

# FLORIDA WATCHDOG

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## ‘Johnny Appleseed of AOB litigation’ hints at ‘new tactics’ to blunt insurance reform law

President Donald Trump visited the Panhandle this week to offer \$448 million in disaster assistance funds “immediately” and a 90-percent federal reimbursement rate for a range of local and state recovery costs, including debris removal.

Attorney Harvey Cohen has been to Panhandle at least four times since Hurricane Michael barreled ashore in October and he, too, has delivered assistance in the form of seminars that teach restoration, mold remediation, plumbing, roofing and general contractors how to secure assignment-of-benefit [AOB] agreements with property insurance policyholders.

Cohen, the so-called “Johnny Appleseed of AOB Litigation,” has been delivering such assistance in fliers, videos, tutorials and “lunch-and-learn,” “happy hour” and “insider” seminars for more than a decade.

He and his Maitland law firm, Cohen Law Group, are often cited by the insurance industry, state regulators and consumer advocacy groups as the poster culprit for filing “can’t lose” lawsuits against property insurers to collect the “one-way” attorney fee guaranteed through a provision in the state’s AOB regulations.

During session committee testimony, former Florida Supreme Court Justice Ken Bell described AOB litigation as “a very creative idea by one attorney” that began in 2005 and has mushroomed into a court-clogging “cottage industry.”

According to a December report by the Insurance Information Institute, there were about 400 AOB lawsuits statewide in 2006. In 2013, the number of AOB lawsuits was 79,000. Over the first 11 months of 2018, there were nearly 135,000 – a 70-percent increase in five years that state regulators say is partially responsible for rate hikes of up to 36 percent for many of Florida’s 6.2 million property insurance policyholders.

“AOBs are so out of hand that in the 12 months of 2018, just one Florida attorney was responsible for filing 30,000 AOB lawsuits – that’s 125 lawsuits a day,” Bell told lawmakers in committee hearings, noting one attorney with Cohen’s law firm filed 3,380 “mostly AOB lawsuits” in South Florida between 2016 and 2018.

AOB agreements allow property insurance policyholders to sign away, or “assign,” their insurance benefits over to contractors in exchange for “upfront work” following an emergency.

The “one-way” attorney fee provision was provided to give a policyholder, or a contractor’s attorney under an AOB agreement, better standing in court disputes with insurance carriers by requiring companies to pay all attorney fees in claims litigation, regardless who actually wins or loses the suit.

After seven years of failed attempts, Florida lawmakers adopted an AOB reform bill, House Bill 7065, during the recently concluded legislative session that, among other things, eliminates the “one-way” attorney fee provision, effective July 1.

Gov. Ron DeSantis, who cited AOB reform as a legislative priority, is expected to sign the new AOB law into state statute in the coming days.

Two days after the Legislature adopted HB 7065 on April 24, Cohen released a video imploring vendors and contractors to quickly secure AOB agreements with homeowners and get them to their attorneys to file suits before July 1.

"You need to have all of your documents sent into us right away. As the case is now, as long as the assignment of benefits was signed before July 1, you're OK, but we don't know how that's going to play out in the courts," Cohen said in the video. "Get every AOB sent in. Your attorneys need them right now."

In addition to spurring a two-month surge in AOB filings before the law goes into effect, Cohen said his firm will conduct seminars offering statewide offering “new tactics” on how to deal with the new regulations after July 1.

"We're also going to be having seminars and classes regarding how to go on from here," Cohen said, adding the training will include “the best ways to protect yourself, to bill for insurance claims from here on out, and how to collect money without assignment of benefits.”

The video has drawn the rancor of the AOB reform proponents, including the Consumer Protection Coalition [CPC], which called the presentation a “last call for AOB lawsuits.”

“It is precisely this type of gaming of the system that has hurt Florida’s hardworking families and fueled out-of-control AOB litigation, fraud and abuse in both property and auto insurance,” the CPC continued in a statement. “These types of litigation-for-profit schemes by billboard trial attorneys cost all Florida insurance consumers in the form of higher rates.”

“Florida’s legislators and other senior elected leaders should be aware there are already blatant efforts underway to erode the good reforms that the Legislature has just passed on #AOBabuse,” tweeted the Florida Association of Insurance Agents.

“This is ridiculous and EXACTLY why I advocated for AOB reform,” Florida Chief Financial Officer Jimmy Petronis said on his Facebook page below the video. “These lawyers are looking out for their bottom line, not for Floridians, and are WHY your insurance rates go up.”

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