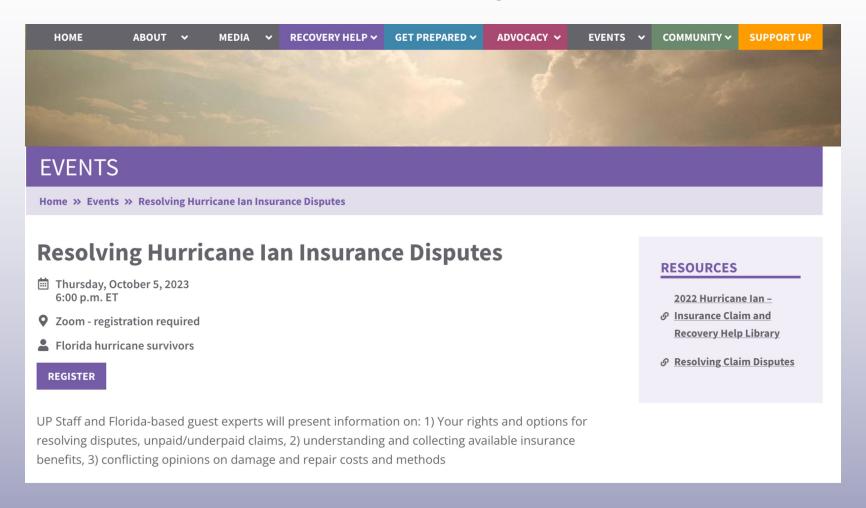


# Resolving Hurricane Ian Insurance Disputes

A Roadmap to Recovery® webinar October 5<sup>th</sup>, 2023

### To download today's slide deck

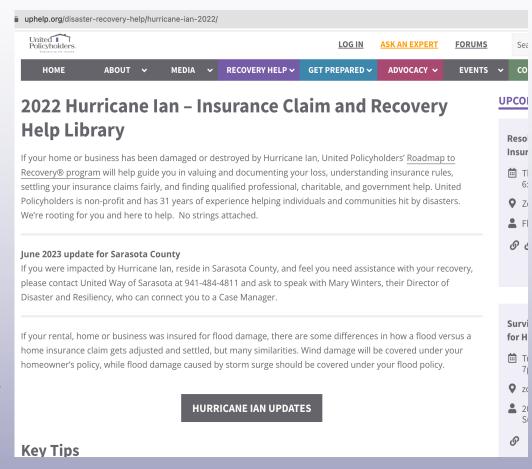


# United Policyholders (UP) and our Roadmap to Recovery® Program

- A national 501(c)3 not-for-profit that is a trusted information resource and respected voice for insurance consumers in all 50 states.
- 32 year track record and expertise in disaster recovery and insurance legal matters. Serving Florida residents and coordinating with Florida partners since 1992
- The Roadmap to Recovery program = Post disaster guidance and services focused on financial, insurance, real estate and construction decision-making and emotional recovery
- Funded by donations and grants, volunteers/pro bono. You can't hire us, our services are free, but limited
- Partners include DOIs, VOAD members, Insurance, Legal, Construction and Personal Finance professionals

#### 2022 Hurricane Ian Insurance Help Library

- Florida-Specific Help Resources with Step-by-Step Guidance
- One Click Links to Sign UP for Events And Email Notifications
- Links to Pro-consumer Professional Help www.uphelp.org/findhelp
- Sample Letters & Claim Forms <u>www.uphelp.org/samples</u>
- Survivors Speak Tips <u>www.uphelp.org/survivorsspeak</u>
- Upcoming Workshops And Resources www.uphelp.org/events



# Sample letters, example documents available free, online at <a href="https://www.uphelp.org/samples">www.uphelp.org/samples</a>

