

# A GUIDE TO HANDLING YOUR PROPERTY DAMAGE CLAIM



What The Insurance Companies  
Don't Want You To Know  
About Property Damage Claims

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**POOLSON | ODEN**  
ATTORNEYS AT LAW  
TRIAL ATTORNEYS

# A GUIDE TO HANDLING YOUR PROPERTY DAMAGE CLAIM

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Don't want YOU to Know about  
Property Damage Claims**



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What the Insurance Companies Don't want YOU to Know  
about Property Damage Claims*

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## PREFACE

This book was written to help anyone, who, as a result of a fire, storm, hurricane, flood, catastrophe, or other natural disaster, has property damage and/or a loss of business income as a result of property damage, and is looking for guidance on handling an insurance claim.

The information included in this book is not a substitute for professional legal counsel, but it will give you tips to help you through the insurance claim process.



## TESTIMONIALS

Included below are testimonials of people who have gone through the legal process. This process does not have to be difficult. Keep in mind that help is available to you.<sup>1</sup>

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<sup>1</sup> Each legal case is different, the law changes frequently, and an attorney must analyze each particular case based upon its unique facts. You should not act upon the information presented in this book without seeking professional counsel. Not all cases get the same results, but the following testimonials show that there is a path to recover the damages owed when an insurance company refuses to deal fairly.

*It was an absolute pleasure working with Poolson Oden! Their professionalism, courtesy, and responsiveness are what sets them apart. The genuine care for my wellbeing made me feel very comfortable! I would recommend Poolson Oden for any case you may have.*

- Google Review

*In life, you meet a lot of people; some stand out and shine brighter than others. Carisa is one of those people. After experiencing one of the worst events in my life, I reached out to her. And I couldn't be happier I did! She went above and beyond! Her expertise in navigating the difficult waters ahead were a lifesaver!! I can honestly say I don't know where I'd be without her swooping in and handling call after call after call.... Thank you!!! She is a beacon of compassion and hope and treated us like family. If you are needing legal assistance, don't hesitate to call! You will not be disappointed!!*

- Nick Constantino

*Danny Poolson came highly recommended as a business attorney. Many professionals claim they put their clients first, very few actually do. In my experience, I have found Mr. Poolson and his staff's customer service to be exemplary. I enthusiastically recommend Mr. Poolson, and will know where I'll go for my all my legal business needs.*

- Milton H.

Local Business Owner

*As a business owner, I have required representation on different types of matters throughout the years. I have had many different attorneys provide legal representation both for me and my companies. I have continuously engaged Danny Poolson as my attorney because he is both diligent in his representation of my legal interests and cognizant of my overall goals in the representation. Danny is a conscientious attorney who truly cares about his clients and puts the needs of his clients first.*

- Kevin C.

Local Business Owner

## **WHO WE ARE AND WHY WE WANT TO HELP ...A WORD FROM ONE OF THE AUTHORS**

On July 3, 2005, just several weeks before Hurricane Katrina struck the greater New Orleans area and the Gulf South, my father passed away after a brutal, two-year fight against bladder cancer. As the oldest of four (4) children, and in my second year of law school, I was called to stand in my father's shoes and protect my family in the aftermath of Hurricane Katrina. At a time when I was thrust into multiple disasters, I had to contend with insurance adjusters who were reluctant to pay what was rightfully owed to me and my family. I share my personal story as a way of letting you know that I understand the very real heartache and frustration that comes with trying to collect what is

rightfully owed to insurance policyholders by their “good neighbor” insurance companies under the most stressful of circumstances.

At one time, I represented BIG insurance companies and I understand how they work. In the aftermath of Hurricanes Katrina, Rita, Ike, and Gustav, I represented very large insurance companies against homeowners in neighborhoods where I grew up. I had to explain to my former neighbors why their claims were not addressed quickly or, in some cases, were being denied altogether. I was very unhappy in that role and found myself wanting to listen to the homeowners and understand their frustrations, rather than unilaterally denying their claims. I understood how

the homeowners felt because my own family members suffered extensive losses in their homes and possessions as a result of those same hurricanes. I learned in a very personal way why policy holders are not just claim numbers and policy numbers. It was that exact experience that led me to where I am today – to you, and to the people in my community who are searching for answers that my law firm can provide.

