

**OFFICE OF THE INSURANCE COMMISSIONER
MARYLAND INSURANCE ADMINISTRATION**

G.G. AND L.G.,¹

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Plaintiffs,

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v.

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Case No. 27-1001-22-00076

**THE PHILADELPHIA
CONTRIBUTORSHIP**

*

Defendant.

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DECISION

G.G. and L.G. (“Plaintiffs”) have alleged that The Philadelphia Contributorship (“Defendant”) breached its contractual obligations under the terms of a homeowner’s insurance policy issued to Plaintiffs by failing to fully pay Plaintiffs’ first-party claim for damages. Plaintiffs’ first-party claim was for damage to their home (the “Dwelling”) located in Upper Marlboro, Maryland caused by wind and hail storm on or about May 4, 2021 (the “Claim”). Pursuant to Section 27-1001 of the Insurance Article of the Annotated Code of Maryland, the Maryland Insurance Administration (the “Administration”) concludes that Plaintiffs have not demonstrated that Defendant breached any duties owed to Plaintiffs or otherwise failed to act in good faith in connection with the Claim.

I. STANDARD OF REVIEW

Section 3-1701 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland (“Section 3-1701”) authorizes the award to an insured of certain statutory remedies if

¹ The Maryland Insurance Administration (MIA) uses initials to protect the plaintiff’s privacy.

the insured demonstrates that the insurer failed to act in good faith in denying, in whole or in part, a first-party property insurance or disability insurance claim. However, before the insured may file an action pursuant to Section 3-1701, Section 27-1001 requires that the insured first submit a complaint to the Administration.

Section 27-1001 defines “good faith” as “an informed judgment based on honesty and diligence supported by evidence the insurer knew or should have known at the time the insured made the claim.” The Administration in rendering a decision on the complaint is required by Section 27-1001(e)(1)(i) to focus on five issues:

1. Whether the insurer is required under the applicable policy to cover the underlying claim;
2. The amount the insured was entitled to receive from the insurer;
3. Whether the insurer breached its obligation to cover and pay the claim;
4. Whether an insurer that breached its obligation failed to act in good faith; and
5. If there was a breach and the insurer did not act in good faith, the amount of damages, expenses, litigation costs and interest.

A plaintiff has the burden of proof and must meet this burden by a preponderance of the evidence. *See* Md. Code Ann., State Gov’t Art., section 10-217; *Md. Bd. Of Physician v. Elliott*, 170 Md. App. 369, 435, *cert denied*, 396 Md. 12 (2006).

II. PROCEDURAL BACKGROUND

On November 3, 2022, the Administration received Complaint No. 27-1001-22- 00076 (the “Complaint”) stating a cause of action in accordance with Section 27-1001. In the Complaint, Plaintiffs alleged that they submitted a Claim for damage to the Dwelling caused by a wind and hail storm on or about May 4, 2021. Plaintiffs further allege that during the investigation of the Claim, their public adjuster submitted an estimate to Defendant in the

amount of \$160,288.41, as the amount required to restore the Dwelling to its pre-loss condition. However, Plaintiffs allege that the Claim remains severely underpaid, as Defendant has only paid \$40,130.06. As a consequence, Plaintiffs seek actual damages in the amount of \$120,158.35. Plaintiffs assert that Defendant consistently failed to make a judgment on Plaintiffs' claim based on honesty and diligence; willfully and consistently ignored the facts of the claim; refused to justify its position with regards to denying coverage; and refused to negotiate or discuss the Claim in clear terms with Plaintiffs' public adjuster. Plaintiffs contend that Defendant has attempted to avoid its indemnity obligation to the policyholder and its failure to pay under the Policy is a breach of Defendant's obligation and demonstrates Defendant's failure to act in good faith.

As required by Section 27-1001(d)(3), the Administration forwarded the Complaint and accompanying documents to Defendant on November 10, 2022. Defendant provided a timely response to the Complaint and accompanying documents as required by Section 27-1001(d)(4).

III. FINDINGS

Based on a complete and thorough review of the written materials submitted by the Parties, the Administration finds that Plaintiffs have not established by a preponderance of the evidence that they are entitled to additional coverage for the Claim under the Policy.

On or about May 4, 2021, Plaintiffs allege that wind, hail and debris from a storm caused damage to the Dwelling. Defendant issued a homeowner's insurance policy, (policy number ending 227631), to Plaintiffs with an effective date of May 17, 2020 through May 17, 2021. (the "Policy") The Policy provided Dwelling coverage with a policy limit in the amount of \$854,000. The Policy specifically provides under SECTION I - PERILS INSURED AGAINST, "We insure against direct physical loss to property described in Coverages A, B and C."

