

## Top Seven Ways Insurance Companies Try to Avert Paying All or Part of Consumer Claims

By Alan Garfinkel, Attorney

As of March 2005, Florida state officials reported that about 150,000 claims resulting from the 2004 hurricanes are still unresolved. The sheer magnitude of the 1.6 million hurricane-related claims filed in Florida tested the limits of the insurance industry.

Despite advertising campaigns and slogans that imply the opposite, insurance companies are for-profit corporations. It benefits their profitability, and thus their shareholders, to pay the least amount of money they can to settle the claims of their policy-holders.

Here are the top seven ways they do it.

**1. Multiple Deductibles for a Single Claim:** Our firm has seen cases in which insurance companies applied multiple deductibles for a single claim. This practice is unacceptable unless the property was damaged by multiple hurricanes. Some insurance companies have asserted, "The damage does not exceed the deductible," when, in fact, this proved not to be the case once an investigation was conducted.

**2. Blanket Depreciation of Replacement Costs:** Some insurance companies may "blanket depreciate" the replacement costs, based on the age of the house, roof or damaged portion. The insurance company may, for example, depreciate not only the cost of paint *but also* the cost of labor. Depreciating material cost is acceptable. Depreciating labor cost is not. The consumer ends up paying the difference out of his or her own pocket.

**3. Use the Threat of Policy Cancellation:** The insurance policy—which is a contract—cannot be cancelled because a policy holder presents a claim or retains a lawyer. Hurricanes, just like earthquakes, are natural disasters and are not based on the behavior or maintenance of the property.

**4. Underestimate with Estimating Software:** Insurance companies use an estimating software program called "Exactimate." This estimating analysis fails to address the sudden increases of material and labor costs due to a regional or national catastrophe. Material and labor costs are a large portion of repair.

**5. Require Receipts to Discourage Self-Repair:** Some insurance companies state they will not reimburse the consumer if they do not have receipts or if they do the repair work themselves. This is an insurance trick. Consumers should be reimbursed for repair work regardless of who performs the work.

**6. Fail to Advise Policyholders About Carpeting Coverage:** Coverage for carpeting can be complicated for policyholders. Garfinkel Trial Group has seen examples of insurance companies that fail to fully reimburse carpet damage.

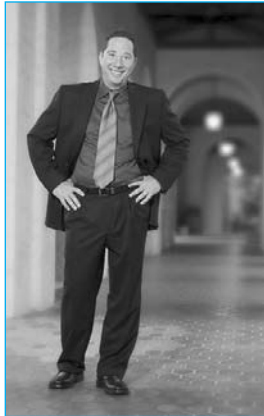
- Some insurance companies try to convince the insured that the carpet needs only cleaning instead of replacing. Once there is water penetration or glass breakage, however, the insurance company is legally obligated to compensate for the replacement of the carpet.

- Some insurance companies may avoid paying for carpet padding. It is necessary to change the pad or eventually the carpet will stick to the pad causing humidity damage and mold contamination.

**7. Deny Testing for Mold:** The Garfinkel Trial group has seen many cases where insurance companies deny mold testing and payment. The Garfinkel Trial Group recommends mold testing. If there is mold present, a claim for remediation should be presented to have the insurance company pay for the affected areas.

*About the Garfinkel Trial Group: Alan Garfinkel is a Board Certified Florida Lawyer and the founding partner of Garfinkel Trial Group, a 12-lawyer, nationwide plaintiff personal injury and natural disaster law firm. He is AV rated by the most widely used lawyer rating company, Martindale-Hubbell, and is a contributor to the database company LexisNexis and is frequently on TV and radio.*

For more information, go to [www.hurricanejustice.com](http://www.hurricanejustice.com) or call 800-393-1529.



Alan Garfinkel

The first divorce directly related to the September 11<sup>th</sup> terrorist attacks was filed in New York. It appears a guy with an office on the 103<sup>rd</sup> floor of the World Trade Center spent the morning at his girlfriend's apartment with his phone turned off. He wasn't watching TV either. When he turned his phone back on at about 11a.m., it rang immediately...it was his hysterical wife, "Are you OK? Where are you?" He said, "What do you mean? I'm in my office of course!"

## How Can My Home Health Agency Help In A Disaster?

Recent events have caused us all to think about emergency preparedness even more than ever. We can never be too prepared for a hurricane or other such event. Experts have said and experience has shown that we should be ready to live *at least* three days without power or outside help of any kind. This requires plenty of clean water, food that doesn't require refrigeration or cooking, an extra supply of medications, as well as items needed for hygiene.

In addition to preparation of this type, those who are at risk, such as the sick and aging, require an extra measure of assistance. During the last hurricane, *Champion Home Health Care* received a call from a daughter, living out-of-state, who had been told by the home health agency caring for her mother that she needed to make arrangements to transport and care for her mother during the storm. The agency was unable to assist in any way. This should never happen!

Home health agencies are required to have an emergency plan on file for each and every person served. The plan should include whether these individuals prefer to have their regular agency caregivers with them throughout the storm, or if they will be staying with family members/friends. If living in an evacuation area, the location each person will evacuate to must be included in the plan, as well. The agency is responsible for making sure all are in a safe place, whether that be their home, the home of a family member, a hospital or other facility.



Renee Risnear

**Ways that your home health agency can help:**

- Provide a list of emergency management telephone numbers, shelters and maps, and instructions on how to prepare a disaster supplies kit. If you haven't received this information and would like to, ask for it!
- Help with registering *in advance* for a special needs shelter, if needed.

(Those who require a continuous supply of electricity for oxygen and those who suffer with dementia are candidates.)

- Communicate to ensure each individual is safe.

**What your home health aide can do:**

- Shop for needed supplies.
- Pick up prescriptions.
- Provide transportation to a shelter or other place of safety.
- Make necessary preparations such as filling tub with water, placing lanterns throughout the house, etc.
- Stay and care for you or your loved one throughout the emergency (in home or shelter).

*Renee Risnear is Director of Operations for Champion Home Health Care.*

*Champion Home Health Care provides well trained, personable and reliable caregivers to individuals needing home health care as well as to those institutions requiring medical staffing. Our services enhance the individual's quality of life and maintain the person's independence by allowing the client to remain in the comfort of his/her own home.*

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## Follow the Cobblestone Road

After observing people in China exercising, walking and sometimes dancing on cobblestone paths, behavioral researchers from the Oregon Research Institute conducted a study comparing two groups of healthy men and women over age 60 to find if there were any health benefits to this form of exercising. Both the experimental group who walked on a simulated cobblestone mat and the control group who walked on a flat surface 30 minutes per day 3 days per week showed improvement in several measures of physical health at the end of the 16-week study period. However, compared with the ordinary walking group, the group that walked on cobblestones had better balance on several measures, lower blood pressure, and increased mobility.

(Nicholas Bakalar – *2 Exercises Help Older People Stay on Their Feet*, The New York Times, July 26, 2005)

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