



# FACING STORM DAMAGE

A HOMEOWNER'S GUIDE

# "IT'S ABOUT JUSTICE"



## HARVEY V. COHEN



As a young man, Harvey enlisted in the US Army. He enrolled in the G.I. Bill program that ultimately helped him pay for college. Mr. Cohen earned his Bachelor's degree from UCF with the help from the G.I. Bill. Harvey then went on to law school at Stetson University College of Law in Saint Pete Florida.

After graduating from Stetson School of Law, Mr. Harvey V. Cohen was employed by the State Attorney's Office. As a state prosecutor, Mr. Cohen handled thousands of criminal cases. He conducted over 40 jury trials, executed extensive motion practice, and conducted countless depositions. Later, Mr. Cohen branched out as a solo practitioner without staff or associates. He has since grown his firm to over 20 attorneys and 70 employees.

After the numerous hurricanes in Florida in 2004 and 2005, Mr. Cohen represented homeowners who suffered hurricane damage to their homes. Mr. Cohen has literally handled thousands and thousands of insurance claims. Mr. Cohen is known throughout the state of Florida and nationwide as the go to attorney for cases as it pertains to the restoration industry.

Mr. Cohen has been a presenter for the Restoration Industry Association (RIA) and other professional trade groups. The RIA is the oldest and largest nonprofit, professional trade association dedicated to providing leadership and promoting best practices through advocacy standards and professional qualifications for the restoration industry. They represent over 20,000 members. Mr. Cohen has been a presenter for the RIA on several subjects.

Mr. Cohen teaches courses that provide continuing education credits approved through the IICRC. The IICRC certifies restoration companies for trade specific talents. IICRC courses keep restoration professionals abreast of the latest techniques, technology, and education for the restoration industry. Mr. Cohen's IICRC approved course covers essential information on insurance claims and contracts.

Cohen Law Group are great supporters of the community. Mr. Cohen is very involved with the Leukemia Lymphoma Society and many other charities including:

- Hope and Help - a charity that raises money for AIDS patients
- SPCA which helps raise money for pets and animals
- The Jewish Community Center
- The YMCA
- Susan G. Komen
- Down Syndrome Association
- Veterans Associations

Mr. Cohen fights on your behalf to protect your rights as a contractor, small business, and homeowner from insurance companies. Mr. Cohen will continue the fight because It's About Justice!

# HURRICANE SEASON IS HERE

Common types of insurance claims that need to be made after a severe storm include:

- Roof Damage
- Hurricane Damage
- Storm Damage
- Lightning Damage
- Water Extraction
- Water Damage
- Flood Damage
- Mold
- Fire Damage
- Pipe Bursting
- Hail
- and much more



# HOW TO PREPARE FOR STORM DAMAGE

- Know what is in your homeowner's insurance policy
- Have records of your property's condition in the event that you need to file a claim with your insurance company.
- Review your mold coverage.
- Review your flood coverage. This is normally a separate insurance policy.
- Ask your insurance agent about coverage for water damage, law and ordinance, debris removal, and additional living expenses.
- Prior to a storm, take photos of your property (see chart.)
- Check your hurricane deductible, it can be much higher than your regular deductible

## DOCUMENT BELONGINGS

With proper documentation, you may also be able to recover lost expenses for home contents, personal property, and other items. Here is a list of some items to consider keeping receipts for or appraising:

- Televisions
- Furniture
- Jewelry
- Artwork
- Appliances
- Computers
- Antiques
- Beds
- Decks
- Other electronic equipment

## WHAT TO PHOTOGRAPH

- Interior of Home
- Exterior of Home
- Roof
- Pool and Pool Area
- Fencing
- Trees
- Front Yard
- Back Yard

