

Insurers starting to settle claims

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TALLAHASSEE — Mary Stitt was surprised when she learned her insurer was breaking ranks with the industry and would pay for the home Hurricane Ivan swept away.

"They never gave any reason," said Stitt, a USAA Casualty customer for 38 years. "They paid us what they owed us, and that's all we ever asked for."

USAA is among a small number of insurance companies to quietly settle 2004 hurricane cases under Florida's disputed valued-policy law, paying not only policy limits to homeowners but legal fees to their lawyers.

The settlements fly in the face of what insurers argue publicly — that wind-storm premiums don't insure against water damage, therefore they don't need to rebuild hurricane-totaled homes if storm surge played any part in the loss.

There is no comprehensive list of the number of policies with 2004 hurricane damage that have not been paid because of storm surge disputes, but one insurance executive earlier this year said the valued-policy law losses were \$480 million.

Citizens Property Insurance has 351 cases in wind-versus-flood disputes with \$68 million in claims. State Farm Florida has 264 such cases.

The recent spate of settlements raises hope among plaintiffs' lawyers in the Panhandle, where hundreds of uprooted homeowners are in court while their homes go unrepaired.

"It's very spotty at the moment, but I do see what I could call the beginnings of a trend," said Matt Schultz with Levin Papantonio, one of many Pensacola firms handling dozens of the wind-flood lawsuits.

"The cynical plaintiff's lawyer in me says they're cherry-picking what they see as the most dangerous claims, where you get punitive damages," Schultz said.

For every homeowner who lands a settlement, lawyers estimate nine others are headed into the legal labyrinth, dragged into federal court or class-action lawsuits.

For some homeowners, losing means they can't rebuild.

For insurance companies, losing means not only hundreds of millions dollars more in claims checks, but the threat of triple damages if a jury determines the companies acted



M. Stitt

Cases being looked at 'one at a time'

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in bad faith in the way they treated customers like the Stitts.

Retirees living on Big Lagoon near Pensacola, the Stitts had been with USAA Casualty for 38 years. After Ivan took everything they owned, Charles Stitt was diagnosed with cancer of the larynx.

"To me, they've always been the best insurance company," Mary Stitt said, explaining her devastation when USAA denied her claim. "It was like your family let you down."

"If I were president of an insurance company, I would take a long hard look at that," said Samuel Bearman, another

Pensacola attorney reporting insurance settlements.

Insurance companies have little to say about their reasons to pay some wind-flood claims while contesting others.

After it settled with the Stitts this summer, USAA forced another homeowner's claim into federal court, a tactic also used by Allstate Floridian and other large insurers.

The company is "looking at the cases one at a time," said USAA's Florida spokeswoman, Lynne McChristian.

"We really work hard for what is right for that member and the membership as a whole. ... Over all we try to do the right thing."

Leading the charge for companies who refuse to settle is Citizens Property Insurance, the state-run insurer of last resort.

Citizens continues its battle to overturn lower court rulings requiring it pay for homes destroyed by wind and surge.

Because it insures coastal properties other companies won't take, "we have a lot more at stake on this," spokesman Justin Glover said.

A second state-controlled insurer has a different opinion.

The Florida Insurance Guaranty Association is paying policy limits on the wind-flood cases among 10,235 hurricane claims it inherited from the insolvent

American Superior Insurance Co.

FIGA cites the very same court rulings that Citizens contests.

"It's the current case law," said Lea Harrigan, director of claims.

For customers of companies that won't settle, the end looks a long way off.

What once promised to be fast-track litigation against Citizens now is mired in legal mud as plaintiffs attorneys from Pensacola contest its designation as a Tallahassee-based class action.

Other would-be class actions against Nationwide, Allstate Floridian and State Farm Florida have been pulled by the

insurance companies into federal court, no further along than when they were filed months ago.

Florida's top insurance regulator won't take sides but is pleased to see companies give up the fight.

"I want policyholders to rebuild their homes and continue their lives. From that perspective, it's positive," said Kevin McCarty, director of Florida's Office of Insurance Regulation.

He visited the Panhandle recently.

"Those are very hardy people that really want to rebuild," he said. "They just need to have their claims paid to do that."