

## State Farm Found Guilty of Fraudulent Claims Conduct in Rigsby Qui Tam Case

Posted on April 10, 2013 by Chip Merlin

One of the last remaining Hurricane Katrina cases is the Qui Tam litigation involving the Rigsby sisters' allegations that State Farm fraudulently overcharged the government when handling NFIP flood claims. The Rigsby sisters alleged State Farm overpaid NFIP flood claims it adjusted to reduce the amount owed under the all risk policies State Farm issued. A jury verdict this week found that State Farm was fraudulent in its claims conduct when adjusting National Flood Insurance claims.

Anita Lee of the Sun Herald reported:

A federal jury has found State Farm Fire and Casualty Co. committed fraud against the federal government and submitted a false record to support fraud after Hurricane Katrina.

...The decision potentially opens for examination thousands of post-Katrina flood claims State Farm adjusted and paid before reimbursement by the National Flood Insurance Program.

Before opening their case to other claims, former insurance adjusters Kerri and Cori Rigsby first had to prove State Farm committed fraud involving one property: the North Biloxi home of Thomas and Pamela McIntosh.

The Rigsbys presented evidence that State Farm paid policy limits of \$250,000 for flood damage to the house, even though wind covered under the insurance company's policy was responsible for the loss. The jury decided State Farm overcharged NFIP the full \$250,000.

The verdict means State Farm will have to repay the \$250,000, plus damages to be determined. The Rigsbys, as whistle-blowers, are entitled to a share of recovered money. Under the federal False Claims Act, they filed the lawsuit on the government's behalf because they discovered the fraud.

By charging the National Flood Insurance Program for the loss, State Farm minimized what it owed for wind damage. The company initially paid \$36,000 for wind damage on a policy that provided more than \$500,000 in coverage. The false report was what appeared to be a line-by-line estimate of flood damage to the house, placed in the flood file. The report actually showed the value of construction materials for a generic custom home that varied in some respects from the McIntosh house. Under federal guidelines, participating insurance companies adjust their own wind claims, plus flood claims for NFIP. State Farm no longer participates in the flood program.

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Evidence showed the first engineer concluded wind destroyed the house. He based his report partly on eyewitness testimony about wind and wind-driven debris, but also found evidence that wind destabilized the house, rendering it a total loss. The report also referred to trees downed on the property and a 5.5-foot water line in the house. Unhappy with the report, testimony showed, State Farm flood claims manager Lecky King at first threatened to fire the engineering firm, Forensic Analysis and Engineering Corp. Forensic owner Robert Kochan talked his way back into King's good graces, testimony showed, sending a second engineer to examine the house. The second engineer concluded that water destroyed it.

King put a sticky note on the first engineer's report, she testified. It said: "Put in Wind File. DO NOT Pay Bill. DO NOT discuss." The McIntoshes were never shown the first report. After receiving the second report, State Farm sent the McIntoshes a letter denying any further coverage.

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The Rigsbys also were able to show State Farm never attempted to interview eyewitnesses about the loss. Kerri Rigsby testified that State Farm considered Katrina "a water storm" and trained adjusters accordingly. (emphasis added)

Read more here: Jury finds State Farm committed fraud against federal government

I have previously posted about the issues in this lawsuit and suggest those interested in this story and the various implications of claims organization culture read the following:

Mississippi Insurance Department Finds State Farm Wrongdoing But Not With Evil Intent

The Insurance Adjuster's Dilemma: Tell the Truth and Face the Consequences By Raising Claim Practice Misconduct

State Farm Whistle-Blower Suit Regarding Altered Expert Reports Continues

State Farm "Qui Tam" Hearing Raises Issues of Wrongful Adjustment

Are Computerized Estimates by Pilot Catastrophe Adjusters Low Because of a Special Database?

Thoughts Regarding State Farm Rigsby Qui Tam and the Speed of the Oil Spill

Flood Adjustment Methods Discovered in Qui Tam Case

Financial Pressures on Insurance Vendors and Experts

State Farm Rigsby Qui Tam Matter is Ready for Trial

The case is important, and the Rigsby sisters should be congratulated because it will encourage other whistleblowers and ethical adjusters to speak up. As I previously noted in The Insurance Adjuster's Dilemma: Tell the Truth and Face the Consequences By Raising Claim Practice Misconduct:

It should be against public policy for insurance companies to have any trade secrets regarding claims practices and there should be even a stronger public policy regarding any codes of conduct which prevent any adjuster or employee from disclosing improper methods or activities of claims adjustment. If we allow insurers to hide behind these shields, all we do is silence the otherwise courageous adjusters because the attorneys for the insurers will threaten them with civil action.

The classic example is the civil prosecution of the Rigsby sisters. They told a story of a State Farm adjuster holding numerous reports which were not being sent to policyholders but were "revised." The revised reports were always worse for the policyholders because they allowed for State Farm to deny claims. Had their story stopped there, they would have been terminated. But their actions went further with Dickie Scruggs, and the rest has been fodder for demeaning posts by the insurance industry.

Still, the message is clear from the insurance industry: We have a Code of Silence that you violate at your own risk.

We have initiated discussions with legislators at the state and federal level regarding these concerns. I could probably use the experience of Congressman Gene Taylor as an example. I took one of the Rimkus engineers to Washington to explain and show how his report was changed and signed without his permission. He did this in front of Taylor. In the civil action, the engineer called just before his deposition to tell us that Rimkus was getting him an attorney. At the deposition, he could barely recall the meeting with Taylor.

While there are legitimate reasons for adjusters and insurance company vendors to remain silent regarding the private information of customers and claimants, laws and contracts which further goals or activities of claims misconduct should never be allowed and there should always be exceptions to any arguments of privacy. The insurance industry should never be allowed to take any retribution against those that publicly make others aware of wrongful claims conduct. Otherwise, the insurance industry is acting like another illegal industry with a code of silence.

While the post trial motions and appeals will probably cause this case to linger for years, there are many lessons to be learned and reflected upon by the insurance claims community. We need strong laws that deter insurance companies from acting unethically and laws that encourage those who observe unethical claims handling conduct to report it, with out personal and professional repercussion.

Except for cheating insurance companies, who would oppose such laws?

Source: <http://www.propertyinsurancecoveragelaw.com/2013/04/articles/qui-tam/state-farm-found-guilty-of-fraudulent-claims-conduct-in-rigsby-qui-tam-case/>