## AFTER THE STORM

- When it is safe to do so, again photograph your property
- Consult with an attorney experienced in handling insurance claims
  - Do not give any recorded statements or meet with an adjuster assigned to the claim prior to doing so.
  - Ask the attorney what questions they need to ask the adjuster
- Call the insurance carrier and timely report the claim.
- Obtain an inspection by a qualified contractor and/or roofer to assess whether winds have damaged or diminished the roofing system and building envelope.
- Take photos, and record the questions and answers when talking to adjusters
- Make sure to keep track of the name and number of every person you talk to at your insurance company
- Check your Co-Insurance penalties
- Make a copy of the insurance policy and keep it in a safe place.
- Check your policy coverages and sublimits

# HOW TO PREPARE FOR STORM DAMAGE

## HIRING A LEGITIMATE RESTORATION COMPANY

**Here are some tips on what you should look for**

- Is the business still active?
- Is the business properly registered in your state?
- Is the business properly licensed and insured?
- What do the reviews of the business say?

**Here are some websites that will help you answer these questions:**

- Sunbiz.org
- Florida Department of Business & Professional Regulation (DBPR)
- Google, Facebook, or Angie's List for reviews

## FILING AN INSURANCE CLAIM

- In the event of a severe storm, damage to your home or business can be a huge financial burden.
- Insurance companies want to deal directly with the policy holder concerning storm damage claims because they can lowball you.
- The insurance carrier will be forced to play by the rules when you hire a qualified insurance claim attorney.
- Remember, once you accept a settlement, insurance companies consider the claim closed.

## DEBRIS REMOVAL

Review your policy to know what is covered and what isn't when it comes to tree limbs, brush, and other such debris. Many policies include coverage that states they will cover the removal of debris from covered property, meaning that the debris has to be on or touching the covered property.

# THE HOMEOWNER'S OBLIGATION

**Homeowner's obligations under their policy include:**

## Examination Under Oath

- This is a formal proceeding during which an insured, under oath and in the presence of a court reporter, is questioned by an insurance company representative if requested by the carrier.

## Sworn Statement

- This is a document that recites facts pertinent to a legal proceeding.

## Proof of Loss

- A proof of loss is a policyholder's statement of the amount of money being requested, signed to and sworn to by the policyholder with documentation to support the amount requested. It is important to understand the Proof of Loss is not the claim.

## Notify Insurance Company

- You must report the insurance claim with your carrier in a timely manner.

## Mitigate Damages

- You must ensure you take precautions so that your property is not further damaged.



# INSURANCE COMPANY TACTICS

## DENY YOUR CLAIM

- You may have been informed that the “damages do not meet your policy deductible.” This may have been determined incorrectly because:
  1. The insurance adjuster may have failed to document all damages to your property
  2. The insurance carrier simply chose to low-ball the claim
- Your damages may in fact meet your deductible and your damages, seen and unseen (mold, bacteria, future remediation needs), and may easily exceed your policy limits.

## UNDERPAY YOUR CLAIM

- Insurance companies will likely pay the least amount as possible for your insurance claim.
- If you have been under-compensated for your damage, you have a right to submit a claim for additional insurance money.
- This must be done relatively quickly after receiving your initial settlement or you will be barred from seeking additional money you are owed.

## DELAY YOUR CLAIM

- Delaying your claim and essentially keeping money in the bank ensures interests are paid to a larger degree for the insurance carriers bank accounts.
- The insurance carrier’s decision to delay your settlement, may actually increase the damage to your home due to untreated water damage, mold, and fungus.
- If your settlement is being delayed, it is extremely important that you have a second assessment of the damage to your home to ensure the settlement amount is not only sufficient, but covers additional damage as a result of the delay.



Please Note: In any of these circumstances, you should reach out to an attorney to review your claim and the options available.

## DEFEND YOUR CLAIM

- Insurance companies will defend their position through litigation.

# FLORIDA'S INSURANCE CONSUMER ADVOCATE

- Florida's Insurance Consumer Advocate office is committed to finding solutions to insurance issues Floridians face.
- The office calls attention to questionable insurance practices and promotes an insurance market that meets the needs of Florida residents and property owners.
- This office also drafted the Consumer Advocate Bill of Rights.
- This bill of rights came about due to the large number of homeowners claims filed each year and as a result of complaints filed by the homeowners.

