

Pertaining to a blog published June 2020—Questions from Johnson Strategies, LLC (JS), to Paul Handerhan, President Federal Association for Insurance Reform (FAIR), regarding State Farm vs. Sanders and PA's as appraisers.

1. JS--Is it customary for PA's to charge a percentage fee for doing an appraisal? Or, is it usually a flat fee? I've been told the latter is the case but, there's no prohibition I can find against the former and I've been told there are plenty who use the percentage approach.

Handerhan: *If a public adjuster was retained prior to an appraisal being invoked, they customarily do not charge any fee for providing the appraisal services. If the public adjuster is being retained only to act as the insured's appraiser, the fee can be charged on a percentage basis or a flat fee, usually the determining factor in this scenario is the amount of the indemnity in dispute and the complexity of the claim. Most insureds prefer a contingency fee arrangement, because it shields them from the uncertainty of any out of pocket costs.*

2. JS--If a PA charges a percentage for the appraisal of say, 20% and has a contingency of 20% does the total he/she receives have to be less than 20% of the claim payment as required in the PA statutes or is the appraisal considered outside of that amount?

Handerhan: *State law does not make a clear distinction as to whether appraisal fees apply to the current public adjuster fee caps. I would recommend public adjusters to abide by the public adjuster fee caps when handling appraisals.*

3. JS--In all the court cases, including the above State Farm case (State Farm vs Sanders), the adjuster was charging a 10% contingency fee but, also acting as the appraiser under the appraisal clause. Is there a connection? In other words, they charge only 10% contingency fee in order to win the account knowing that they will force an appraisal and get another additional amount. I've been told by one PA that he charges \$750 for residential appraisals and \$1250 for commercial and he asks for 10% on the contingency agreement. Is this standard or usually the case? Is this fee about right?

Handerhan: *There are many potential fee variations depending on the complexity of the claim and the amount of indemnity in dispute. However, the vast majority of public adjusters do not charge an additional fee to act as the appraiser when they have been previously retained as the public adjuster. Whatever the*

fee arrangement, my recommendation is to not exceed the current public adjuster fee caps.

4. JS--Does FAPIA or any organization of adjusters have standards of conduct regarding this or a legislative position that you know of.

Handerhan: *FAPIA disagrees that either the insured's or insurer's appraiser is or should be disinterested. In practice, both appraisers are advocating for their client's best interest. They believe the individual that needs to be disinterested and impartial is the umpire.*

5. JS--Any statutes that you may know of that would apply to what I'm after, like statutes regarding the conduct of appraisals?

Handerhan: *No, but licensing of appraisers and umpires would resolve much of this uncertainty.*

Thank you.

As always, we appreciate the relationship, value the partnership!

Paul Handerhan

President

Federal Association for Insurance Reform (FAIR)