On May 5, 2021, Plaintiffs first reported the Claim to Defendant. Specifically, Plaintiffs reported, “water damage in sunroom and not sure if related to leaking. Not sure of date damage occurred but was inspected by contractor today and confirmed wind damage.” Further, Plaintiffs indicated that roof shingles had fallen to the ground and that a full roof replacement was needed. Defendant assigned the Claim to Claim Representative Maryfran Manno (“Adjuster Manno”). Thereafter, Adjuster Manno contacted Plaintiffs on May 7, 2021 and scheduled a date to conduct an inspection of the Dwelling. Defendant assigned the inspection to a third party adjusting firm, United Claims Service (“UCS”).

Defendant received the inspection report and estimate completed by UCS on May 17, 2021. Based on the initial inspection findings, UCS prepared an estimate for damage to the roof, master bath, master closet, dining room, lounge, and kitchen of the Dwelling, with a total amount as follows,

Summary for A – Dwelling

Line Item Total	3,096.75
Material Sales Tax	11.74
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Replacement Cost Value	\$3,108.49
Less Depreciation	(146.67)
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Actual Cash Value	\$2,961.82
Less Deductible	(2,500.00)
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Net Claim	\$461.82
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Total Recoverable Depreciation	146.67
Net Claim if Depreciation is Recovered	\$608.49

Defendant issued a check in the amount of \$461.82, and provided a copy of the UCS estimate to Plaintiffs on May 18, 2021.

Plaintiffs later requested a re-inspection of the Dwelling on June 21, 2021. Thereafter, Mathew Holder, Field Claim Representative, (“Adjuster Holder”), conducted a re-inspection of the Dwelling on July 2, 2021. Adjuster Holder then prepared a supplemental report and estimate noting additional damage to replace the shingles, ice & water barrier, and roof edging.

On August 31, 2021, Joseph Kriner of Semper Fi Public Adjusters, LLC (“Semper Fi”) notified Defendant that it had been contracted to manage the adjustment of the Claim on Plaintiffs’ behalf. Thereafter, Defendant reassigned the handling of the Claim to Michael Joseph, Field Claim Representative (“Adjuster Joseph”). Adjuster Joseph spoke with Mr. Kriner of Semper Fi on September 3, 2021 concerning the necessary repairs to the Dwelling. Mr. Kriner advised that an entire roof replacement was needed, as the roofing material was not repairable and because the sheathing needed to be upgraded to meet building code requirements. Thereafter, Adjuster Joseph agreed to conduct another inspection of the roof on September 15, 2021.

Based on the September, 2021 inspection findings, including additional substantial repairs to the roof and code upgrades, Adjuster Joseph prepared a revised estimate on September 17, 2021, with a total amount as follows,

Summary for Dwelling

Line Item Total	31,695.43
Material Sales Tax	408.62
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Subtotal	31,104.05
Overhead	3,210.42
Profit	4,815.59
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Replacement Cost Value	\$40,130.06
Less Depreciation	(8,513.35)
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Actual Cash Value	\$31,616.71
Less Deductible	(2,500.00)
Less Prior Payments	(2,244.97)
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Net Claim Remaining	\$26,871.74
Total Recoverable Depreciation	8,513.35
Net Claim Remaining if Depreciation is Recovered	\$35,385.09

Defendant issued a check for the supplemental payment in the amount of \$26,871.74 to Plaintiffs and provided a copy of the revised estimate on September 17, 2021.

On December 23, 2021, Semper Fi submitted a Demand of Payment, including an estimate in the amount of \$160,288.41, which included a full roof replacement, as well as repairs to the master bathroom, master closet, kitchen, dining room. Notably, the Semper Fi estimate included a Public Adjuster Fee in the amount of \$26,298.07. Further, the Semper Fi estimate include a total amount as follows,

Summary for Dwelling

Line Item Total	126,363.02
Material Sales Tax	1,250.96
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Subtotal	127,613.08
Overhead	15,197.41
Profit	17,477.02
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Replacement Cost Value	\$160,288.41
Less Deductible	(2,500.00)
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Net Claim	\$157,788.41

Adjuster Joseph reviewed the Semper Fi estimate and prepared another revised estimate dated December 29, 2021, increasing the total amount for the repairs to the roof, master bathroom, master closet, kitchen, and dining room as follows,

Summary for Dwelling

Line Item Total	34,936.49
Material Sales Tax	436.54
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Subtotal	35,373.03
Overhead	3,537.35
Profit	5306.01
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Replacement Cost Value	\$44,216.39
Less Depreciation	(8,616.46)
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Actual Cash Value	\$35,599.93
Less Deductible	(2,500.00)
Less Prior Payments	(29,116.71)
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Net Claim Remaining	\$3,983.22
Total Recoverable Depreciation	8,616.46
Net Claim Remaining if Depreciation is Recovered	\$12,599.68

Defendant issued a settlement letter and check in the amount of \$3,983.22 to Plaintiffs on December 29, 2021. Defendant received no further communication from the Plaintiffs or Semper Fi concerning this Claim until the filing of the Complaint.