## CONSUMER ADVOCATE BILL OF RIGHTS



- Many times a homeowner is left in the dark with how to proceed on their own claim.
- This bill of rights provides a service to homeowners in regards to what the necessary steps and requirements are for a homeowner when filing a claim with their homeowners insurance policy.
- It is meant to explain to insured homeowners the timelines insurance companies follow for filing new property damage claims.
- This bill of rights can be used before, during, or after a homeowner has a claim.



1-877-440-4878



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# Residential Claim - Homeowner Claims Bill of Rights

Florida Statutes, s. [627.7142](#), outlines a Homeowner Claims Bill of Rights.

## **The purpose and exceptions:**

The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim. The bill of rights is specific to the claims process and does not include all the policyholder's bill of rights under Florida law regarding an insurance policy. The bill of rights does not create civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the homeowner Claims Bill of Rights is subject to administrative enforcement by the Office of Insurance Regulation (OIR), but is not admissible as evidence in a civil action against an insurer. The bill of rights does not enlarge, modify, or infringe upon other statutory requirements and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or s. [627.7011](#), and [627.702](#).

## **Timelines:**

Insurers issuing residential property insurance policies must provide a Claims Bill of Rights to a policyholder within 14 days after they receive a communication with respect to a claim, unless the claim follows an event that is the subject of a declaration of a state emergency by the Governor. Please keep in mind, there are exceptions to timelines concerning residential property claims if the circumstances are beyond the insurer's control provided under s. [627.70131](#).

## **The Homeowner Claims Bill of Rights Notice to Policyholders:**

### **The policyholder has a right to:**

- 1) Receive acknowledgement of their claim within 14 days after the claim was communicated to the insurer.
- 2) Receive communication from the insurer as to the claim being covered in full, partially covered, or denied, or a written statement that your claim is being investigated, within 30 days after the company receives the policyholders completed proof of loss form.
- 3) Subject to any dual interest noted in the policy, receive full payment of the claim, the undisputed portion of the claim, or the denial of the claim within 90 days.
- 4) Free mediation of your disputed claim, offered through the Division of Consumer Services, under most circumstances and subject to certain restrictions.
- 5) Neutral evaluation of a disputed sinkhole claim if the claim is due to sinkhole damage and is covered under the policy.
- 6) The availability of assistance with any insurance claim or questions pertaining to the handling of your claim from the Division of Consumer Services. They must provide the direct and toll free number and website of the Division on the notice.

### **You are advised to:**

- 1) Contact your insurer before entering into any contract for repairs to confirm any managed repair policy provisions or optional preferred vendors;
- 2) Complete and document any emergency repairs that are necessary to prevent further damage. Keep all receipts and take photographs of the damage before and after any repairs.
- 3) Carefully read contracts that require out-of-pocket expenses or a fee that is based on a percentage of the insurance proceeds that you will receive for repairing or replacing your property;
- 4) Confirm that contractors are properly licensed to do business in Florida and check to see if they have any complaints filed against them with the Department of Business and Professional Regulation. Contractors should also be asked for references from previous clients. To verify a contractor license, call the Florida Department of Business and Professional Regulation at 850-487-1395 or visit  
<http://www.myfloridalicense.com/dbpr/>
- 5) Require all contractors to provide proof of insurance before starting repairs.
- 6) Secure your property, turn off gas, water and electricity, and contact the insurance company to provide them a phone number where you can be reached if the damage requires you to leave your home.

### **Reference:**

**Florida Statute [627.7142](#)**

# Areas of Law We Practice

## ◦ Property Damage

### ◦ Storm Damage Claims

## ◦ Personal Injury

### ◦ Auto Accident / Injury

## ◦ Family Law

## ◦ Personal Injury Protection (PIP)

## ◦ Criminal Defense

## ◦ And More



# FREQUENTLY ASKED QUESTIONS

## How long does the insurance company have to pay my claim?

- Under Florida Statute 627.428, within 90 days of receiving notice of your claim, the insurance company has to either pay or deny your claim, or a portion of your claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment.

