



DELAY, DENY, DEFEND

FIGHTING AGAINST INSURER TACTICS

Oftentimes an insurer will employ delay, deny, and defend tactics to circumvent paying out your insurance claim. For a homeowner, this is incredibly frustrating especially considering how you consistently pay premiums in hopes of having protection should something happen. After all, insurance is supposed to be there for you when it matters most, right?

For one New Jersey family, this became a reality after their home suffered hail damage from a storm. Luckily for them, our very own Daniel Ballard represented them in litigation against the insurer and was able to lead them to a full recovery. His tenacity through the case is an example of what Merlin Law Group can do for you.

FILING THEIR CLAIM

The hail in this storm was over an inch in diameter and left the client's roof, siding, pool cover, and interior of the property damaged. The insured documented the storm in real time and took photos of some of the hail that fell. This information was submitted as part of the initial insurance claim.

The insured did everything by the book. In addition to documenting the damage, he hired a public adjuster to come out and survey the damage to the property. The public adjuster then prepared a damage estimate for the loss. He also sought the help of an engineer to come out and perform tests that connected the dots between the hail storm and the incurred damage to the roof.



A denial was still issued by the insured on the submitted claim. They acknowledged the presence of hail hits to the roof, but stated, “the hail did not significantly damage any material that would warrant replacement or affect the life of the shingle.” Essentially, they undervalued the scope of the damage sustained and slated in the ‘normal’ category versus ‘significant,’ thus justifying their denial of the claim.

TAKING THE CASE TO TRIAL

After the claim was denied, a lawsuit was filed on behalf of the insured. This is where the delay tactics set in. The insurance carrier retained counsel boasting on their rate of taking jury trials to verdict. It became clear this was going to be their intention regarding this hail damage case. However, the insured's counsel had multiple ongoing cases. Each time the case was listed for trial, the insurer's counsel would submit a letter detailing other cases listed for trial on the same day. This culminated into a year and a half of waiting before the insured finally got their day in court.

“Despite having a strong case on our end, we had to deal with the insurer's counsel stalling over and over. These delay tactics are unfortunately common, but not enough to deter us from pursuing justice on behalf of the policyholder,” said Ballard.

Once the trial proceedings began, everything seemed to fall in favor of our client. Both the public adjuster and engineer hired by the insured provided credible testimony on the damage estimates and links between the hail storm in question and damage to the property. A mishap on behalf of the defendant allowed for credible testimony to be allowed in, which Ballard used to his advantage in discrediting a representative from the insurer on the stand.

The insurer had sent an initial independent adjuster out to the client's property to appraise the damage. This adjuster verbally expressed to our client that the damage was covered and would be replaced. The insurer then hired a second independent adjuster to survey the same damage. The claim was denied after this second inspection. Ballard attempted to subpoena the first adjuster but they couldn't be found on account of the company going under and there being a lack of contact information as a result.

This verbal conversation between the first adjuster and our client came into question during trial and the insurer objected to it being used. Ballard argued the conversation wasn't hearsay on the grounds it was based on agency exception—after all, the

adjuster was hired by the defendant and had the conversation in the capacity they were hired for. The issue was discussed prior to the proceedings and the Court ruled in favor of our client, allowing that conversation to be discussed in trial.

Ballard attempted to call the case-in-chief on this case prior to trial in order to determine why they abandoned their first adjuster's appraisal. His questioning led to the defendant deciding against calling her to the stand, a point in which Ballard homed in on in his closing arguments.

Another big break occurred when it was realized that the defense made a critical error in evidence submission at the conclusion of the trial—before jury instructions. The defense motioned to submit an email correspondence between the client and their independent public adjuster. The defense failed to notice a statement in that email that ultimately ruined their argument in the case. This statement read:



Also, neighbor two houses down just got a new roof, they have solar panels and they got them removed and a new roof installed and they have [carrier], and also have [claim representative] as their adjuster. How can they just pick and choose who they approve?

This neighbor referenced in the email did in fact have a home (built around the same time as our client) that also had their roof and solar panels damaged as a result of the same hailstorm. This neighbor was also confirmed to have the same insurance carrier and claim representative on the case. Dan and his team were aware of this fact and had the information in their engineer report. Unfortunately for the defense, they overlooked this detail before submitting the email into evidence—a likely result of all those other cases the insurer's counsel had running simultaneously.

Once this detail came to light, it didn't take long for the jury to deliberate and return a verdict in favor of our client. Their verdict led to the client receiving 100% of the damages estimated by the independent public adjuster. The plaintiff had a strong case regardless of what was stated in the email, so it is safe to assume that the jury would have likely ruled in favor of our client. The quality of our case was a testament to the work done by the engineer, public adjuster, client, and Dan Ballard.

“This case shows how attention to detail comes into play. Overlooking the smallest detail can make or break your case, which is why we strive to be knowledgeable of all factors in a case so we can better prepare for trial should it come to that,” said Ballard.

OVERCOMING INSURER OBSTACLES

The insurance carrier's approach to this case exemplifies the delay, deny, defend tactics mentioned earlier. The insured's claim was legitimate and deserved to be approved based on the evidence presented in conjunction with their policy, however the insurer sought to cut corners and costs by avoiding this payout. In some cases, insurance carriers are able to wear down the insured by delaying the litigation process. Thankfully for the client, Dan showed how Merlin's dedicated and experienced trial team is ready to fight for policyholders.

If you find yourself in a similar experience where your insurer seeks to undervalue your claim or deny it outright, please reach out to Merlin Law Group. We've helped tons of clients reach a full and fair recovery throughout our 35 years of experience. Whatever tactics insurers attempt to use to stifle your case, our team is willing and able to help you overcome them.