

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND, SOUTHERN DIVISION**

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PLAINTIFFS,

v.

COMPUTER SCIENCES
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and

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GERRY BORA, Individually
Isabel Taskforce General Adjuster

Civil Action No. _____
Judge _____

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HARTFORD FIRE INSURANCE :
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DEFENDANTS :

COMPLAINT

Now come the Plaintiffs, by their attorneys, Freeman & Freeman, P.C. and Martin H. Freeman, Esquire, and file this Complaint against the Defendants, as follows:

INTRODUCTION AND OVERVIEW

1. On September 18, 2003, Tropical Storm and Hurricane Isabel (Isabel) caused catastrophic flood damage to the primary residences of a great number of homeowners in the Middle Atlantic States, and in Maryland in particular.

2. This Complaint is brought by Isabel flood victims who were residents in homes damaged by Isabel which were insured against flood loss under the National Flood Insurance Program (“NFIP”), a program included within the Federal Emergency Management Agency (“FEMA”), which in turn operates within the Department of Homeland Security (“DHS”). Prior to the flood, all of the Plaintiffs herein were residing in their NFIP-insured properties. At least one flood victim Plaintiff in each NFIP- insured primary residence was the policyholder. Each of the primary residences involved herein was insured against flood loss under an identical Standard Flood Insurance Policy (“SFIP”), issued under the NFIP. Each of the SFIP’s of the Plaintiffs, by its terms, provides for Replacement Cost Value (“RCV”).

3. This Complaint is for money damages, based upon causes of action for (I) deprivation of liberty and property without due process of law (*Bivens* claim), (II) insurance procurement fraud (deceit), (III) claim adjustment fraud (deceit), (IV) tortious

interference with contractual relations, and (V) breach of contract. Under the first through the fourth causes of action asserted herein, each Plaintiff herein seeks consequential damages for pain, suffering and mental anguish, for personal injury including contaminant-induced personal injury and illness, psychological and financial debilitation and injury, punitive (exemplary) damages, attorneys' fees, pre-judgment and post-judgment interest and costs. Under the fifth cause of action asserted herein, those Plaintiffs who are NFIP insureds seek unpaid amounts due them under their SFIPs, return of premiums, disgorgement of profits and compensation received by the Defendants, pre-judgment and post-judgment interest and costs¹.

4. Plaintiffs contend that Defendants have been and continue to be engaged (a) directly, (b) by participation in a civil conspiracy and/or (c) by concert of action, in a course of conduct giving rise to these five causes of action.

5. Computer Sciences Corporation ("CSC"), under contract with FEMA, is charged with the management and oversight of the day-to-day affairs of the NFIP.

6. Persons authorized to market the SFIP, directly or indirectly, for sale to Plaintiffs and other purchasers of flood insurance, are trained and instructed, under the auspices of CSC, to inform the prospective insureds that, subject to the deductible and

¹ Six of the Plaintiffs herein, Alfred Garner, Henry Hale, Frederick Kotrla, Michael Rhea, Kathryn Smith and Robert Valentin, are also class representative Plaintiffs in a class action lawsuit filed on May 10, 2004, in the Baltimore Division of this Court, captioned *Howell, et al v. State Farm Insurance Companies, et al*, Civil Action No. 1:04-CV-01494-BEL. Except for the Fifth Cause of Action herein, the instant civil action asserts causes of action not asserted in the class action. The instant action also claims elements of damage, both consequential and punitive, not claimed in the class action. Accordingly, because they are class representative Plaintiffs in the class action lawsuit, Plaintiffs Alfred Garner, Henry Hale, Frederick Kotrla, Michael Rhea, Kathryn Smith and Robert Valentin make no claim herein under the Fifth Cause of Action, nor do they claim, under any of the first through the fourth causes of action asserted herein, any element of damage for which recovery ultimately may be permitted in the class action. It is the intent of these five Plaintiffs to proceed in the instant action seeking no relief which has the potential of being redundant with, and hence antithetical to, their status as class representatives in the class action lawsuit. However, they are parties to this action because they do not wish to relinquish their rights and remedies addressed in this action which are not addressed in the class action lawsuit.

policy limits, a primary residence damaged by flood will be restored to its pre-flood condition.

7. While CSC instructors are instructing the SFIP marketers to inform prospective insureds that their primary residences damaged by flood will be restored to their pre-flood condition, other CSC employees are simultaneously training and instructing claims adjusters and those responsible for training claims adjusters to allow only narrowly defined coverage in limited amounts – contrary to the sales agent training. In fact, the CSC adjuster training teaches those persons authorized to adjust flood loss claims made under the SFIP, and persons authorized to train such adjusters, to employ and teach the employment of systematic “low-balling” and high pressure tactics, as a result of which flood victim claimants, including Plaintiffs herein,, receive only a small fraction of the amount necessary to place their primary residences in their pre-flood condition.