## When can I file a lawsuit?

- If your claim is denied, you can file a lawsuit immediately after receiving notification in writing of the denial. Additionally, if the insurance company advises that they are only willing to pay a portion of your damages, you may file suit upon notification of that decision. Alternatively, if 90-days has passed from the date you notified your carrier of your claim, and no decision has been made, you may file a lawsuit at that juncture.

## Can I start repairs before the insurance company makes a decision on my claim?

- As long as you have given the insurance company an opportunity to inspect your property and all the damages being claimed, you may commence repairs. Be sure to photograph and document all damages prior to beginning any repairs.

## What if my repairs cost more than initially estimated?

- If you receive payment from the insurance company, but additional damage is discovered through the course of repairs, which were not apparent prior to beginning your repairs, you can submit a supplemental claim to the insurance carrier.

## Will my insurance company pay for living expenses?

- If your policy has coverage for additional living expenses, you can seek to recover any funds you have spent for temporary living expenses as a result of the loss. The terms and limits of this coverage are pursuant to your policy.

## If I need multiple repairs from various contractors, how is my deductible applied?

- Your deductible is applied one time to the entire loss. Your deductible can be found on the declarations page of your policy.

## Am I responsible for paying my deductible to my contractor?

- Yes, any payments issued will be less your deductible which are your responsibility.

## **How does the hurricane deductible work? Why is it so high?**

- When you renew your insurance, you agree to the terms. The deductible is part of the insurance contract and that amount will be due before the carrier would issue any payments above that number. For example, if your deductible is \$5,000 for a hurricane claim and the carrier says the amount you are owed is \$10,000, they will only issue you a payment for \$5,000 which would be the estimate - deductible = amount to insured. It is important to note that the insurance carrier's estimate is not the final stage, we can determine the actual amount you would need for the work and pursue the carrier for the balance.

## **Why is my hurricane deductible different from my regular deductible?**

- If your claim is denied, you can file a lawsuit immediately after receiving notification in writing of the denial. Additionally, if the insurance company advises that they are only willing to pay a portion of your damages, you may file suit upon notification of that decision. Alternatively, if 90-days has passed from the date you notified your carrier of your claim, and no decision has been made, you may file a lawsuit at that juncture.

## **The carrier said my claim is under deductible, but I have estimates that are over that amount, what do I do?**

- These types of cases are great cases for us to help out on, since the carrier has determined coverage but disagreed with the amounts. We would pursue your carrier for the amount of the estimates you or we obtain.

## **How much time does the insurance company have to adjust my loss?**

- By Florida Statute an investigation time period of 90 days is deemed reasonable, however, if the insurance company can point out extenuating factors that time period can be extended to whatever amount of time is needed to reasonably investigate the claim. That being said if the insurance company has denied your claim or affirmatively stated that "xyz \$" is the only amount they are willing to pay then our firm can move forward with a lawsuit.

## **How long does a lawsuit take?**

- It's hard to answer that question because the insurance company ultimately controls the checkbook. That being said, they have 20 days to respond to our lawsuit once they are served.

## **Will I be able to fix my roof for the settlement they are offering?**

- Ultimately, you will need to fix the roof regardless. We will call your roofer and see if they are willing to work with you on this.

## **How much does it cost me to retain your firm?**

- We operate on a contingency basis, so we don't get paid if you don't get paid. Additionally, pursuant to Florida Statute, if a judgment is obtained in your favor, the insurer must pay for your attorneys' fees and costs.

## **How long until we get a settlement?**

- There is no guarantee on timing, however, if we are forced to litigate your claim, generally speaking the insurance company has 20 days to respond to the complaint after being served.

