

Agents May Face Legal Wrangling Over Tennessee Flood Claims

Nashville, Tennessee Flood

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As insurance agents in Tennessee are challenged by the number of claims from floods and tornadoes that hit the state earlier this month, some may also be dealing with the prospect of lawsuits over accusations that they failed to properly advise customers about flood insurance.

An attorney in Nashville says he is pursuing more than 50 complaints that homeowners were never properly informed that their policies did not cover flooding.

Earlier this month, the state was roiled with tornadoes and excessive rainfall that produced tremendous flooding and destructions. The state has requested that 52 counties be declared federal disaster areas. To date, 45 counties are receiving federal assistance and close to 50,000 people have registered with the Federal Emergency Management Agency for assistance. Nearly \$113 million in disaster grants and low interest loans have been approved.

David L. Raybin, a noted criminal defense attorney in Nashville with the law firm Hollins, Raybin & Weissman P.C., said his firm is currently investigating in excess of 50 claims that insurance agents failed to properly advise customers about flood insurance for their homes.

“For many people, their agents did the right thing and they are very happy with them,” said Mr. Raybin. “But there are a minority of cases where they did not, and that is what we are going after.”

He said the cases involve both independent agents and “big box” or direct agents. For the direct writers especially, he said a major question is whether they were properly trained. There is also an issue with mortgage companies that required homeowners to purchase

flood insurance for the structure, but failed to inform homeowners that the insurance did not cover contents.

The independent agent association, Insurors of Tennessee, has gotten in the middle of the controversy with a letter sent to members advising them they are not to admit any wrongdoing if a customer asks why they weren't covered. Agents are advised to consult with their errors and omissions carrier before responding to any allegations.

Ashley Arnold, general counsel for the association, said the letter was only part of a series of pieces of information the association sent out to members advising them on how to handle this crisis. She noted that the destruction was widespread. For example, she noted that one office had 1,000 claims in a matter of days.

"Nothing like this has ever happened before," she said. "It just doesn't exist."

While controversy swirls over flood coverage, she noted what has been missing is that agents were among the first out to their customers home helping with clean up, filing claims and getting temporary housing for their customers.

"None of our members were looking for the 15 minutes of fame while they were doing their jobs," she said.

Mr. Raybin said he is hopeful that whatever cases are brought will avoid litigation and that settlements can be reached with the agents' E&O carriers.

No matter the merits of the case, however, Randy Maniloff an attorney for the law firm White & Williams in Philadelphia, which handles litigation for insurance companies, said that if the claims do end up going to trial, due to the extent of damage, judges may feel pressure to find liability against agents because they know there are E&O policies backing them up. However, because of the sheer number of potential claims, he noted the limits on these policies could be exhausted "very quickly.

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