

Board of Contributors

# Insurance Companies Forcing Their Way Into Policyholder's Homes

Commentary by Anthony Tinelli, Daily Business Review

August 18, 2017

Who do you want in charge of your home repairs? If the homeowner insurance companies get their way, you will lose your right to control who and how your home gets repaired. Recently, Barry Gilway, president and CEO of Florida's state-run insurance company, Citizens Property Insurance Corp., wrote an opinion piece in a South Florida newspaper. His editorial created a rosy picture about the recent steps Citizens has implemented to force homeowners to allow Citizens to control repairs to their home. Many other insurance companies are riding Citizens' coattails and hoping to use the strength of Citizens' political influence to get their way. If the insurance companies convince insurance regulators to approve similar plans, the insurance companies will be allowed to hire their own contractors to repair your home, deeply affecting multiple industries and stripping you of your rights as a homeowner. It certainly seems like the insurance companies are looking to find yet another way to take advantage of its policyholders all in the name avoiding their obligations to pay covered claims.

Insurance companies admit that they are implementing these repair programs to control homeowners' options and to reduce the amount of the average insurance claim. Citizens claims that this program is necessary, citing broad and unsupported references to fraudulent contractors and unnecessary litigation. What the insurance companies really want is for no one to question their claims decisions, and if they unreasonably deny a claim, the insurance companies do not want to suffer any repercussions.

There is no better way to explain how misguided Citizens' comments are than to provide an example of what is unfortunately an all too common case. Headed into a new hurricane season, many of the problems caused by Hurricane Matthew (Oct. 7, 2016) still lingered. Our clients, like many others, were still dealing with the damage to their New Smyrna Beach, oceanfront home. Ceilings in two separate areas of the home collapsed during Hurricane Matthew's 14-hour barrage of wind and rain. The house was badly damaged. Their insurance company refused to pay the claim. For nearly a year, our clients fought and fought. They hired an architect and a licensed contractor to support their damages, but their insurance company still would not pay. Instead, the insurance company rolled the dice, and forced these homeowners to hire us to file a lawsuit. The

company's position was not in line with the law, and was so unsupported by the facts, they settled the case in less than two months.

Insurance companies, just like Citizens, want to eliminate the law that provides homeowners access to the courts. If it were up to the insurance companies, they would no longer have to pay a homeowner's attorney fees in order to force the carrier to pay a claim that is clearly owed. Under such a scenario, it is unlikely that our New Smyrna Beach clients, and tens of thousands of other homeowners, would have been able to find an attorney willing to help them. In all likelihood, they would have been forced to make the repairs without any benefit from the insurance policy they paid for.

There are reasons why laws exist, and Florida's law that forces an insurance company to pay for its insured's attorney is no different. For decades, insurance companies took advantage of their policyholders and wrongfully refused to pay claims that were owed. The legislature took action to discourage carriers from playing games with its insured. Florida's Supreme Court said it best, "it is clear to us that the purpose of this provision is to level the playing field so that the economic power of insurance companies is not so overwhelming that injustice may be encouraged because people will not have the necessary means to seek redress in the courts."

The hope is that the prospect of having to pay for attorney fees should prompt the insurance companies to process and pay its claims in a timely manner. This is so, because the insurance companies have a long history of refusing to do so. Citizens and many other insurance companies want to take this basic safeguard away so they can continue to increase premiums under the guise that it is protecting a homeowner from untrustworthy repair companies. If that happens, who is going to protect the homeowners from the unscrupulous insurance companies? Certainly Florida's Supreme Court and the lawmakers of the past believed that policyholders would be left without any protection from an insurance company's whim. Insurance companies have the budget to lobby our legislature, and hopefully, common sense and the past will prevail so we do not need yet another example of how history has a tendency to repeat itself.

---

*Anthony Tinelli is a partner at Mase Tinelli in Miami. He represented Citizens Property Insurance Corp. and Heritage Property Insurance & Casualty for 12 years and now represents policyholders in suits against insurance companies.*

---