8. Most of the SFIPs issued under the NFIP are issued by private insurance carriers, identified in the NFIP as “Write Your Own” companies (“WYOs”). At the same time that CSC is charged with overseeing the NFIP, it continues to serve the WYOs, who collectively provide CSC with a major share of its business – billions of dollars according to CSC’s website.

9. Notwithstanding that there are a number of WYOs, the SFIPs provided to the Plaintiffs for their primary residences by all of the WYOs are identical, as required by the NFIP. The only variables are the insureds’ selection of deductible, policy limits and election for contents coverage.

10. Upon collection of SFIP policyholders' premiums, the WYOs retain approximately thirty percent (30%) for themselves as their fee for handling the policy, and forward the balance (the net premiums) into a U.S. Treasury account funded solely from the NFIP net premium dollars. CSC, as part of its responsibility for overseeing the day-to-day operations of the NFIP, maintains the records relating to these transactions.

11. The U.S. Treasury account is designated solely for payment of NFIP operations, flood victims' claims, and an additional fee to the WYOs (equal to three percent (3%) of the amount of any claim paid). All such payments are made solely from this U.S. Treasury account. No taxpayer funds are employed to make these payments, a point FEMA promotes as an SFIP selling feature to prospective policyholders. In the event the account balance should ever be insufficient to make such payment, the NFIP is authorized to borrow from the US Treasury. However, any such loans from the Treasury must be repaid from net premium dollars, with interest.

12. A small percentage of the Plaintiffs' SFIPs were written directly by the NFIP through its servicing agent and/or third-party administrator, National Con-Serv, Inc. ("NCSI") under direct contract with FEMA, or by FEMA itself, with NCSI administering the policy and claims made under it ("NFIP Direct").

13. Third-party independent adjusting companies adjust the flood loss claims submitted to the WYOs or NCSI, pursuant to private, non-government contracts between them and the WYOs or, for NFIP Direct policies, between them and NCSI. This claims adjusting function is carried out, in turn, primarily by independent third-party adjusters working as independent contractors for the independent adjusting companies.

JURISDICTION

14. Jurisdiction over the First Cause of Action (*Bivens* Claim) is premised upon U.S.Const. Art. III § 2, cl. 1, 28 U.S.C. § 1331, *Butz v. Economou*, 438 U.S. 478, 504, 98 S.Ct. 2894, 2910 (1978), and *Davis v. Passman*, 442 U.S. 228, 234, 99 S.Ct. 2264, 2271 (1979), which provide original federal jurisdiction over claims asserting a violation of rights protected by the U.S. Constitution.

15. Subject matter jurisdiction over the Fifth Cause of Action (Breach of the SFIP Contract) is premised upon 28 U.S.C. § 1331 and *Studio Frames Ltd. v. Standard Fire Ins. Co.*, 369 F.3d 376, 379 (4th Cir. 2004), which provide original federal jurisdiction over claims asserting a violation of rights granted pursuant to federal statute generally, and upon 42 U.S.C. § 4053, which specifically provides original federal jurisdiction over claims arising from adjustment and payment of flood insurance claims.

16. Jurisdiction over the claims set forth in the Second, Third and Fourth Causes of Action is premised upon 28 U.S.C.A. § 1367, which establishes supplementary jurisdiction over state law causes of action that are so related to the original jurisdiction claims that they form part of the same case or controversy under Article III of the United States Constitution.

17. Jurisdiction over Defendants named only in the state law causes of action is premised upon 28 U.S.C.A. § 1367, last sentence, which provides for the joinder of such parties.

VENUE

18. Plaintiffs in this action reside in Maryland and sustained the claimed damages in Maryland. A substantial portion of the wrongdoing asserted by each of the Plaintiffs against the Defendants occurred in Maryland. The properties that are the subject of the action are situated in Maryland. Venue is therefore proper in this Court pursuant to 28 U.S.C.A. § 1391 (b)(2), which provides generally that the action may be brought in the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or in which a substantial part of property that is the subject of the action is situated, and upon 42 U.S.C. § 4053, which specifically provides that the action arising from adjustment and payment of flood insurance claims may be brought in the judicial district in which the insured property or the major part thereof is situated.