Plaintiffs assert that while reasonable requests were made for full indemnification of Plaintiffs' Claim, the Claim remains severely unpaid and Defendant has refused to return the Dwelling to its pre-loss condition.

While Plaintiffs acknowledge that several estimates have been exchanged by the parties, Plaintiffs have not demonstrated whether or how the additional repairs shown on Semper Fi's estimate were necessitated by the May 4, 2021 storm. Further, Plaintiffs have not provided any explanation for the substantial difference between the repairs included in Semper Fi's estimate submitted on December 10, 2021, and the previous estimates prepared by UCS, Adjuster Holder, and Adjuster Joseph, based on three separate inspections of the Dwelling. Instead, the evidence demonstrates that Defendant conducted a prompt and diligent investigation of the Claim, promptly responded to additional information provided by Plaintiffs and/or Semper Fi, and that Defendant conducted three inspections of the Dwelling. Specifically, the Claim was initially report on May 5, 2021. Thereafter, Defendant assigned its vendor, UCS, to complete the initial inspection of the Dwelling. Based on its initial inspection findings, Defendant issued a check to Plaintiffs in the amount of \$461.82 on May 18, 2021, approximately two weeks after the Claim was initially reported to Defendant. Thereafter, in response to Plaintiffs' request for another inspection of the Dwelling, Adjuster Holder, conducted another inspection of the Dwelling on July 2, 2021. Adjuster Holder then prepared a supplemental report and estimate noting additional damage to replace the shingles, ice & water barrier, and roof edging. Approximately two months later, in response to a conversation with Joseph Kriner of Semper Fi, a third inspection of the Dwelling was completed by Adjuster Joseph on September 15, 2021. Thereafter, Defendant issued a supplemental payment in the amount of \$26,871 on September 17, 2021. Finally, on December 23, 2021, Semper Fi submitted an estimate in the amount of \$160,288.41. Based on a review of the items included in Semper Fi's estimate, including a Public Adjuster Fee in the amount of \$26,298.07, Defendant issued a settlement letter and check

in the amount of \$3,983.22 to Plaintiffs on December 29, 2021 for additional costs to repair the Dwelling.

Additionally, while Plaintiffs contend that Defendant is incorrect in its interpretation that the Policy only covers direct physical loss, the Policy specifically provides under SECTION I - PERILS INSURED AGAINST, “We insure against direct physical loss to property described in Coverages A, B and C.” In this case, Plaintiffs have not referenced any other provision of the Policy that would require Defendant to provide coverage for additional repairs not resulting from direct physical loss to the Dwelling, or for the public adjuster fees included in Semper Fi’s estimate.

Based on these findings, Plaintiffs have not satisfied their burden to prove that Defendant breached any obligation owed under the Policy or that they are entitled to any additional payment under the Policy.

IV. CONCLUSIONS OF LAW

In accordance with Section 27-1001, the Administration concludes:

1. Plaintiffs established by a preponderance of the evidence that Defendant is obligated under the Policy to cover the Claim.
2. Plaintiffs did not establish by a preponderance of the evidence that Defendant failed to provide the coverage required under the Policy.
3. Plaintiffs did not establish by a preponderance of the evidence that they are entitled to additional damages as a result of the claim.
4. Plaintiffs did not establish by a preponderance of the evidence that Defendant breached its obligation under the policy to cover and pay the Claim.
5. Since a breach is a necessary element of a failure to act in good faith, Plaintiffs did not establish a failure by Defendant to act in good faith.
6. Plaintiffs are not entitled to expenses and litigation costs.

ORDER

Based on the foregoing findings of fact and conclusions of law, it is

ORDERED on this 1st day of February, that Defendant did not violate Section 27-1001 of the Insurance Article of the Maryland Annotated Code; and it is further

ORDERED that pursuant to Section 27-1001(f)(3), this Final Order shall take effect if no administrative hearing is requested in accordance with Section 27-1001(f)(1).

KATHLEEN A. BIRRANE
Insurance Commissioner

signature on original

ERICA J. BAILEY
Associate Commissioner - Office of Hearings

APPEAL RIGHTS

If a party receives an adverse decision, the party shall have thirty (30) days after the date of service (the date the decision is mailed) of the Administration's decision to request a hearing, which will be referred to the Office of Administrative Hearings for a final decision under Title 10, Subtitle 2 of the State Government Article of the Annotated Code of Maryland. MD. CODE ANN., INS. ART., §27-1001(f).