

## Guest Blog: An Adjuster's View on Derecho Claims

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Two months after the August 10 derecho that swept Iowa, many homeowners are realizing they may be left out in the cold by their insurance company.

The damage left by the derecho is unfathomable to me as an Iowa native. Current estimates suggest 14 million acres of crops were damaged by the high winds.<sup>[1]</sup> 140mph gusts took down 65% of the city of Cedar Rapids' tree canopy<sup>[2]</sup> resulting in over a billion pounds of tree debris requiring disposal.<sup>[3]</sup> By the end of August, State Farm alone had received more than 40,000 claims from insured Iowans affected by the derecho.<sup>[4]</sup>

Beyond the immediate damage, other factors are pushing storm survivors ever closer to ruin.

One predominant factor is the unprecedented severity of this catastrophe. Unlike coastal regions where hurricanes are expected and prepared for, nothing like this has ever happened in Iowa. While most homeowners in commonly affected states like Florida and Texas are familiar with the insurance claim process, many people with derecho-damaged homes may have never filed a claim on their homeowner's insurance before. In that regard, most Iowans were unprepared for what is known as *the storm after the storm*: insurance companies delaying, denying and underpaying claims.

Certain elements of this *storm* that I am personally witnessing include:

- **Insurers failing to meet their duty to adjust losses with the insured**
- **Insurers not responding to communications from the insured**
- **Insurers ignoring or downplaying damages**

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- **Insurers misrepresenting policy provisions**
- **Insurers intentionally underestimating losses**
- **Insurers sending biased experts and vendors to investigate losses**
- **Insurers hiring third party administrators that fail to adjust claims in good faith**
- **Insurers failing to pre-approve necessary mitigation efforts**
- **Insurers denying claims due to the insured's inability to mitigate**
- **Insurers requiring insureds to file separate claims for secondary damage (e.g. mold)**
- **Insurers denying coverage for additional living expenses**

While insurance companies falling short of their promises isn't unique to Iowa, the lack of resources available to policyholders to help fight back is. On the front lines defending homeowners from unscrupulous insurance companies in other states are contractors, public adjusters and plaintiff attorneys. While Des Moines, IA is considered the *Insurance Capital of the US*,<sup>[5]</sup> very few of the city's thousands of insurance professionals are dedicated to representing the rights and interests of policyholders. I am unaware of any Iowa-based law firms that specialize in property insurance claims and Iowa has only 15 resident public adjusters. For comparison, Texas has 612 resident public adjusters and Florida has plaintiff attorneys on every street corner.

With very little reinforcement from PAs or attorneys, Iowa contractors have done all they can to help their clients. Some, like 33 Carpenters in Bettendorf, have gone to extreme measures to fight back against insurance companies. 33 Carpenters tried using post-loss assignments to sue insurance companies for breach of contract and bad faith. Earlier this year, the Iowa Supreme Court ruled that the post-loss assignment was not a loophole to the unauthorized practice of public adjusting (UPPA) and therefore 33's assignments were void.<sup>[6]</sup> To add insult to injury, the Iowa Insurance Division subsequently stung 33 with a \$15,000 fine for violations of UPPA.<sup>[7]</sup>

As explained by attorney John Wood in a post in one of the Facebook groups dedicated to educating

derecho-impacted homeowners on the claims process, “Insurance companies are exploiting this recent ruling by challenging contractor’s agreements in court, which ties up the insurance claim in vexatious litigation over whether the contractor was compliant (instead of focusing on whether the insurance company properly handled the claim).”<sup>[8]</sup> Additionally, the looming threat of disciplinary action from the Iowa Insurance Division has caused many contractors to take a step back from their involvement in their clients’ claims, leaving homeowners standing alone against their insurance companies.

While the state heavily regulates those who help policyholders with their claims, there are zero requirements for who handles claims for insurance companies. Indeed, Iowa does not license adjusters. There is no minimum standard of experience, knowledge, or ethics for adjusters working in this state. Thousands of Iowans have had their claims adjusted by people with no construction experience, no insurance background and very little—if any—training. Consequently, these claims are being mishandled, underpaid, and wrongfully denied.

Thankfully, the plight of the Iowa policyholder isn’t all doom and gloom. Organizations like United Policyholders, and others are taking notice and dedicating resources to assisting victims with recovery efforts—including fair settlement of insurance claims.

Additionally, the Iowa Insurance Division (IID) continues to faithfully investigate complaints and compel insurers to action. In the past year, complaints submitted to the IID on behalf of our clients have resulted in production of certain claim documents from uncooperative adjusters, restoration of communication with unresponsive carriers, and other favorable outcomes.

As home and business owners continue to fight for the funds needed to rebuild, colder weather advances. Winter presents another unique challenge not present in hurricane zones. Over 1,000 homes were deemed uninhabitable immediately following the derecho and thousands more have significant damage that may render them uninhabitable during the winter months. Exterior repairs must also slow to a crawl or halt completely come December. Tarps have already begun failing and the number of contractors offering more permanent solutions like shrink wrap are few. Many homeowners fear that out-of-state contractors may not come back in the spring and local companies are booked up through the end of next year. For these reasons, homeowners are desperate to get on a contractor’s schedule before snow flies.

The derecho made material and labor shortages much more painful than they already were. These

shortages have driven prices up and choices down. Many roofing companies are only able to source two colors of shingles (weathered wood or black) and aren't guaranteeing which brand will be installed. Insurance companies are refusing to acknowledge, much less pay for, the increased costs of material and labor resulting from high demand and low supply. Therefore, homeowners are paying large sums out of pocket—and often up front—to guarantee placement on a contractor's schedule.

Altogether, homeowners in Iowa—especially in Cedar Rapids—are not in a good place right now. Unprecedented damage, underperforming and abusive insurance companies, limited professional representation, selective UPPA enforcement, severe material shortages, lack of experienced contractors, and rapidly approaching winter all stand between Iowans and recovery. On top of it all, COVID continues to plague our communities and exacerbate our daily struggle to mend.

But the Iowa spirit—like our corn—is tall and strong; we will persevere.

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[1] <https://iowaagriculture.gov/news/updated-derecho-impact-estimates-08142020#>

[2] <https://www.thegazette.com/subject/news/iowa-derecho-cedar-rapids-tree-canopy-loss-land-hurricane-20200827>

[3] <https://kwwl.com/2020/09/18/1-billion-pounds-of-tree-debris-estimated-for-cedar-rapids/>

[4] <https://kwwl.com/2020/08/26/most-insurance-claims-started-virtually-none-finished-after-derecho/>

[5] <https://www.uschamber.com/co/good-company/growth-studio/des-moines-iowa-insurance>

[6] <https://www.iowacourts.gov/iowa-courts/supreme-court/supreme-court-opinions/case/18-1354>

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[7] <https://iid.iowa.gov/documents/enforcement-orders-and-actions/in-the-matter-of-33-carpenters-construction-inc-austin-t>

[8] [https://www.facebook.com/groups/778896886271335/?post\\_id=783238562503834](https://www.facebook.com/groups/778896886271335/?post_id=783238562503834)

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