THE PARTIES

19. Each of the Plaintiffs is a citizen of the United States and a resident of the state of Maryland. Their primary residences, located in Maryland, sustained catastrophic flood damage as a result of Isabel on or about September 18, 2003. Each Plaintiff resided in a residence insured through the NFIP at the time of the flood. At least one resident in each such household is an SFIP policyholder. Attachment A to this Complaint lists the Plaintiffs, grouped by damaged household, opposite the WYO (or NFIP Direct) which issued the SFIP for the home.

20. Defendants Allstate Insurance Company, American Bankers Insurance Company of Florida, Brethren Mutual Insurance Company, Farmers New Century Insurance Co., First Community Insurance Company, Harleysville Mutual Insurance

Company, The Hartford Financial Services Group, Liberty Mutual Fire Insurance Company, Nationwide Mutual Fire Insurance Company, Omaha Property and Casualty, American Reliable Insurance Company, Selective Insurance Company of the Southeast, State Farm Insurance Companies, Travelers Property Casualty Corporation, Westfield Insurance Company, Windsor–Mt. Joy Mutual Insurance Company, and USAA General Indemnity Company, are WYOs doing business in Maryland generally, each of whom wrote one or more SFIPs which were issued for delivery in Maryland to one or more of the Plaintiffs, and each of whom was responsible for processing one or more of the Plaintiffs' NFIP flood loss claims. These WYOs, at all times pertinent hereto, were aware of, approved, encouraged and participated in the conspiracy and/or concert of action which brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

21. Defendants Allied American Adjusting Company LLC, Bellmon Adjusters, Inc., CNC Resource, Insurance Claims & Catastrophe Services, Inc., Jackson Adjustment Company Inc., Pilot Catastrophe Services, Inc., Simsol Insurance Services, Inc., Valco-USA, and Colonial Claims are independent adjusting companies doing business in Maryland who processed NFIP flood loss claims made in Maryland, pursuant to their contracts with the WYOs, NCSI and/or CSC. Each of these defendants employed high-pressure, low-ball claim tactics both during the initial adjustment of Isabel flood loss claims and/or during the congressionally mandated Task Force review of the Plaintiff's flood loss claims. These independent adjusting companies, at all times pertinent hereto, were aware of, approved, encouraged and participated in the conspiracy

and/or concert of action which brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

22. Upon information and belief, Defendant John Postava, President of Simsol Insurance Services, Inc., has advocated that new construction prices be used in lieu of much costlier repair and renovation costs. He attended the NFIP industry summit conference in March, 2004, where then federal insurance administrator Lowe made clear the problems associated with using new construction pricing in adjusting flood loss claims. Nevertheless, Defendants Simsol and Postava have continued to use new construction pricing, even in the face of congressional testimony from the publisher of the data: “Moreover, leading the consumer to believe that new construction pricing represent[s] a fair and complete valuation of their damages is, in my expert opinion, fraudulent.” .” Upon information and belief, Defendant Nationwide Mutual has recently ceased using Simsol’s software – the software that contained the low-ball database.

23. Upon information and belief, Defendant Doug Branham, President of Colonial Claims, was made aware of a key aspect of the policy, i.e. “Direct physical loss does not equate to direct physical contact” in March 2004. Nevertheless, as recently as May, 2005, his office was still instructing adjusters to only allow for damages that water had physically contacted – a step that can easily reduce the value of a claim by fifty-percent - despite a FEMA written directive to the contrary. Colonial Claims is affiliated with the largest WYO.

24. Defendant NCSI operates as a third-party administrator and/or third party processor on behalf of WYOs and also operates as the NFIP Direct servicing agent and/or

third-party administrator doing business in Maryland. NCSI processed NFIP flood loss claims made in Maryland, pursuant to its contracts with FEMA under NFIP Direct. NCSI's operations on behalf of its WYO clients make it intimately familiar with the marketing aspects of the NFIP. It published marketing statements in its own company newsletter that "flood insurance offers peace of mind ... flood insurance can make you whole again." Simultaneously, NCSI's General Adjuster Defendant Charles Mikell was sending directives to the adjusting community effectively directing that the flood victims be shorted. For example, one such directive required adjusters to deny up to thirty-thousand dollars of coverage that many victims were entitled to over and above the base value of the policy, a sum that, by federal regulation, is designated to pay for debris removal and the cost of elevating a structure. In this directive example, Defendant Mikell stated:

In the event of a total loss, do not pay for debris removal if the loss exceeds the value of the risk (depending upon how the risk coverage's are applied RCV/ACV), *no matter the amount of insurance purchased*. ... Wishing everyone a safe and prosperous adjusting season.

(Emphasis added.)