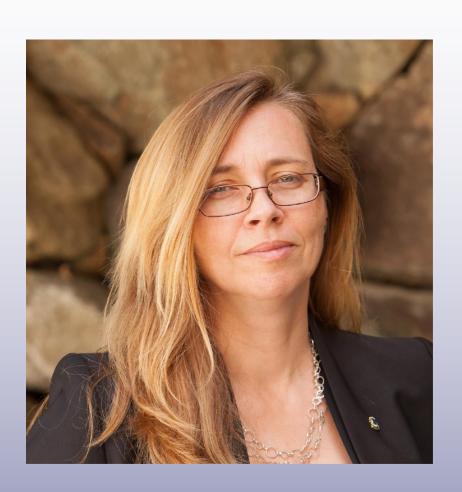
- Suggested wording for getting clear answers and policy benefit payments from an insurance company (denials, exclusions, etc.)
- Samples of dwelling replacement, code upgrade cost estimates, contents inventories, proof of loss forms

## Amy Bach Co-Founder and Executive Director



- Shaping and leading the Roadmap to Recovery®, Roadmap to Preparedness and Advocacy and Action programs since 1995
- A professional insurance consumer advocate since 1984
- Published author, experienced trial and regulatory attorney
- Official Consumer Representative, National Association of Insurance Commissioners
- Appointed member, Federal Advisory Committee on Insurance (US Treasury)

## Valerie Brown Deputy Executive Director



- 15 years experience in disaster recovery
- Officer and Board Member,
   Disaster Leadership Team
- President, San Diego VOAD

### Today's expert panel

- Jean-Marie Jeune, CPCU, AIC, AINS, FCCM, Bureau Chief of Insurance Assistance at Florida Department of Financial Services
- Jason Manten, Florida Policyholder Attorney with Hair Shunnarah Trial Attorneys
- Rick Tutwiler P.C.L.S., Florida Public Adjuster since 2005, Pres. and CEO of Tutwiler & Associates
- Matthew Weaver, Florida Policyholder Attorney with Reed Smith

#### Reminders

- ✓ An insurance policy is a legal contract but there are laws on how it gets interpreted
- ✓ Adjusters are human with varying levels of expertise and ethics
- **✓**An insurance claim is a business negotiation
- ✓ You paid for coverage and good claim service, and should not have to pay for expert reports, claim and legal help. But the reality is many people need help getting a fair and full settlement

#### https://www.floir.com/home/ian

### Total Estimated Insured Losses: \$18,678,241,633

#### Accurate as of 9/27/23

Lines of Business	Number of Claims Reported	Number of Open Claims with Payment	Number of Open Claims without Payment	Number of Claims Closed with Payment	Number of Claims Closed without Payment	Percent of Claims Closed
Residential Property	539,415	45,498	19,393	318,623	155,901	88.0%
Homeowners	437,661	36,642	16,563	250,910	133,546	87.8%
Dwelling	55,937	5,494	2,307	33,177	14,959	86.1%
Mobile Homeowners	41,972	2,576	246	32,902	6,248	93.3%
Commercial Residential	3,845	786	277	1,634	1,148	72.4%
Commercial Property	33,739	6,173	7,052	8,845	11,669	60.8%
Private Flood	4,905	638	195	2,833	1,239	83.0%
Business Interruption	575	59	47	359	110	81.6%
Other Lines of Business*	178,792	1,855	1,759	150,101	25,077	98.0%
TOTALS	757,426		28,446 023. United Po		193,996	89.1%

All rights reserved.

