

MISSISSIPPI INSURANCE COMMISSIONER'S RACE HAS FAR-REACHING IMPLICATIONS

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"Illness and fatigue" plagued incumbent Insurance Commissioner, George Dale, who was unseated in the Democratic Primary on August 7. Voters were just plain "sick and tired" of Dale's pro-insurance industry positions and wanted a more consumer-friendly Commish.

Dale had held the position for 32 years but Hurricane Katrina proved too tough a test for the man who basically gave insurers permission to price gouge, deny,

delay and lowball legitimate claims in Mississippi.

The State's Democratic Party didn't even want Dale to run as a Democrat. They felt the Republican ticket suited him better.

Gary Anderson, a Jackson, MS resident, won the Democratic Primary and will face Republican candidate and State Senator, Mike Chaney, in the November General election.

Anderson's platform in-

cludes implementing several programs that will reduce skyrocketing premiums and give Mississippians a greater field of carriers from which to choose. He also will enforce "best practices" for claims handling. Anderson's ethics reports filed with the state show he has honored his promise to refuse campaign contributions from insurance companies and/or their executives.

Chaney on the other hand promised to refuse contribu-

tions from insurance companies and their "suits" but his ethics report filings tell a different story. Moreover, his Senate voting record gives us a glimpse of what's to come if he's elected Insurance Commissioner and it's not pretty.

Mississippi may be a preamble to future races in states impacted by severe weather. As such, POA feels the need to weigh in on this important race.

Mr. Anderson gets POA's endorsement.

Louisiana Appeals Court Decision at Odds with 5th Circuit on Coverage

The debate will rage on and on and on...

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A Louisiana state appeals court has taken a somewhat different view from the views expressed by the U.S. 5th Circuit court in a similar case and with the same state law being interpreted. The state appeals court ruled that people who lost their homes in hurricanes are not necessarily entitled to recover the full amount of their losses if their insurance policies covered only some perils but not others. This is a partial victory for insurers.

The Louisiana appeals panel said a lower court erred in ruling that, under the state's Valued Policy Law, homeowners could recover in full for the total destruction of their homes, even if covered perils such as wind and rain were not solely re-

sponsible for the loss.

It sent the case back to the trial court and said the insurer, Louisiana Citizens Property Insurance Co, bears the "clear burden" to show that uncovered perils, such as flood waters, were the "efficient and proximate cause" of the loss.

The case involved Mark and Barbara Landry, who lost their home in Hurricane Rita in September 2005. Their \$57,200 homeowners' policy covered losses from wind and rain but not floods.

"I feel like the decision is very favorable to plaintiffs," said Tom Filo, a lawyer representing the Landrys. "It's certainly foreseeable that in every hurricane, there will be a

storm surge, which is caused by wind, which is always a covered peril."

Filo expects an appeal to the Louisiana Supreme Court.

Louisiana Citizens had argued the typical "switch" argument - holding the industry liable for total losses would burden residents by making it unattractive for carriers to operate in the state.

The August 6 federal appeals court ruling, in a case involving homes destroyed in Katrina and Rita (reported on the cover of this newsletter), said insurers need pay a policy's full value only when homes are rendered total losses from covered perils.

The debate will continue.