Daniel J. “Danny” Poolson,  
Jr.

## **FROM CONSUMER TO CUSTOMER TO CLAIMANT**

Every year thousands of people like you deal with storm damage and property damage. You might even be surprised how many of your neighbors and people in your community have gone through exactly what you are dealing with right now, especially for those folks living along or near the Gulf Coast.

It has been fifteen (15) years since Hurricane Katrina ravaged southern Louisiana and Mississippi. It does not seem like that long ago, especially in the wake of Hurricane Ida that devastated south Louisiana on the exact same day as Katrina fifteen (15) years later – August 29, 2021. Anyone who experienced the devastation of those

storms knows the importance of proper insurance coverage. We pay insurance premiums *before* a storm with the hopes that the insurance company will protect us *after* a storm or when disaster strikes.

Even with proper planning, recovering the full extent of your damages from insurance companies after a storm is often downright frustrating. The entire process of making a claim, speaking with insurance adjusters, documenting your losses, and negotiating a fair settlement can be stressful and overwhelming.

That said, we have good news for you... By reading this book, you have taken the first step to achieve a successful outcome for your property damage claim. This book serves as a comprehensive



resource to help you protect yourself, as well as your family, *after* a storm or property damage.

We have worked with homeowners and business owners in your same situation. Their home(s) or business(es) were damaged as a result of a storm, fire, or other disaster, but the insurance companies did not want to do the right thing by paying them the full amount for the damages and losses. Fortunately, we have been able to help insurance policy holders against insurance companies like yours and get the insurance companies to pay the money owed to my clients.

Policyholders, like you, are members of our community with a story to tell – we are all insurance policyholders. It was that exact experience that led

us to where we are today – to you, and to the people in our community who are searching for answers that our law firm can provide. After several years of law practice, we realized that our calling was to help people who *needed* our help because insurance companies and big corporations were not doing the right thing by them.

So, you may be thinking now, *how does that affect me, or what does that have to do with my legal issue/question.*

The insurance industry is a part of the fabric of our lives: home, auto, RV, motorcycles, health, life, disability, and on and on and on. We are inundated with insurance commercials. I bet you can rattle off several jingles without giving it a second thought:

*Like a good neighbor, State Farm is there*

*Nation-Wide is on your side*

*Liberty Liberty Li-berty, Li-berty*

*We are Farmers, bum ba-dum bum bum bum*

*Are you in good hands?*

If you are like me, these are jingles that can stay with you for hours or even days!

Once you purchase an insurance policy, you and the insurance company have entered into a legally binding contract. The insurance company accepts certain duties and obligations with respect to its insured/policyholder – YOU! In other words, the insurance companies, which accept our hard-earned premium payments, have a duty to each and every

one of their policyholders – that means they have a duty to all of us.

Whether your claim stems from a fire, storm, hurricane, or flooding, your insurance company is at the helm of determining whether or not they will pay you for your claim, including structural damage to your home or business, contents, loss of use, additional living expenses, and loss of business income. This book will delve into the challenges you may face when dealing with your insurance company for property damage.

Once you read this book, you should feel free to call us to discuss your legal issues. Our hope is that you will look to us for help when you need it. We are excited to serve you.

## **SIX (6) COMMON QUESTIONS IF YOUR HOME OR BUSINESS IS DAMAGED OR DESTROYED IN A STORM OR FIRE**

### **1. WHAT DO YOU DO FIRST?**

The insurance claims process can be very confusing and overwhelming. I have heard the saying, “How do you eat an elephant? The same as a burger, one bite at a time.” This is the same philosophy you should use when handling an insurance claim. But what is the first step?

Start by reading your policy's “declarations page” (“Dec page”), where your insurance coverage(s) are located. The Dec page shows how your policy is divided into coverage categories. It is important that you understand the coverages in

your policy. Most homeowners' policies have the following categories:

- 1) Dwelling ("Coverage A"),
- 2) Other Structures ("Coverage B"),
- 3) Personal Property ("Coverage C"),
- 4) Loss of Use/Additional Living Expenses ("Coverage D"),
- 5) Other categories such as liability and medical payments, which may apply if you or someone else is injured on your property.

