

Class action lawsuit filed against 9 insurance companies over Hurricane Irene, Sandy claims

NJ.com

The definition of a basement is the focal point of a class action lawsuit that deals with insurance claims filed for damages caused by Hurricane Irene in 2011 and superstorm Sandy in late October. The lawsuit is one of the first to include both Sandy and Irene claims and was filed Thursday in the Federal District Court of New Jersey by Union City-based attorney Jeffrey Bronster. Nine local and national insurance companies, including Fidelity, Travelers and State Farm are named and accused of wrongfully denying claims related to Irene and Sandy and misinterpreting the term “basement.” “This is dealing with the issue of whether or not ground-floor units have been properly classified as a basement,” said Bronster. The insurance companies named in the suit participate in the federal Write Your Own program, which allows insurance companies to work with the Federal Emergency Management Agency to write the Standard Flood Insurance Policy (SFIP) in their own names. Bronster said the lawsuit will represent everyone in New Jersey insured by the companies named in the lawsuit, and the suit contains sub-classes specifically focused on Jersey City and Hoboken property and business owners. The only plaintiff currently listed by name is a Jersey City man, Patrick Donnelly, who owns a house on Grove Street. According to the complaint, Donnelly had flood insurance through WYO with New Jersey Re-Insurance Company and had a claim denied after Hurricane Irene because his ground floor was identified as a basement. “(Donnelly’s first floor) is not elevated, but it is not a basement either,” said Bronster. “It gets very technical.” Requests for comment from New Jersey Re-Insurance Company were not returned. The SFIP defines a basement as “any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.” The SFIP offers limited coverage for damages in basements, the complaint said. Bronster has included claims for Sandy in the lawsuit because he hopes to avoid improper denials similar to those from Irene. Bronster said that he has held community meetings and has identified other people who will join the class action. “Unfortunately, the homeowners aren’t even aware that they may have a cause of action,” said Bronster. “Because you get adjusters that come out from the insurance companies and tell them it’s not covered because it’s a basement. They

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have a limited understanding at best at what a basement is or isn't under their policy." Donnelly and the other plaintiffs are seeking compensatory damages and pre-judgment interest.

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