

Beware The Public Adjuster Before Filing A Bad Faith Claim

By Andrew J. Kennedy

The recent case [Richard and Tina-Marie Collier v. Jeffrey Balzer Public Adjusters](#) is a lesson in the dangers of hiring a public adjuster and then hiring a lawyer to file an insurance bad faith claim. The case is a non-precedential case issued on July 15, 2016 by the Pennsylvania Superior Court.

Homeowners hire a public adjuster

In 2011 a tornado damaged the Plaintiff's home and their insurer, Homesite Insurance Company paid the homeowners \$95,000 for damages to the home. They were not satisfied so they hired a public adjuster, Jeffrey Balzer to assist them. Balzer obtained an additional \$165,000 for them. They were still unsatisfied, so they hired a lawyer. The lawyer filed a bad faith claim in the Westmoreland County Court of Common pleas under Section 8371.

It is not clear what the bad faith was, but it was obviously was serious because in September of 2013, the insurance carrier agreed to pay an additional \$1, 050,000 to settle the coverage and bad faith claims. Given that the policy had a limit of \$462,600, the settlement clearly related to bad faith, and not just the coverage action.

Now enter Balzer. Upon hearing of the \$1 million settlement, he sent an invoice for 20% of the entire \$1 million settlement. The homeowners agreed to pay him 20% of the amount attributed to the homeowner's policy, but not attributable to the carrier's bad faith. He disagreed and the matter went to court.

In other words, the public adjuster had a contract which provided that he was entitled to 20% of the amount recovered. In the end, he argued that he was entitled to 20% of monies that the homeowners recovered before he was involved, and also 20% of the amounts recovered after the case was turned over the lawyers for litigation.

The suit involving the public adjuster went before a judge in Allegheny County and he found that the adjuster was only entitled to 20% of the recovery from property damaged by the tornado. This appears to allow the adjuster to gain 20% of the amount recovered, even if the adjuster did not cause the recovery. The Court though, would not let the adjuster obtain recovery for the bad faith claim.

Lessons

Given this case, policyholders should be wary in dealing with public adjuster's contracts. When they hire a public adjuster, policyholders should make it clear that they will only pay a public adjuster for recovery obtained by the adjuster--not monies previously obtained by the policyholder without any help, nor monies obtained after they have to hire a law firm.

Lawyers for policyholders should likewise be wary of this. It would have been much better to get the policyholder to settle up with the public adjuster before filing the bad faith lawsuit or, at the very least, obtain an agreement that the adjuster would not seek any monies they were recovered after the lawyers became involved.

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