“Dwelling” coverage includes the structure of your home, such as the roof, exterior walls, interior walls, foundation, flooring, etc.

“Other Structures” coverage includes exterior structures *other than* your dwelling, such as a shed, barn, or other structures.

“Personal Property” coverage includes your contents, such as furniture, clothes, silverware, jewelry.

“Loss of Use/Additional Living Expenses” coverage includes costs for temporary lodging and food when your home is unlivable due to a storm or fire. If you are forced to live somewhere other than your home during repairs, your insurance company should reimburse you for costs to find temporary housing. (*See the chapter below, What is ALE?* for additional information.)

Additional "Endorsements" or extras may also be listed on the Dec page.

## **2. WHEN DO YOU MAKE THE CLAIM?**

**Immediately.** As soon as you learn your property and/or belongings have been damaged, report the claim to your agent and insurance company.

## **3. HOW DO YOU REPORT A CLAIM?**

Call your insurance agent. If you cannot locate your agent, or you purchased your policy online, your insurance company's telephone number should be readily available online. Call your insurance company to report the claim.<sup>2</sup>

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<sup>2</sup> When you first purchase your policy, save the contact number somewhere safe in case there is a disaster or catastrophe.



#### **4. HOW DO YOU RECOVER ON YOUR CLAIM?**

There are many different elements that go into evaluating and handling an insurance claim. Follow these guidelines:

- (1) Take photographs of everything, including contents, structural damage, exterior damage, interior damage, other structures – anything that was damaged as a result of the storm, flood, fire, or disaster.
- (2) Make a list of damaged items, including the type of item, room location, description of the item, year purchased, actual purchase price of the damaged item, condition of the item, and

a notes section for any additional details you may want to give to the adjuster.<sup>3</sup>

- (3) Contact your agent to report the claim.
- (4) Schedule a date/time for the insurance adjuster to come to your house to view all the damage. Make sure you are present for the inspection.<sup>4</sup>
- (5) During the adjuster's inspection, cooperate with the adjuster, and make sure to inform the adjuster of ALL damage to the house and contents, no matter how small.

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<sup>3</sup> Visit us at [www.poolsonoden.com](http://www.poolsonoden.com) or call us at (504) 766-2200 to request an easy-to-use property loss worksheet for your claim.

<sup>4</sup> Include in your claim only the damage that was caused by the storm, flood, fire, or disaster. Do not attempt to claim pre-existing or unrelated damage for your insurance claim.

- (6) Give the adjuster a copy of all your photos and list of damaged items.
- (7) Make sure to keep a copy of all photos and records for yourself, in case the adjuster misplaces the copy that you provide.
- (8) After the adjuster's inspection, follow up and request a copy of the adjuster's report.
- (9) Review the adjuster's report to make sure the insurance company's numbers match up with your numbers. This part can be extremely confusing. **Remember:** remain calm and polite, even if you do not agree with the adjuster's conclusions. There are additional steps you can take after the adjuster issues a report.

You can hire your own adjuster, licensed contractor or engineer to inspect the damage and prepare a report of all the damaged items. If you do, give that report to the insurance company adjuster and explain why the insurance company adjuster's numbers are too low.

**5. WHAT HAPPENS IF THE INSURANCE COMPANY DENIES YOUR CLAIM BECAUSE THE DAMAGED PROPERTY IS *NOT* COVERED BY THE INSURANCE POLICY?**

Ask the adjuster to point out the exact portion(s) of the insurance policy he is relying on to give that opinion. If you disagree with the adjuster, explain why the property is, in fact, covered by the policy based on the terms of the policy. Generally, most property damaged in a storm or fire will be covered

by your insurance policy, depending on the circumstances<sup>5</sup>. However, there are exclusions and exceptions, which is why it is so important to speak with your insurance agent and understand your coverage before disaster strikes. If you and the adjuster are unable to agree, call an experienced trial attorney who handles these types of claims to discuss your options.