#### Common lan insurance claim issues

- Coverage denials (flood, below deductible, other)
- Big gaps between insurer offers on dwelling and contents vs. real life values, excessive depreciation
- Adjuster communication delays, rotating, unresponsiveness, adversarial
- Insurer refusing to pay for matching roof tiles or siding (FL's new 25% law)
- Quality of work by managed repair companies
- Inadequate payment for mold testing and remediation

### Florida-specific complications

- Hurricane/wind deductibles
- ACV only coverage on specific items
- Roof charts/limits
- Managed Repair programs
- Third Party Claim Administrators
- https://www.citizensfla.com/insurance
- Insolvent insurers
- Governor's tort reforms that took away consumer rights and legal remedies

### Reminders

- Strong documentation of damage is key. Realistic estimates of damage and costs to repair or replace your property.
- Maintain a daily journal where you jot down contact info and notes on conversations with insurance, repair, government, and other professionals.
- Seek professional help when needed.
   <a href="https://uphelp.org/sponsor-location/florida/">https://uphelp.org/sponsor-location/florida/</a>

### The order we recommend...

- Self help and tenacious ph (Speak UP)
   You paid for good claim service and
   coverage, use www.uphelp.org
- 2. Notify and seek help from DFS, NFIP, and your elected representatives
- 3. Hire professional claim or legal help
  Licensed, reputable public adjuster 7-20% OR
  Policyholder/insurance consumer attorney 15 -33%

### Insurer must process your claim

**7 Days** – After receiving your claim your insurer should review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer which reasonably prevent such acknowledgment. Fla. Stat. 627.70131(1)(a).

**7 days –** Within 7 days after an insurer receives proof of loss statements, your insurer should begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control of the insurer which reasonably prevent the commencement of such investigation. <u>Fla. Stat. 627.70131(3)(a).</u>

### Insurer must investigate your claim

• 60 Days – Your insurer must complete its claim investigation within 60 days of receipt of the claim, unless factors beyond the control of the insurer prevent it, in which case the claim must be paid or denied within 15 days after those factors cease. Fla. Stat. 627.70131(7)(a).

### Fairly, thoroughly, timely

The Florida <u>Unfair Insurance Trade</u> <u>Practices Act</u> lists specific unfair claim practices and a "Policyholders Bill of Rights" (<u>Fla. Stat. 626.9541</u>)

More details in court case decisions

### Insurer must pay or deny

**60 Days** – Within 60 days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment. Fla. Stat. 627.70131(7)(a).

**More time** – If the insurer needs more time affirm or deny a claim, due to factors beyond their control. Then the insurer will be given additional time, but the claim must be paid or denied within 15 days after those factors cease. Fla. Stat. 627.70131(7)(a).

#### Where are we at the one year anniversary?

- Rick Are the insurance dollars flowing to your clients are they should be?
- Jean What outcomes on consumer complaints is your agency helping achieve?
- Matt Is it too late for lan victims to sue an insurer?
- Jason A third have been denied due to flood.
   Is it too late for a homeowner to fight back?



TECHNICAL BRIEF | #2022-003 (replaces #2022-002)

#### Obsolete Concrete Roof Tiles Formerly Produced In Florida - Updated 11/1/22

The **Tile Roofing Industry Alliance** in response to the vast number of inquiries from industry professionals, has revised the list of obsolete tiles from the previous version. We have eliminated several of the very old tiles to reduce the number to match the inquiries we have been receiving. Please note the following list of concrete roof tiles that have been produced in or shipped to Florida over the past several decades. The following roof tiles are obsolete and do not interlock with the profiles currently offered by our existing member roof tile manufacturers. Identifying marks on the back of each tile may include Pioneer, Currier, Entegra, Wallin, Pioneer, Bender and/or Hanson. *This list covers the most commonly asked tiles*.

- Any tile with Wallin/Pioneer Cottage Shingle
- Any tile with Pioneer flat
- Any tile with Hanson/Pioneer/Bender Palema
- Any tile with Hanson/Pioneer/Bender Nordic flat
- · Any flat or "S" tile labeled "Pioneer"
- Any tile with Hanson flat including Horizon/Slate/Southern Shake/Victorian Slate/Old World
- Any tile with Hanson/Pioneer Hacienda
- · Any flat of "S" tile labeled "Lifetile"
- · Any tile with Hanson Regal
- · Any tile with Entegra Valencia
- · Any tile with Entegra Skandia flat
- · Any tile with Entegra Estate manufactured in Indian-town or Pompano Beach
- Any flat tile labeled Boral Lifetile "BUSA"
- Any tile with Entegra Europa (WAVE) tile
- Any tile with Entegra Bella S Tile
- Any tile with Boral Spanish S Nuevo
- Any tile With Eagle that is Ponderosa, Double Eagle, Tapered Slate, or Golden Eagle
   For flat Eagle tiles textures no longer available, smooth surface tiles that interlock are available

