

The Lane Law Firm Awarded \$16 Million Verdict when Insurance Agent & Broker Fail to Renew Sufficient Windstorm Coverage

Verdict (P): \$16,206,435

Case: S.R. Residence LLC v. Commercial Insurance Solutions Group, LP and Southwest Risk L.P., No. 2013-47127

Court: Harris County District Court, 61st

Judge: Erin Lunceford

Date: 4/6/2016

Plaintiff Attorneys: Robert (Chip) Lane and Jack Kitchen, The Lane Law Firm, PLLC, Houston TX

Defense Attorneys: George P. Pappas and Shelley Rogers, Sheehy, Ware & Pappas P.C., Houston, TX (Commercial Insurance Solutions Group L.P., Southwest Risk L.P.)

Facts & Allegations:

On Sept. 13, 2008, Hurricane Ike made landfall on the gulf coast, causing widespread damage, including significant damage to five Houston-area apartment complexes owned by plaintiff S.R. Residence LLC. In 2007, the plaintiff, through retail insurance agent Commercial Insurance Solutions Group L.P. and insurance broker Southwest Risk L.P., had bought into a "pooled" insurance policy providing a total of \$100 million in windstorm coverage for numerous insureds. However, that policy expired and was not fully renewed, and when Ike made landfall, the plaintiff had only \$35 million in windstorm coverage.

S.R. Residence sued Commercial Insurance and Southwest Risk for negligence; negligent misrepresentation; breach of contract; knowing violations of the Texas Deceptive Trade Practices Act, including unconscionability; and knowing violations of the Texas Insurance Code, alleging that the defendants falsely represented that they would obtain sufficient insurance coverage, including windstorm coverage, for the plaintiff's properties. According to S.R. Residential, its Houston-area Ike losses exceeded the \$35 million in coverage, leaving the plaintiff with unreimbursed damages.

The plaintiff claimed that Southwest Risk failed to renew the \$100 million in coverage in time for Ike. By the time Southwest Risk began the renewal process, Ike had reached the Gulf of Mexico, and insurance carriers were requiring windstorm exclusions for any coverage above \$35 million, the plaintiff said. The policy was eventually renewed, but excluded windstorm damage above \$35 million and, for some coverage, had an effective date of December 2008, which was three months too late. The plaintiff further alleged that Southwest Risk had been notified to begin the renewal process as early as June 2008.

In addition, the plaintiff maintained that the defendants concealed the lack of sufficient coverage until the \$35 million had been exhausted, which was years after Ike.

"The crux of the case," said plaintiff's counsel Chip Lane, "was that my client paid for \$100 million in coverage, but only got \$35 million in coverage, and when the insurance money ran out, [the plaintiff] and others like them were left with no way to have their repairs compensated other than to pursue [claims against] the broker and agent."

The defendants denied the allegations and argued that their breaches, if any, were innocent mistakes.

Injury:

S.R. Residence sought \$203,796.16 in premium refunds. It also sought \$1,911,229.97 in unpaid property damage, based on the testimony of its expert, an insurance adjuster. In addition, it sought \$567,624 in lost rents and \$1.2 million in lost equity.

The plaintiff also sought an unspecified amount of additional damages for knowing violations of the Texas Insurance Code and Deceptive Trade Practices Act.

For attorney fees through trial, the plaintiff sought \$48,765.

The defense, based on the opinion of its engineering expert, denied any unpaid property damage and said that the only remaining damage was either pre-existing damage or ordinary wear and tear.

Result:

The jury found negligence and negligent misrepresentation on the part of Southwest Risk; breach of contract on the part of both defendants; violations of the Texas Insurance Code and Deceptive Trade Practices Act on the part of both defendants; knowing violations by Southwest Risk only; and unconscionable conduct by Southwest Risk only.

The verdict amounts for damages, additional DTPA damages and attorney fees through trial totaled \$16,206,434.64. A reduced confidential settlement was achieved following the verdict.