## **6. WHAT HAPPENS IF THE INSURANCE COMPANY SAYS YOUR PROPERTY IS WORTH LESS THAN IT *ACTUALLY IS*?**

Ask the adjuster for a copy of his report and ask him to confirm how he calculated his numbers. If you disagree with the adjuster, you can hire your

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<sup>5</sup> Homeowner policies cover some damage but not everything. That is why it is important to understand your coverages and what damage is included and excluded.

own adjuster, licensed contractor, or engineer to inspect the damage and prepare a report of all the damaged items. Then, give that report to the insurance company adjuster and explain why the insurance company adjuster's numbers are too low. Explain to the adjuster how you arrived at your numbers and ask the adjuster to reconsider.

This part of the claims process can be difficult depending upon your adjuster and the claimed damages. If you and the adjuster are unable to agree, call an experienced trial attorney who handles these types of claims to discuss your options.

**EIGHT (8) QUESTIONS  
YOU DID NOT KNOW TO ASK WHEN  
MAKING A CLAIM**

**1. HOW LONG DOES AN INSURANCE COMPANY  
HAVE TO RESPOND TO YOUR REQUEST FOR A  
CLAIM?**

Depending on the circumstances and nature of the claim, unless it is a catastrophic loss like Hurricane Katrina, the insurance company must respond within fourteen (14) days after you notify them of the damage. An insurance company owes to you, the insured, a duty of good faith and fair dealing. In addition, every insurance company has an affirmative duty to adjust claims fairly and promptly and to make a reasonable effort to settle claims with you as the insured/claimant.

**2. IS THERE A DIFFERENCE BETWEEN WIND/STORM DAMAGE AND FLOOD DAMAGE, AND HOW DOES THAT AFFECT YOUR COVERAGE?**

Yes, there is a difference between wind/storm damage and flood damage. The cause of the damage will be the factor that determines whether you are covered for that damage.

This was a very big issue in the aftermath of Hurricanes Katrina, Rita, Ike, and Gustav, as the homeowner insurance companies and flood insurance companies argued with each other and the homeowners/business owners endlessly about the cause of damage. Who suffered? The insurance policyholders.

Tremendous numbers of homes in Orleans Parish flooded in the aftermath of Hurricane



Katrina. Some of the flooded homes also had roof damage and broken windows. All too often, the flood insurance companies argued that since the roof was damaged and windows were broken, the home would have been damaged by water as a result of something *other than the flooding*, which was as high as fifteen (15) feet in some areas. As a result, the flood insurance companies initially denied many claims, arguing that wind driven rain, and NOT flooding, caused the water damage to the flooded homes. Hurricane Katrina is a good reminder of how poorly insurance companies behave following a major storm or catastrophe.

### 3. WHAT HAPPENS IF THE INSURANCE COMPANY REFUSES TO PAY?

There are certain laws in place that penalize an insurance company if it fails to pay a claim timely. In Louisiana, the law requires that an insurance company pay all amounts that are not in dispute within thirty (30) days after an agreement is reduced to writing, and within sixty (60) days after receiving “satisfactory” proof of loss. Insurance companies will try to avoid paying for damages timely by arguing (1) that amounts are *in dispute* and/or (2) the proof of loss is not “satisfactory.”

It is very important that you document **all** the damage, such as taking photographs and preparing an inventory listing all the damaged property. The more organized your records, the more difficult it is

for the insurance company to deny that your proof of loss is not “satisfactory.” You want to make it as easy as possible for the adjuster to understand all the property that you claim was damaged as a result of the storm or fire.

If you have properly documented your damage and submitted it the adjuster(s), and the property damage is covered under the terms of your insurance policy, then the insurance company can be held responsible in court for not timely paying. If your insurance company denies your claim, immediately contact an experienced trial attorney who handles these types of claims, as there are strict deadlines you must follow in order to protect your rights and preserve your claim.

#### **4. WHICH DEDUCTIBLE APPLIES TO YOUR CLAIM?**

Many policies have more than one deductible. For instance, following Hurricane Katrina, policyholders in the Gulf South learned that deductibles for “named storms” (such as hurricanes), were much higher than their standard perils deductible.

If you have more than one (1) deductible, your policy will define which deductible applies to your claim, depending on the circumstances and nature of the claim. In the case of a tropical storm or hurricane, then your named storm/hurricane deductible will apply. However, if it is a regular thunderstorm (without a name) or hailstorm, then your standard perils deductible will apply. The

types of coverage and deductible in your policy can make a huge difference when it comes to handling your claim – it could be the difference between collecting thousands of dollars and collecting absolutely nothing.