In the event that a tile roof requires a complete replacement, our existing member manufacturers will strive to offer colors that closely resemble the existing roof. However, an exact color replacement is highly unlikely. For earlier tiles, please see earlier technical bulletin #2020-03 on our website.

For more information on tile roofing, please visit our website at <u>tileroofing.org</u> or email <u>info@tileroofing.org</u> for specific inquiries.

#### TRI ALLIANCE

2150 N 107th Street Suite 205 Seattle, WA 98133

P: 206-209-5300. E: info@tileroofing.org website: tileroofing.org

### Roof repair/replacement challenges

**Rick** – How can a homeowner make their best case to an insurer for fair payment?

Jean – Are you getting more complaints about roofs since the legislature allowed ACV and roof deductibles?

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### ACTUAL CASH VALUE LOSS SETTLEMENT HURRICANE, WINDSTORM, OR HAIL LOSSES TO ROOF SURFACING

For Use With Dwelling Fire Form DP-3

This endorsement modified Section I-Loss Settlement Conditions in the policy form with respect to a covered loss for roof surfacing caused by the peril of hurricane, windstorm, or hail.

SECTION 1-CONDITIONS

In the Dwelling Fire DP-3 form:

5. Loss Settlement

Paragraph a.(3) is replaced by the following:

(3) Structures that are not buildings; including their roof surfacing.

The following is added to paragraph a:

(4) Roof surfacing on structures that are buildings if a loss to the roof surfacing is caused by the peril of hurricane, windstorm, or hail.

Paragraph b.(1) is deleted and replaced by the following:

- b. Buildings under Coverage A or B at replacement cost without depreciation, subject to the following: (1) If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after the application of depreciation, with the exception that damage to roof surfacing caused by hurricane, windstorm or hail will be paid at actual cash value at the time of loss. In any instance, we will pay no more than the least of the following amounts:
- (a) the limit of liability under this policy that applies to the building
- (b) the replacement cost of the part of the building damaged for like construction and use on the same premises; or
- (c) the necessary amount actually spent to repair or to replace the damaged building.

In the Special Provisions for Florida, SFIV DF 09 SP 12 11:

#### 5. Loss Settlement

Paragraph b.(4) is revised as follows:

b.(4) we will initially pay at least the actual cash value at the time of loss, less any applicable deductible. We will pay any remaining amounts necessary to perform repairs as work is performed and expenses are incurred. If the loss is to the roof surfacing and is caused by hurricane windstorm or hail, we will only pay for the actual cash value at the time of loss, less any applicable deductible. In any instance, we will pay no more than the following amounts:

