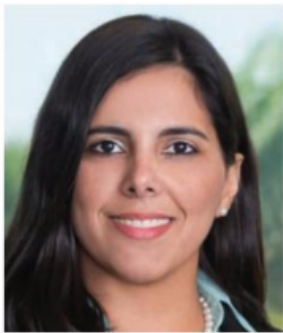




The Intersection of Humanity & Law in Dealing with Hurricane Irma Claims



By Maria T. Santi

Hurricane Irma, the most intense hurricane to strike Florida since Hurricane Andrew in 1992, hit the Florida Keys in the early morning of September 10 as a category 4 hurricane. All 67 Florida counties were impacted. Homes, businesses, loved ones and livelihoods were lost. Ongoing challenges in Irma's aftermath include dealing with insurance claims, legal issues and FEMA assistance, and the insurance industry is being

called upon to help people navigate this process.

There is an estimated \$5.5 billion in reported economic damages sustained by policyholders and insureds in Florida. The economic aspects of the aftermath will dictate the proportioning of resources through insurance claims. Residents may prefer human values of humility and compassion to guide the decisions of insurers to repair homes and lives, but economic and legal forces will undoubtedly be the guiding force. Insurers must protect their economic health while providing insureds adequate insurance benefits. There are several strategies insurers can keep in mind to balance competing interests and ultimately stem their own losses.

According to the Florida Office of Insurance Regulation, 809,306 claims had been filed as of Nov. 3; 672,106 are residential property claims. Agents and brokers can serve as edu-

cators to insureds by advising them on how to manage claims expediently during the claims process. However, guidance should be limited to ministerial administrative duties, as explaining rights under an insurance policy can delve into the unauthorized practice of law. Further, an agent or broker should not advise insureds about whether to pursue a claim or whether a claim exceeds a deductible. This can expose agents and brokers to liability if the insured files a claim that is later denied due to late reporting.

Another ongoing issue is that new claims filed in the wake of Irma have added to existing claims. Insurers face a tedious task of scrutinizing

to insureds. Public adjusters may also include assignment of benefits language in contracts with the insured. This can increase expenses faced by insurers. When an insured assigns a benefit to a mitigation company or public adjusting company, those companies can file lawsuits against the insurers for the same loss, increasing legal costs.

One way of preventing this is for agents and brokers to develop a vetting system to identify quality adjusters and mitigation companies to help insureds avoid predatory practices by unscrupulous public adjusters and mitigation companies. Agents and brokers need to pay attention to assignment of benefits issues.

prior claims to determine overlaps between old and new Irma claims. Insurers will need to decide how the overlap relates to the cause of loss in prior claims. One of the greatest issues that plagues Florida for overlapping claims is the history of insurance fraud and abuse. Actuaries can calculate the costs of most catastrophes, but one variable that can never be accurately accounted for is the cost and extent of fraud. Insurance agents, brokers and insurance adjusters should assert adequate controls to prevent fraudulent claims.

Public adjusters claim to represent the best interest of insureds, but some seek a maximum payout for their own benefit. The benefit of having a public adjuster is the insured doesn't need to be involved in the claims process. The downside to a public adjuster is a percentage for the services rendered is charged, which reduces insurance benefits paid

In assessing damages, insurers must distinguish between total losses and small losses. Losses are governed by policy provisions and endorsements that need to be closely examined. The resources needed for total losses may be squandered away by public adjusters seeking to inflate prices for unnecessary repairs or aesthetic purposes for small losses.

The ultimate goal is to bring insureds to their pre-loss condition. For some, this will happen quickly. For others, there are months of rebuilding. The relationship between agents/brokers and insureds should include an element of humanity to guide insureds through the claim process and to the right resources and help insurers save money on losses. ■

Maria T. Santi is an Attorney in the Fort Lauderdale office of Kelley Kronenberg, a diverse business law firm, where she handles first party property matters. She can be reached at (954) 370-9970 or msanti@kklaw.com.