## **5. WHAT IS RCV, ACV, AND DEPRECIATION?**

The difference between “replacement cost” and “actual cash value” coverage affects how much and when you will be paid. These terms can be confusing.

**Replacement Cost coverage** or replacement cost value (“RCV”) is the coverage most insurance policies provide for an insured’s dwellings and possessions. This coverage allows you to replace what you lost at today’s prices (i.e. “Actual Cash

Value” discussed below) according to its current worth, regardless of how you got the items, what condition they were in, or what you paid for them. However, depreciation will be applied to many items even under a replacement policy (*see below* re: “Actual Cash Value” and “Depreciation”), up to the limits stated on your Dec page.

**Actual Cash Value** (“ACV”) is sometimes also called “Fair Market Value”, which is the amount a willing buyer would have paid a willing seller for destroyed property just prior to its destruction.

Insurers like to calculate ACV as replacement cost minus depreciation. Many items in your claim will be settled based on their Actual Cash Value. Be wary as insurers like to confuse their claimants and

are inconsistent in the way they calculate and deduct depreciation.

**Depreciation**<sup>6</sup> is the loss in value from passage of time, as well as normal wear and tear. Insurers may use an IRS depreciation schedule or their own schedule. Your adjuster will depreciate items, i.e., pay you less than their replacement cost, until you actually replace them and provide receipts. Depreciation can be frustrating and confusing. It is a subjective evaluation. Each adjuster makes his or her own decisions on which items to depreciate and how much. That means it is up to you to ask for more reasonable numbers. Some adjusters may try to apply a standard depreciation for every item.

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<sup>6</sup> Depreciation amounts are subjective and may be negotiable.

However, the condition of an item, its age, and its useful life are all factors to consider. Not everything in your home is subject to depreciation. For example, the underlying materials that hold your home together, such as the studs and cement, are not subject to depreciation. Items that deteriorate such as roofing or furniture are subject to depreciation.

## **6. WHAT IS ALE?**

“Additional Living Expense” (“ALE” or “Loss of Use”) coverage entitles you to maintain the standard of living you enjoyed before the damage. You should give the adjuster all receipts for meals, lodging, and purchases from the time of the storm/fire until your home is repaired. Keep copies



of all receipts with your other records. If the insurance company delays payment or circumstances beyond your control cause the repairs to take longer than expected, ask for additional ALE benefits.

### **7. CAN YOU SUE YOUR OWN INSURANCE COMPANY?**

Yes. As the insured, your insurance company owes you an obligation of good faith and fair dealing. The insurance company has an affirmative duty to adjust claims fairly and promptly. In addition, the insurance company must make a reasonable effort to settle claims with the insured or the claimant, or both. If your insurance company does not properly and timely adjust your claim, you

may sue them to recover all amounts that they owe you.

## **8. WHAT HAPPENS IF YOU ACCEPT MONEY FROM YOUR INSURANCE COMPANY?**

This depends entirely on the circumstances. *Did you sign any paperwork when accepting the money? Was there a discussion of why the money was paid?*

Do NOT get rushed into a quick settlement. Recognize that to settle your claim fairly, your claim may take some time. Lots of new terms and information will be thrown at you. It is important to pace yourself, keep learning, and get help when you need it. NEVER, EVER let insurance company adjusters rush you into a quick settlement.

The insurance company's initial check may seem like a lot of money, but it will usually be far

below what you are entitled to recover. It takes time to calculate what the insurance company owes you after a large loss. An adjuster may try to rush you into a settlement to save the insurance company money on the claim. Read all checks and drafts on both sides before depositing or cashing them. NEVER, EVER accept any checks with words like “full settlement” or “final settlement” printed on them without having first consulted with an experienced trial attorney.

When settling a claim, the insurance company will ask you to sign certain forms. These forms state that you release the insurance company and waive all rights to pursue the insurance company for additional money, regardless of the status of the

property repairs or the amount paid. If your insurance company is offering you money, it is extremely important that you read the documents carefully.

