

Hailstorm Damage Puts Faith in Question

ARLINGTON, TX, USA, January 29, 2021 /EINPresswire.com/ -- The 2016 storm season was the most expensive storm season on record for Texas. On March 17th, 2016 Arlington, Texas experienced no less than six recorded hailstorms, the largest of which generated hail two-and-a-half inches in diameter. The hazardous weather system began Thursday morning, dropping huge pieces of hail and grounding flights out of DFW Airport. This was a monster storm that damaged many homes in the area, our client being one of those homeowners.



The [roof damage](#) was so severe that our client submitted a homeowners insurance claim through his insurance provider, State Farm. After filing the roof damage claim, the insurer sent out their adjuster who inspected the property damage and determined there was none or below our client's deductible. Blindsided by his insurer's stance, our client hired us and invoked appraisal for their case. The appraisal award came back at 80,000 times the amount of damages originally assessed by State Farm.

State Farm paid most of the award. To collect the remainder of the award and interest and attorney fees, our client pursued his insurer by filing suit, declaring his insurance company had acted in breach of contract and violation of Chapter 541 of the Texas Insurance Code, the Texas Deceptive Trade Practices Act (DTPC), and the Texas Prompt Payment of Claims Act (TPPCA). To guard their profits, insurers every so often commits deceitful practices, deliberately distort their policy language to avoid paying a claim, use absurd delays to avoid resolution of a claim, or make frivolous demands about proof of loss. This is called a [bad faith](#) insurance practice.

Our client's insurer responded with a motion for [partial summary judgment](#) on all our client's claims as a means of staving off breach of contract and TPPCA pursuits based on the Texas Supreme Court decision in Ortiz. State Farm argued that they had paid the award and therefore there was no breach of contract or extra-contractual claims left to pursue.

Is It Bad Faith, Bad Luck, or Both?

For the statutory bad faith claim to stick, our client had to show a breach of contract by his insurer. The insurer contends that a breach of contract is a prerequisite to statutory bad faith, yet policyholders argue a breach of contract is only a prerequisite to bad faith when the claim is not covered.

Generally, there can be no claim for bad faith when an insurer has promptly denied a claim that is not covered. However, failure to show a breach of contract does not alleviate a policyholder's bad faith claims. What this means is the insured must show coverage, not a breach of contract. It is undisputed that our client's claim under the policy was covered. The insurer did find damage, below the deductible when the claim was initially adjusted.

The only fair and rational analysis of the law that does not offend common sense or public policy is one that preserves an insurer's responsibility to deal with an insured in good faith when the insured's claim is covered. Our client's insurance providers manipulation of the law would allow them to ignore their responsibility and systematically delay, deny, or underpay insurance claims until the insured hires an attorney and sends a pre-suit notice letter suing for breach of contract and bad faith, then to simply invoke appraisal, pay the award, and weaken the insurer's contractual liability but also its statutory liability for bad faith acts and the adjustment process.

At the hearing, our attorneys argued the above and pointed out that an appraisal award that is 80,000 times higher than the amount first assessed by State Farm, and the unilateral (line-item veto) of certain damages in the award, amounted to breach of contract and bad faith. The court agreed and denied State Farm's summary judgment on all grounds.

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