

Claims Scuttlebutt

Insurance happenings in Florida, Louisiana, Texas and North Carolina

Scuttlebutt: Naval term for drinking fountain where the latest news is shared.

Litigation Funding

Emerging threat to the Insurance Industry

Florida Condo Crisis

Florida Condo owners face impossible decision following the deadline to inspect condo buildings.

Florida Legislation

Minor insurance legislative changes planned for 2025

Lozano Update

Busy February planned



Third Party Litigation Funding

When we attended Turning the Corner: The New Normal of the Florida Insurance Marketplace, we had the opportunity to hear Wesley Todd of Case Glide talk about an emerging threat to our market: third party litigation funding. It was so alarming that we wanted to share what we learned about the shadow industry threatening our market and national interests.

The US Chamber of Commerce notes that “Third Party Litigation Funding is a multibillion-dollar global industry that operates largely in secret and is designed to maximize profits for its investors at the expense of the legal system, defendants, plaintiffs and consumers.” It is the process where third party financiers provide money to the plaintiff in exchange for a portion of the award that results from litigation or settlement of a case. The investors claim that this allows the average person to hire counsel, pay for experts and support living expenses when necessary, all long before they benefit from an award from the court. Their points are valid; however, they ignore the inherent conflict where a third party controls and directs a case in ways to maximize profit and that may not align with the best interest of the injured party. For example, the funding contracts can prohibit the plaintiff from settling the case pre-trial or require the investor’s approval of any settlement terms; the investors can dictate who will represent the plaintiff and even which experts to use. The control investors exert over cases threatens the independence and ethics of plaintiff’s counsels who have a duty to protect the best interests of their clients. Additionally, the involvement of an investor motivated solely on profit results in fewer settlements and drive up the costs of defense as more cases proceed through expensive trials.

Litigation Funding is a growing industry in the US, estimated to be over \$15 billion last year. There are varying degrees of regulation and restrictions in the US, but it is largely unrestricted and there are very few jurisdictions that allow for discovery. The lack of disclosure makes it impossible to accurately know who and how much money is funding litigation in the US, and there is significant concern that the lack of transparency has allowed foreign actors to undermine US interests and gain

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access to sensitive information. We know of an investment firm created by Russian billionaires funded lawsuits in the US and UK from [Bloomberg's reporting](#). We know of a Chinese firm PurpleVine IP that backed intellectual property suits against Samsung in the US due to disclosure rules in Delaware. Though, due to the largely unregulated environment in the rest of the country we do not know the extent of foreign investment that is pushing agendas within the US legal system.

The Institute for Legal Reform recently published their research urging "robust reform of [third party litigation funding]." Three main concerns of the ILR research are quoted below, and the full paper can be found [here](#).

- **Funders Bleed Off Recovery Intended for Litigants:** Litigation funders are not benevolent entities looking to support justice. Their primary goal is to maximize their own profits, often at the expense of the plaintiffs they fund.
- **Funders Can Exercise Immense Control Over Cases:** Funders frequently exert significant control over the litigation process, including strategic decisions and settlement negotiations, which can undermine the interests of the actual parties involved.
- **Funding Can Be Exploited by Foreign Adversaries:** There is growing concern that foreign adversaries can (and do) use TPLF to undermine US national security and economic interests by funding litigation against American companies.

The threat is recognized, and several states are putting forth legislation to expose and hold accountable litigation investors. Unfortunately, Florida and Texas are not among the states pushing litigation funding legislation yet. On the bright side, House Resolution 9922, the Litigation Transparency Act, was introduced to the US House of Representatives in October 2024. It is currently with the House Committee on the Judiciary for review.

Florida Condo Crisis

December 31, 2024 marked the deadline for three or more story residential buildings that are 30 years or older to conduct a milestone inspection. These inspections were mandated after 98 people were killed when the Champlain Tower condo collapsed in 2021. According to the law, the milestone inspections are to evaluate load-bearing walls and the primary structural members / systems of the building in order to determine any necessary maintenance, repair or replacement. As of the deadline there are many associations who have failed to complete and turn in the phase 1 inspection results. In Palm Beach county, for example, there are 568 buildings that needed to submit the results at the end of the year, and according to Palm Beach County Reporting Statistics nearly 20% still had not submitted their milestone inspection reports as of January 7, 2025. Those 20% face fines that will add more stress on the owners who already cannot afford the assessments needed for repairs.



Around the same time, and to ensure that Florida condominium associations have adequate reserves in the future to conduct the repairs identified in these inspections, Florida amended the condominium statute requiring structural integrity reserve studies. These studies inform associations of their expected costs for maintenance and repair in the future, and they are necessary now that the association annual budgets in 2025 have been legislated to include adequate reserves to account for capital expenditures and deferred maintenance. As a result most associations are playing catch up to increase their reserves to meet the new requirements. Many assessments are tens of thousands of dollars, with some exceeding \$100,000.

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These two rules that are intended to prevent another catastrophic event like the collapse in Surfside three years ago, while necessary, have put many Floridians in an impossible position. Many condominium owners retired to Florida on a fixed income and they cannot afford the large assessments that are not covered by the standard homeowner's policy. The number of condo units on the market has increased by 56% as owners are trying to sell their properties to get out from under the assessments, yet buyers have been wary and sales are down 10.5%. The options are not great, and the legislature may defer the deadline, though this will not address the need for repairs and ultimately financial solvency of condominium associations. It is a difficult position, but one that needs to be faced to ensure the safety of the condos in Florida. More details about the issue can be found in the Florida Policy Project's report [here](#).

Florida Insurance Legislation

Senate Bill 230 is the only bill that affects claim handling. Here are the three changes that we should be aware of:

- Clarifies that a person cannot file a claim for extra contractual damages (bad faith) until an adverse adjudication that the property insurer breached the contract is established by a court of law. It specifically states that paying an appraisal award is not an adverse adjudication, effectively closing one of the common paths to a bad faith claim.
- As a reminder, 626.878(2) and 627.70131 (3)(a) require an adjuster to include their appointment type and license number in any communication with the policy holder. The proposed bill clarifies that if an adjuster is communicating via text that only the first text message needs to contain the license number and appointment type. Any subsequent texts do not need to repeat the license and appointment type.
- The bill expressly prohibits public adjusters from engaging in adversarial conduct, including, but not limited to electronically recording claims personnel or consultants without their consent. If this passes, no more public adjusters recording our adjusters while pestering them with questions.

Lozano Update

We have been busy meeting with carriers learning about their experiences and lessons from the last hurricane season. Lozano submitted an application to Texas Windstorm Insurance Association (TWIA) / Texas Fair Plan Association last month and we hope to be invited to interview for the assignment at the end of February. Also in February we will renew or earn our NFIP certifications so that we can explore options to grow into the flood space. Finally, we are excited to attend the Verisk Elevate conference February 3-5 where we hope learn more about the newest tools available to adjusters.



Lozano Insurance Adjusters is a customer-centric adjusting firm that has worked over 300,000 claims in the southeastern United States. Our executive team combines years of military leadership and management experience running an independent adjusting firm. We understand the challenges and concerns of insurance carriers as well as their customers, and we tailor our work to their specific needs. We strive to deliver personalized service and empathy to develop the best outcome for the claims entrusted to us. Your claim is our commitment. If you are interested in joining our team register on our [website](#).