**NEVER, EVER sign any forms without first getting advice from an experienced trial attorney.**

## **OUR STEPS TO GUIDE YOU THROUGH YOUR CLAIM, AND WHAT YOU CAN EXPECT FROM OUR OFFICE**

Every claim is different; every lawsuit is unique. It is important that your attorney combs through every detail to identify the best strategy for your unique and individual claim. Below are the steps we take when handling claims like yours.

### **1. GATHERING YOUR RECORDS**

Your records will play a big role in the value of your case, which include all receipts for repairing your property or remediating the damage. For example, if your roof has a hole in it, and you buy a large blue tarp to cover the hole – that purchase can

be reimbursed by the insurance company because you were “mitigating your damages.”<sup>7</sup>

The receipt or credit card statement is part of the records that we will gather to support your claim. Other records may need to be gathered, such as photos of the damage, invoices for any repairs, estimates for repairs, cost of materials, labor, etc.

While your help may be needed in securing some of your records, the team at POOLSON | ODEN will work with you and guide you through the process to make certain that it goes smoothly.

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<sup>7</sup> “Mitigation of damages” is a contract law doctrine that requires a person to minimize the damages that he/she suffers from a breach of contract. Failure to mitigate damages may result in a court’s refusing to award damages that could have been reasonably avoided by the victim.

You may contact us for a FREE Inventory Sheet to get started.

## **2. HIRING EXPERTS**

Property Damage claims and loss of business income claims can be very complicated, which is why we hire “experts” to address intricate details. For property damage claims, we will hire a certified licensed contractor, adjuster, and/or engineer to inspect the entire property and render a report using property damage software, such as Xactimate®. The contractor’s report itemizes each area of damage and computes the exact cost necessary to repair the damage, including the cost of materials and labor.

Depending on the severity of the damage, we may hire a certified licensed engineer to inspect the

property and evaluate the cause of the damage. For example, if a building has cracked brick veneer, the insurance company may argue the cracks are from settling over time, rather than from wind. Retaining the correct expert engineer is often essential for you to recover can mean the difference between recovering or not for property damage caused by a disaster.

### **Success Story**

We previously represented a family whose house burned as a result of a fire. Rather than pay the full amount for the damage, the insurance company (USAA), which is base out of Texas, tried to depreciate the labor! Meaning, the insurance company did not want to pay the full amount it was



going to cost for the actual labor to fix the home as a result of the fire. The family hired us to represent them against the insurance company. After the lawsuit was filed, we hired a construction expert, and forced the insurance company to exchange their information and documents through discovery. We were able to negotiate a settlement with the insurance company before trial. The insurance company knew if they did not do the right thing and settle the claim, then they would have to go to court and explain to the jury why depreciating labor was fair to our client, the insurance policy holder.

For business income claims, we will hire an economist or accountant to calculate total loss of income and evaluate financial records such as profit

and loss statements, tax returns, and sales and expense sheets. The economist or accountant will be able to compute all income that has been lost as a result of the disaster.

### **Success Story**

We previously represented a business owner, who owned and operated a store in Jefferson Parish. After a major storm, our client's store was damaged, and the business owner lost income as a result of having to close the store to repair the damage. The insurance company refused to do the right thing and pay our client the full amount for the property damage and lost business income.

After we hired experts, inspected the property, and prepared a settlement demand package, we

were able to get the insurance company to settle the case without having to go to Court. The insurance company knew if they did not settle the claim and do the right thing, then we would have filed a lawsuit and shown the jury at trial exactly what the insurance company was trying to do and why it was so bad.

Determining which experts to hire depends on the facts and circumstances surrounding each claim, and no two claims are the same.

### **3. INSPECTING THE PROPERTY**

At the outset of our representation, one of our attorneys will visit the property and attend the inspection(s). It is important that we visually see the damage and participate in the claims process.

The benefit to our clients is a “hands-on” approach to working the claim, which allows our attorneys to be more familiar with the intricacies and details of the case if it must go to trial.

#### **4. CREATING A SETTLEMENT EVALUATION**

We create a written settlement evaluation for all our clients. This document gives you an overview of what we believe to be the value of your case after reviewing your records and comparing it to similar cases. Your settlement evaluation is not a guarantee of an outcome, but it does provide you with our experienced, in-depth analysis of your case’s potential value. Your approval of the settlement evaluation allows us to begin the next step.