ROOF SURFACES PAYMENT SCHEDULE									
Age of Roof in Years	Roof Surface Material Type								
	Composition Shingle	Metal	Concrete/Clay Tile	Wood Shake/Shingle	Tar/Gravel	Other Roof			
Less than 1	100%	100%	100%	100%	100%	100%			
1 to less than 2	96%	99%	98%	98%	96%	96%			
2 to less than 3	92%	98%	96%	96%	92%	92%			
3 to less than 4	88%	97%	94%	94%	88%	88%			
4 to less than 5	84%	96%	92%	92%	84%	84%			
5 to less than 6	80%	95%	90%	90%	80%	80%			
6 to less than 7	76%	94%	88%	88%	76%	76%			
7 to less than 8	72%	93%	86%	86%	72%	72%			
8 to less than 9	68%	92%	84%	84%	68%	68%			
9 to less than 10	64%	91%	82%	82%	64%	64%			
10 to less than 11	60%	90%	80%	80%	60%	60%			
11 to less than 12	56%	89%	78%	78%	56%	56%			
12 to less than 13	52%	88%	76%	76%	52%	52%			
13 to less than 14	48%	87%	74%	74%	48%	48%			
14 to less than 15	44%	86%	72%	72%	44%	44%			
15 to less than 16	40%	85%	70%	70%	40%	40%			
16 to less than 17	36%	84%	68%	68%	36%	36%			
17 to less than 18	32%	83%	66%	66%	32%	32%			
18 to less than 19	28%	82%	64%	64%	28%	28%			
19 to less than 20	25%	81%	62%	62%	25%	25%			
20 to less than 21	25%	80%	60%	60%	25%	25%			
21 to less than 22	25%	79%	58%	58%	25%	25%			
22 to less than 23	25%	78%	56%	56%	25%	25%			
23 to less than 24	25%	77%	54%	54%	25%	25%			
24 to less than 25	25%	76%	52%	52%	25%	25%			
25 to less than 26	25%	75%	50%	50%	25%	25%			
26 to less than 27	25%	74%	48%	48%	25%	25%			
27 to less than 28	25%	73%	46%	46%	25%	25%			
28 to less than 29	25%	72%	44%	44%	25%	25%			
29 to less than 30	25%	71%	42%	42%	25%	25%			
30 or older	25%	70%	40%	40%	25%	25%			

HO-2795

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#### ROOF SURFACES PAYMENT SCHEDULE ENDORSEMENT

This endorsement modifies insurance provided under the following: HOMEOWNERS POLICY

#### SECTION I - LOSS SETTLEMENT COVERAGE A - DWELLING

1. A1 – Replacement Cost Loss Settlement – Similar Construction.

The first paragraph in item 1.a. is replaced with the fol- lowing:



### Adjuster problems

**Jean**: If a consumer is not getting a response from the insurer's adjuster, what's their remedy?

#### Rick:

- 1) If a consumer has a public adjuster, are they barred from communicating directly with an insurer?
- 2) If a consumer is not getting good service from their public adjuster, what's the remedy?

### Claims w/insolvent insurers

Jason – If a homeowner's insurer went insolvent, does FIGA automatically take over processing/paying the claim or does the homeowner need to be pro-active to get paid?

### Florida Insurance Guaranty Association



HOME INSOLVENCIES

**ASSESSMENTS** 

NEWS

**MEETINGS** 

**REPORTS** 

FAO

STAFF

**CONTACT US** 

CORPORATE INFORMATION

FIAIA

#### **Contact Us**

#### **Claims**

#### Regular Mail, Phone, & Fax:

P. O. Box 14249

Tallahassee, Florida 32317

Phone: (800) 988-1450 Toll Free

Fax: (850) 523-1888

#### To report New Claims for the following estates ONLY:

- American Capital Assurance Corporation
- FedNat Insurance Company
- Gulfstream Property and Casualty Insurance Company



#### **ABOUT THIS SITE**

We hope the information provided in this Web site is useful. For more information we invite you to visit the Frequently Asked Questions section of the site. Please refer to the Contact Us section if you have any questions for the Florida Insurance Guaranty Association.

### **NFIP Claims**

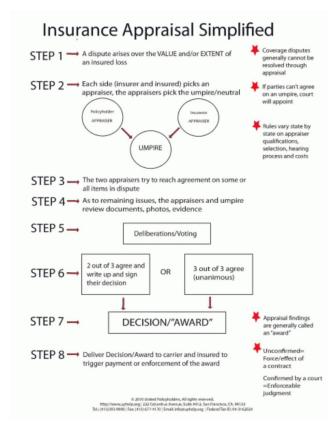
Proof of Loss deadlines just ended, so you might need to supply additional info

#### Documentation needed can include:

- Engineering reports
- Paid invoices
- Bids or estimates from subcontractors
- Photographic documentation

#### Resolving disputes through the appraisal process

#### **Insurance Appraisal Simplified**



#### Rick & Jason:

Is Appraisal a viable option for a consumer mired in a claim dispute?

