



LARRY BACHE

Sinkhole damage is among the most frustrating types of property loss due to its unpredictability. Your property can seem perfectly fine, meanwhile a potential sinkhole lies in wait unbeknownst to you. Worst of all, insurers may not approve a claim stemming from sinkhole damage. One of our clients recently found that out the hard way.

Merlin Law Group attorney Larry E. Bache Jr., Esq., recently had a case involving a policyholder going against their insurer after the provider acted in bad faith regarding a sinkhole claim in Florida. Our client, Maria Nazario, had sinkhole-related damages to her property back in 2010. Her insurer, Tower Hill Select Insurance Company, denied her claim and failed to properly assess the property for any potential sinkhole activity, despite Nazario's policy dictating specific procedures for instances of sinkhole-related damage.

The policy in question was considered an "all-risks" policy that included an endorsement for sinkhole loss. The policy stated:

We insure for direct physical loss to property covered under Section 1 caused by a Sinkhole Loss, including the costs incurred to:

- 1. Stabilize the land and building; and*
- 2. Repair the foundation;*

In accordance with the recommendations of the professional engineer who verifies the presence of a Sinkhole Loss in compliance with Florida sinkhole testing standards and in consultation with you.

In accordance with her policy, Ms. Nazario filed her claim in a timely manner. The insurer hired HSA Engineers & Scientists to inspect the property and conduct a structural damage evaluation. They failed to request HSA to conduct any form of testing to identify sinkhole activity—a direct violation of the Policy.

The insurer denied Ms. Nazario's Sinkhole Loss claim. To add insult to injury, their decision to not properly test the property for sinkhole activity left Ms. Nazario susceptible to other potential risks associated with Sinkhole Losses.

Ms. Nazario took the initiative and hired an independent geotechnical engineering company, KCI Technologies, to evaluate her property for a Sinkhole Loss. KCI's report identified the causation for damage as a Sinkhole Loss, thus contradicting the insurance company's review. Pursuant to this ruling, Ms. Nazario filed a lawsuit against her insurer for breaching the terms of the Policy.

Even with this new documented evidence corroborating her original Sinkhole Loss claim, the insurer stood by their decision to deny the initial claim. At this point, both parties engaged in written discovery and exchanged multiple requests for production, interrogatories, and admissions. There were also oral depositions taken of the insurer's corporate representative and the adjuster they hired.

These oral depositions proved vital to our client's case, as there were clear signs of bad faith expressly mentioned. For example, the insurer's representative was asked if whether or not the insurance company had an obligation to test Ms. Nazario's home for sinkhole activity upon reporting of the Sinkhole Loss claim according to her Policy. The representative confirmed that the insurer did in fact have an obligation to conduct testing, but failed to do so. The representative also confirmed that the insurer issued the denial without doing any form of testing for sinkholes. In fact, there was never even a request made. According to the representative's deposition, the investigation into the claim was never completed prior to the insurer issuing their denial.



The insurer attempted to save face by rescinding their denial in 2014 only after they requested a neutral evaluation under Florida Statute 627.7074. The neutral evaluation took place at Ms. Nazario's residence and was conducted by an impartial evaluator, Mr. Eduard Badiu. Mr. Badiu's analysis verified a Sinkhole Loss. He provided an estimate of \$220,200 to repair the home. The insurer issued a payment in the amount of \$12,163.55 for the aboveground damages. They also requested a subsurface repair contract agreeing to remediate the confirmed sinkhole activity. Ms. Nazario submitted her subsurface repair contract to commence the stabilization of her home. The insurer released another payment in the amount of \$105,994.40 to begin the subsurface repairs.

As part of the deposition of the insurer's adjuster, it was determined that the insurer had an obligation to comply with the terms laid out in Ms. Nazario's Policy. The adjuster acknowledged that the insurer did finally recognize the coverage and rescind their initial denial. This ultimately serves as proof that the insurer knowingly acted in bad faith and only reverted to the correct action once Ms. Nazario retained counsel and took the matter to litigation.

Merlin Law Group has worked many bad faith cases over the course of three decades. Sadly, insurer bad faith is a common trend in the homeowners insurance industry. Luckily for policyholders, Merlin Law Group isn't going anywhere either. We are committed to helping policyholders obtain justice when their insurers leave them high and dry. In Ms. Nazario's case, the insurance company that was supposed to back her up tried to pull the rug out from under any hope of getting her home back to normal. Larry Bache and his team worked tirelessly to prevent that from happening. These types of cases are often lengthy, and for a reason. Insurers hope to wear down policyholders and exhaust not only their financial resources, but also their mental fortitude. Merlin Law Group has the financial backing to take these insurers head on and not let them get away with acting in bad faith.

As was the case with Ms. Nazario, Merlin Law Group can help policyholders achieve a fair recovery. Please contact our offices if you believe your insurer is acting in bad faith and denying a rightfully justified claim.