## **5. SEND A SETTLEMENT DEMAND PACKAGE**

This is essentially the complete documentation regarding your insurance claim along with a demand for financial compensation based on the settlement evaluation. We will take care of dealing with the insurance adjuster(s)/attorney(s) and inform you of the response we receive.

## **6. NEGOTIATIONS**

Not every case settles before trial, but there is a time during which we will negotiate on your behalf with the insurance company. These negotiations will usually go back and forth for some time. It could take many, many months. And if a resolution that is fair for you doesn't look likely in the negotiation stage, we will take the next step.

## **7. FILING YOUR CASE**

This is the actual act of “suing” someone. We would file your case with the appropriate court and start the process of going to trial in motion. There are many steps between filing a lawsuit and going to trial. Most cases nowadays do not actually go to trial. However, for the insurance company to perform a proper evaluation of your claim, it is important that your attorney(s) are prepared to go to trial in case the insurance company does not do the right thing.

This book provides a background and overview into the claims process, but if the insurance adjusters are not treating you fairly, make certain to

meet with an experienced trial attorney to discuss your claim.

We go to trial on a regular basis, so we have no fear of filing your claim. Make sure that whomever you hire to handle your case feels the same way.

## **WHAT IS THE DIFFERENCE BETWEEN A SETTLEMENT AND A VERDICT?**

The difference between a settlement and a verdict is who determines the outcome of your claim or case. When both sides agree to resolve the claim or case, that is a settlement. Although a settlement can be reached by the parties at any time, as long as the parties agree on the terms, a settlement is generally reached before having to go to court. In a settlement, the defendant offers to give to the plaintiff compensation, and the plaintiff accepts the compensation in exchange for dismissing the claim and/or lawsuit.

If the parties are unable to agree on a settlement, the next step is to go to court and allow a judge or



jury decide your case. The type of case and amount in controversy determines whether the judge or the jury will make the decision in your case. In Louisiana, if the amount in controversy is less than \$50,000.00, meaning you are asking that no more than \$50,000.00 be paid for your case, then the judge will make the decision in your case. If the amount in controversy is more than \$50,000.00, exclusive of interest and costs, then you may have your case heard by a jury, and if your case goes to court, then a jury will make the decision in your case.

When you go to court and have a trial in front of a judge or jury, at the end of the trial, the judge or

jury will make the decision in your case, or render a verdict, in favor of one of the parties.

The main difference between a settlement and a verdict is **who** actually decides the outcome of the case. For a settlement, the parties control the outcome and agree on the terms. If the defendant company refuses to do the right thing and settle your claim or case, then you may have to go to court in order to make the defendant company do the right thing. If the parties are unable to agree on a settlement, then the judge or jury will determine the outcome by rendering a verdict.

Each claim/case is different and depends entirely on the facts in that particular claim/case. A case or lawsuit may take months or even years depending

upon the complexities of the case, such as the type of case and the medical treatment. It is important that your attorney evaluates your entire case, investigates the facts, knows the medicine, and understands the law. These elements and areas of your case will give you the best possible chance to get a good result whether it is through settlement or trial.

The ability to go to court is an important element to ensure you have the best possible chance to get the best possible settlement before having to actually go to court. It is important that the other side knows your attorneys go to court. We go to court for our clients all the time. Make sure when speaking with your attorneys that they feel the same

way, and that they will go to court for you if the big companies do not do the right thing.

Our team is standing by to help you. We look forward to your call and the chance to serve you as we have served others in our community.

While we certainly cannot guarantee any results, we may be the right law firm for you.

The best way for us to find out is by calling us at (504) 766-2200 to arrange a free consultation.

**BONUS CHAPTER:**  
**10 WAYS TO PROTECT YOURSELF**  
**BEFORE DISASTER STRIKES**

1. Speak with your insurance agent about your insurance policies.
2. Ask your agent to explain exactly what each policy covers. Confirm what type of coverage is included in your policies.
3. Confirm what exclusions are contained within your policy.
4. Purchase BOTH a homeowners policy AND a flood policy<sup>8</sup> – there are different things

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<sup>8</sup> We are asked often by homeowners whether they should purchase a flood policy even if they live in a non-flood zone. We always recommend they purchase flood insurance. First, the total cost for flood insurance if you live in a non-flood zone is nominal compared to the cost of repairing or replacing your damaged property and contents. Second, your homeowners insurance will NOT cover flood damage. If you do not have a flood insurance policy when disaster

covered in each policy. Although you may have a homeowners policy, it may not cover for certain damages, such as flooding.