## **Will the money I get in a settlement be enough for repairs?**

- Since we are working for you, we will only settle a claim with your authority, and if necessary we can speak with your contractor or estimator about an appropriate amount necessary to put you in your pre-loss condition.

## **Why hasn't the insurance company responded to me?**

- We sometimes ask the same question, and there are avenues such as sending a formal demand letter, filing a Civil Remedy Notice, and/or a lawsuit that should prompt a response if the insurer is being unresponsive to your claim correspondence.

## **How long is my claim going to take?**

- Each claim is different so it's difficult to say how long it going to take. But by law an insurance company has 90 days to pay or deny a claim so once that time frame passes we can discuss the option of filing a lawsuit.

## **Why was my mortgage company included on my check for insurance benefits?**

- Most policies require that your mortgage company be named as a payee on checks received for insurance benefits. You should contact your mortgage company to find out about getting their endorsement.

## **If I've never had a claim before, why did my insurance company deny my claim?**

- An insurance company may deny a claim for a wide variety of reasons which have nothing to do with whether you've had a claim before. We would need to view the denial letter and policy to explain further the reason given for the denial.

## **My insurance company wants me to sign a release, should I sign it?**

- Signing a release can end your ability to recover monies for your claim. Before signing a release, you should consult with your attorney.

## **Why does my insurance company want to take a formal statement from me?**

- Most insurance policies require the insured to cooperate with them in the investigation of the claim and may require you to give a formal statement taken under oath. The purpose is for them to ask you questions about what happened at the time of the loss and what steps you took after the loss occurred. It is recommended that you have an attorney present when giving any type of formal statement to the insurance company.

## **Reapplying for Homeowners Insurance**

- While we cannot handle this for a homeowner, we refer them to the Office of Insurance Regulation (OIR) to research different insurance companies and to reach out to their agent.

# WHAT WE DO

- Analyze our client's insurance contract and legal options.
- Send the Letter of Representation and handle all the communications with the adjusters from the insurance company.
- Engage qualified professionals for the scope of loss and cost to repair.
- Aggressively represent our clients in negotiations with their insurance company and manage distribution of insurance proceeds.
- Ensure the insurance carrier lives up to their end of the bargain, as spelled out by our client's policy and the law as it applies to the claim.

# HOW WE ARE PAID

## 1. We handle first-party insurance claims on a contingency basis.

- The contingency fee percentages are in our contract because technically it is a contingency arrangement in that we don't get paid until you get paid. If pre-litigation, our fees and costs are a percentage of what we recover for you. Florida also has a fee shifting statute, 627.428, that allows us to get paid directly by the carrier if we file suit. Our contract reads that our fees are contingency or statutory, whichever is greater.

## 2. We are paid only upon recovering insurance proceeds in the claim.

## 3. Our firm does not take a fee if there is no recovery under the claim.

## 4. If a lawsuit is filed and our client prevails, the insurance company may be responsible for paying our client's attorney's fees and costs.

# HOW THE CLAIM IS PROCESSED

- Our accounting department handles all of the check processes involved in the claim so that our clients can do what matters most: get back to their home.
- We request the Limited Power of Attorney from all clients. If the insurance carrier issues a two party check to the insured and Cohen Law Group, with the Limited Power of Attorney, we can sign on behalf of the client, and deposit into our Trust Account. We then issue a check to the homeowner from our Trust Account based on the amounts previously agreed to and mail the check out.
- As the proceeds are paid out by the insurance company, they are kept in a separate trust account maintained by our firm that is governed by the Florida Bar.
- The funds are kept in a secured interest-bearing account for our client's benefit.
- The interest that accumulates in the account is the client's money, not ours.

## JUST REMEMBER

- We're here to help through the whole process.
- We will communicate on our client's behalf with the insurance company and make sure that they treat our clients fairly, or face consequences.
- We will gladly discuss any issues our client may have and answer questions specific to their situation.
- We are on the homeowner's side.



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