pay, and pay and pay and never make a claim. The price of good luck.

But God forbid if, and when you do...well, all that money you paid out was worth it. You're finally going to get a return on that investment.

Ya think?

Getting back to the Sharodi lawsuit:

The action involves five counts, and faults the insurer for breach of contract (which a policy, most assuredly IS), violation of the Texas insurance code on two counts, breach of good faith and fair play, knowledge and intent, and deceptive trade practises.

The Shahrodi's legal team is hoping the trial will be heard by a jury, something that State Senator Stewart Greenleaf, over in Pennsylvania, is hoping for more of.

Under Pennsylvania State law, only judges have the authority to hear bad faith insurance cases. Greenleaf's Senate Bill 745 was tabled to protect residents' right to a jury trial, and is intended not to guarantee a jury trial per se, but rather to guarantee a litigant's right to ask for one. Greenleaf adds that federal court already allows jury trials in these types of cases, according to the Bucks County Courier Times. The change would align the state and federal guidelines.

Those who oppose bad faith trials by jury, including the Pennsylvania Association of Mutual Insurance Companies, are suggesting that juries might be inadequate in understanding and assessing the more technical aspects of an insurance lawsuit.

Proponents, however suggest that opposition to jury trials is based on a fear of large awards, at a

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level seen in malpractice suits. More correctly, say the Pennsylvania Trial Lawyers Association - which supports the Bill - there is no reason to believe that juries who routinely wade confidently through evidence, and table verdicts in sometimes complex negligence and criminal cases, would not

be equally competent dealing with bad faith trials.

Senator Greenleaf's Bill is currently before the Senate Judiciary Committee. Meantime, the trend continues in the insurance industry to dig in their heels when asked to pay out a claim, even for long-term clients who have paid their premiums diligently. Not all insurance companies stoop to fraud and misrepresentation, and most - even with the infrequency of contact - are a pleasure to do busi-

ness with. A contract is a contract after all, and any breach of contract by either party is grounds for litigation. Even so, it's no secret that the industry is making it just a bit tougher for you to collect.

As an aside, later this month filmmaker Michael Moore turns his lens on the health care and health insurance industries with his movie 'Sicko'

Perhaps, one day, he might consider doing the same for insurance.

Settlement Ends Appeal Of Verdict In Major Katrina Insurance Case

AP

NEW ORLEANS_In a major Hurricane Katrina-related insurance case, Allstate Insurance settled a post-trial legal dispute with a policyholder who was awarded more than \$2.8 million (€2 million) by a federal jury over hurricane damage, a company spokesman and a lawyer for the homeowner said Thursday.

The verdict had been the first of hundreds of lawsuits that Louisiana policyholders filed against their insurers in federal court in Katrina's aftermath.

Terms of the agreement between Allstate and policyholder Robert Weiss were not disclosed.

"There's really nothing left to be done in the case except finalize the settlement," said Richard Trahan, a lawyer for Weiss.

On April 16, jurors decided that the insurer did not pay Weiss enough money to cover wind damage to his home. Allstate blamed most of the damage on Katrina's storm surge, which was not covered by its homeowner policies.

After the trial, the company asked a U.S. District Court judge to order a new trial or reduce the jury's "irrational verdict."

"The jury's verdict in this case is clearly the product of passion and prejudice and is not supported by the evidence," Allstate attorney Judy Barrasso wrote, adding that the jury's award exceeded the limits of Weiss' policy.

Weiss' attorneys said the evidence supported the verdict.

The two sides reached their undisclosed agreement before the judge ruled.

The jury concluded that Allstate owed Weiss \$561,600 for wind damage to his home and its contents, plus another \$2.25 million in damages and penalties for not paying the claim quickly enough following the Aug. 29, 2005, storm.



Court to Hear Katrina Insurance Appeal

AP

A federal appeals court has set Aug. 6 as the date to hear arguments on whether Nationwide Mutual Insurance Co. should be forced to cover storm surge damage to a couple's home from Hurricane Katrina.

Oral arguments will be heard before 5th U.S. Circuit Court of Appeals only a few weeks before the second anniversary of the hurricane, which ravaged Louisiana and Mississippi on Aug. 29, 2005.

Nationwide appealed a 2006 decision by U.S. District Judge L.T. Senter Jr. that Paul and Julie Leonard of Pascagoula cannot collect damages from storm surge caused by Katrina because Nationwide's policies do not cover wind-driven water damage.

Senter said the Leonards could, however, be compensated for damage that they can prove was caused by high winds.

If Senter's ruling stands, it could set a precedent for hundreds of other court challenges to the insurance industry for denying billions of dollars in claims after the hurricane.