5. Create a detailed list/inventory of all valuable property in and around your home, such as jewelry, furniture, appliances, rugs, sheds, barns, tools, equipment, clothing, etc. Take photos of the property, too, so that you can easily identify what property you owned, and the condition.<sup>9</sup>

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strikes, you may be without insurance for your damaged property. The benefit of having flood insurance and the peace of mind outweighs the cost of the insurance policy and not having it.

<sup>9</sup> Visit us at [www.poolsonoden.com](http://www.poolsonoden.com) or call us at (504) 766-2200 to request a FREE easy-to-use property loss worksheet that can be used both for your claim or for maintaining a current inventory of your property and contents.

6. Save the list/inventory of valuable property in a safe location, such as a fireproof safe and/or electronically online in the cloud, so you can access it even if disaster strikes.
7. Make sure your insurance premiums for all insurance policies are paid and up to date.
8. Save all invoices, receipts, work orders, contracts for renovations and improvements to your home. These items will make the claims adjusting process easier when you can show the adjuster the exact amounts spent for any work or improvements to the home.
9. At least once a year and when you make very large purchases, update your inventory and save it somewhere safe.

10. Consider getting endorsements for valuable jewelry such as wedding rings and firearms, to provide coverage if any of those items are stolen or lost. Again, speak with your agent about what your policies cover to make sure you are protected if something happens.

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## **ABOUT POOLSON | ODEN LAW FIRM**

The law firm of POOLSON ODEN focuses on helping individuals who have been wronged by big corporations and insurance companies. Second only to their own families, they view their clients as real family and find fulfillment and meaning in protecting the rights of every insurance policyholder. In a time when many people fear hiring an attorney, Danny and Carisa find joy in connecting with their clients and putting them at ease as they help lead their clients to their best future possible after their injuries.

### **Danny Poolson**

Professionally, Danny has achieved an “AV” rating with Martindale-Hubbell which is the highest ranking attainable by an



attorney based on evaluations by other attorneys and judges for the highest level of professional excellence and ethics in the practice of law. Danny has been invited into the Million Dollar and Multi-Million Dollar Advocates Forums because of the compensation he has obtained for his clients. Danny has also been named a Top 100 Trial Lawyer, and Top 40 under 40 by the National Trial Lawyers Association.



Danny is married to Amy D. Poolson of Opelousas, LA, and they are the proud parents of twins Davis Daniel and Amelia Isabella (“Twinkies”). When he is not working hard on his cases,

Danny enjoys spending time with his family and traveling to see the LSU Tigers play.

### **Carisa German-Oden**

Since earning her law degree, Carisa has solely represented individuals for numerous different types of claims, including



insurance loss claims. Carisa has extensive litigation and trial experience in both state and federal court. Carisa has litigated cases throughout the country. Professionally, Carisa has been named a Top 100 Lawyer by the National Trial Lawyers.



Carisa and her husband Michael have three children, Abigail, Felix and Sebastian. When not working hard on her cases,

Carisa enjoys spending time and caring for her family as a proud wife and mother.

## DISCLAIMER

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered. Additionally, your use or request of our materials does not constitute as an attorney-client relationship between you and the POOLSON | ODEN Law Firm.



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This book was written to help anyone who, as a result of a fire, storm, hurricane, catastrophe, flood or other natural disaster, has property damage and/or loss of business income as a result of property damage, and is looking for guidance on handling an insurance claim.

The information included in this book is not a substitute for professional legal counsel, but it will give you tips to help you through the insurance claim process.

**POOLSON | ODEN** is a law firm that focuses on complex and serious injury law, and educates and helps individuals and their families following catastrophes. This book will arm you with the important knowledge you need after a catastrophe, flood, or other natural disaster to protect yourself and your family.

*Danny Poolson & Carisa Oden*



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