Approximate time and costs?

### Is it too late to hire professional help?

- If your insurer has denied your claim, it's most likely a coverage issue – legal assistance
- If you are stuck in claim limbo, it's likely a claims handling issue (intentional or negligent slow paying, inaccurate/biased expert reports, lowballing)

### Lawsuit economics

#### **Matt**

 Can a homeowner file a Notice of Civil Remedy or only a lawyer?

#### **Jason**

 With the tort reforms the FL legislature enacted, can a FL resident still hire a lawyer to sue an insurer on a contingency fee basis or only hourly?

# Civil Remedy Notice of Insurer Violation

- Instructions and link to the form available here:
  - https://apps.fldfs.com/CivilRemedy/
- Required to file a bad faith action against a homeowners' or property insurer in Florida
- Anyone can file, no need to have a lawyer
- Make sure you fill out every section of the form, and give as much information as you have available
- The insurer must respond to the notice within 60 days, or else they will be presumed to have acted in bad faith

# An insurer's continuing duty to handle your claim fairly

**Matt:** Does the filing of a lawsuit mean an insurer no longer needs to continue processing your claim?

### Help from FL Gov't Agencies

The Florida Division of Financial Services:

https://www.myfloridacfo.com/Division/Consumers/contactus.htm

1-877 693-5236

Florida Office of Insurance Regulation: Ian Updates <a href="https://www.floir.com/home/ian">https://www.floir.com/home/ian</a>

### Florida HO Mediation Program

### Home insurance claim disputes:

Department of Financial Services, Mediation Program

Phone: 877-693-5236

https://www.myfloridacfo.com/division/consumers/mediation/

### Flood dispute resolution options

National Flood Insurance Program claim disputes FEMA, 400 C Street SW, 6th Floor SW Washington, D.C. 20472-3010

FEMA-NFIP-Appeals@fema.dhs.gov

# No flood insurance or claim denied Possible sources of \$

- Mortgage forbearance
- Home equity loans
- Tax strategies
- Charitable aid (see next slides)
- SBA loans, FEMA IA (Individual Assistance Grants) Appeal, try try again

## Hurricane Ian Recovery Resources

- Visit FloridaDisaster.org/info for Hurricane Ian information.
- Disaster Legal Services is still providing free legal help to lowincome disaster survivors. Call the hotline at 866-550-2929 any time and leave a message.
- Are you a community member looking for help with food, housing, transportation, peer support, or other services? Request help from Unite Florida -<a href="https://ianrecovery.fl.gov/unite">https://ianrecovery.fl.gov/unite</a>
- General statewide recovery resources
  - Floridadisaster.biz Directory
  - Call 2-1-1 for local resources

- BREVARD COUNTY Family Endeavors
  - Phone: 407-487-2362
  - Email: DCM FL@endeavors.org
- CHARLOTTE COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- COLLIER COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- DESOTO COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- FLAGLER COUNTY Family Endeavors
  - Phone: 407-487-2362
  - Email: DCM FL@endeavors.org

- GLADES COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: Dr4673ian@svdpdisaster.org
- HARDEE COUNTY SendMeMissions
  - Phone: 863-800-9654
- HIGHLANDS COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- HILLSBOROUGH COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>

- LAKE COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: <u>DCM\_FL@endeavors.org</u>
- LEE COUNTY Compass82
  - Phone: 239-944-7470
  - Email: <u>lanDCM@Compass82.org</u>
- MANATEE COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- OKEECHOBEE COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: Dr4673ian@svdpdisaster.org

- ORANGE COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: <u>DCM\_FL@endeavors.org</u>
- OSCEOLA COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: DCM FL@endeavors.org
- PASCO COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- POLK COUNTY: Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- PUTNAM COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: DCM FL@endeavors.org

- SARASOTA COUNTY Disaster Services Corporation Society of St. Vincent De Paul
  - Phone: 941-799-6779
  - Email: <u>Dr4673ian@svdpdisaster.org</u>
- SEMINOLE COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: <u>DCM\_FL@endeavors.org</u>
- ST. JOHNS COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: <u>DCM\_FL@endeavors.org</u>
- VOLUSIA COUNTY: Family Endeavors
  - Phone: 407-487-2362
  - Email: <u>DCM\_FL@endeavors.org</u>

# Where to report unprofessional professionals

#### **Contractors, roofers, remediation professionals:**

Florida Dept. of Business and Prof'l Regulation (<a href="http://www.myfloridalicense.com/DBPR/file-a-complaint/">http://www.myfloridalicense.com/DBPR/file-a-complaint/</a>

#### **Insurance adjusters (staff, public or independent)**

Florida Office of Insurance Regulation

- Email: <u>Consumer.Services@Myfloridacfo.com</u>
- Call: (877) 693-5236

FL Ass'n of Public Ins. Adjusters – Voices of policyholders recorded line

### **Attorneys:**

Florida State Bar <u>Attorney/Consumer Assistance Program</u> or call: 866-352-0707

## Hurricane Ian Florida Mental Health Resources

### NAMI Suicide and Crisis Hotline

Call/text 988

### National Disaster Distress Helpline

· 1-800-985-5990

### **Veterans Crisis Line**

1-800-273-8255 and press 1

## For more info, visit:

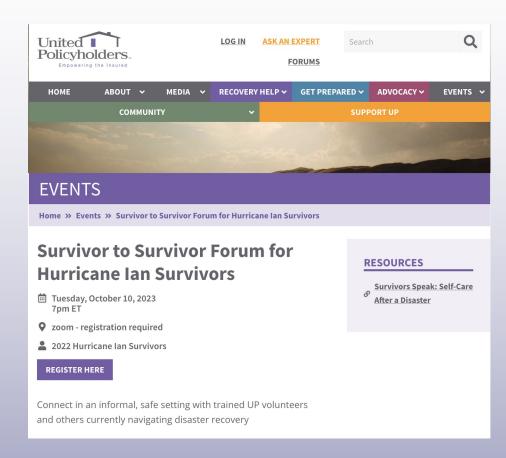
- www.uphelp.org/ian
- https://uphelp.org/claim-guidancepublications/
- https://uphelp.org/sponsor-location/florida/

### Survivor to Survivor...

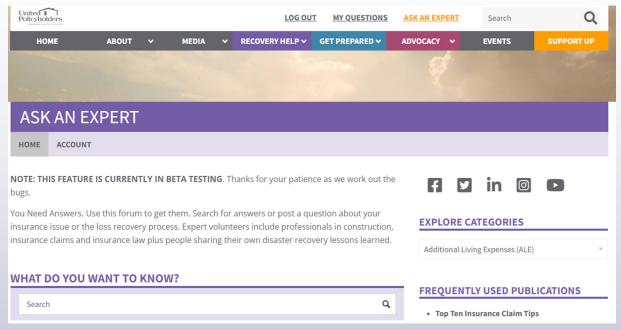
You are not alone...No one else understands your challenges and emotions like another survivor

Insights, best practices, honesty

Survivors only



## Ask an Expert Forum www.uphelp.org/ask-an-expert



- Register. It's free.
- Write in your questions.
- Get an answer from an expert in construction, insurance, laws and disaster recovery.

### **THANK YOU!**

- FL Expert volunteers
- Attendees, for your time and attention...

### Thank You to Our Funders