25. Defendant Covansys operates as a third-party processor and/or administrator on behalf of WYO carriers and was the successor to NCSI as to the servicing agent agreement with NFIP Direct. NCSI's examiner Defendant Scott Holmes left NCSI to work for Covansys. Upon information and belief, he was instrumental in obstructing victims' claims reviews of claims that were originally handled by his former employer, NCSI, such that the reviews either never took place or resulted in pennies on

the dollar settlements. Thus, Defendant Holmes was responsible for shorting the victims while at NCSI, and obstructing their claims review while at Covansys.

26. Defendant EDS operates as a third-party administrator and/or processor on behalf of its WYO clients, including Defendants Nationwide Mutual Fire Insurance Company and Travelers Property Casualty Corporation. Defendant Gretta Richardson functioned as EDS's claims examiner for the flood loss claims.

27. Defendant National Flood Services, Inc. (NFS) operates as a third-party administrator and/or processor, and as a claims examiner, on behalf of the WYOs, including but not limited to Defendants American Colonial, Harleysville and Omaha. The NFS web-site states,

We are not a computer service company that also offers insurance processing services - we are an insurance organization staffed by knowledgeable insurance professionals with diverse company and agency backgrounds.

28. Upon information and belief, NFS examiner Kim Berger was personally involved with many wrongfully denied claims.

29. These third-party administrator and processor defendants, and their aforementioned key employee defendants, at all times pertinent hereto, were aware of, approved, encouraged and participated in the conspiracy and/or concert of action which brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

30. Defendant FEMA functions as an insurer contracting to provide flood insurance to some of the Plaintiffs under NFIP Direct.

31. Defendant CSC is a corporation doing business in Maryland, and is charged with overseeing the NFIP as specified in its contract with FEMA, and specifically as set forth in the Statement of Work incorporated into its contract with FEMA. At all times pertinent hereto, CSC was aware of, approved, encouraged and participated in the conspiracy and/or concert of action which brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

32. Defendant Michael Brown is the Undersecretary of Homeland Security for Emergency Preparedness and Response, and is responsible for FEMA's operations. He was, prior to this appointment, the General Counsel to FEMA and was responsible for all litigation that was brought against the NFIP. Defendant David Maurstad is the Acting Director of the NFIP and has firsthand knowledge of claims that were properly paid before his tenure, and similar claims that were wrongly denied at his direction. Defendant Ed Conner is the former Acting Director of the NFIP, is now FEMA's Industry Relations Chief, has served on FEMA's Inspector General's staff, has served for years as FEMA's representative on the NFIP Standards Committee, (comprised principally of representatives from the insurance industry), and is intimately familiar with the insurance industry's positions, motivations and desires relating to operation of the NFIP. Accordingly, at all times pertinent to the claims asserted in this action, Messrs. Brown, Maurstad and Conner have been uniquely positioned to be aware, and have been aware, of the wrongful divergence between the SFIP marketing materials, and marketer training, instruction, and representations. This divergence concerns the nature and scope of coverage, on the one hand, and the mistreatment of flood victims, the mishandling of

their claims and the misuse of the power of the machinery of government by them and by those under their supervision and control, all beyond the scope of authority permitted under the NFIP statute and regulations pursuant thereto, on the other hand. Defendants Brown, Maurstad and Conner have known that this wrongful conduct has been applied to the Plaintiffs with devastating, life-changing results upon the victims. Rather than remedy the wrongful conduct, Defendant Maurstad has publicly declared that the wrongful conduct is not wrongful, that the flood victims' insurance claims will not be paid, and that the NFIP insurance is not insurance and has never been, all contrary to the express intent of Congress, President Bush, the terms of the SFIP, the NFIP's marketing materials and the WYOs marketing materials. Defendant Maurstad has attempted to mischaracterize the NFIP as a form of aid rather than insurance. Defendants Brown, Maurstad and Conner have refused to make any attempt to rectify the wrongful conduct, which includes but is not limited to:

(a) the breaches of the SFIP, of the implied covenant of good faith, and of fiduciary duty, carried out by or sanctioned by them, FEMA, other FEMA officials, and the WYOs;

(b) the fraudulent insurance procurement tactics carried out by, or sanctioned by, them, other FEMA officials, CSC and its officials, and the WYOs;

(c) the fraudulent adjustment of flood loss claims carried out by or sanctioned by them, other FEMA officials, CSC and its officials and general adjusters, the WYOs, the independent adjusting companies and adjusters, the NFIP Task Force examiners, and third party NFIP examiners and processors;

(d) the tortious interference with NFIP flood victims' contracts carried out by or sanctioned by them, other FEMA officials, CSC and its officials and general adjusters, the WYOs, the independent adjusting companies and adjusters, the NFIP Task Force examiners, and third party NFIP examiners and processors, and;

(e) the violation of the flood victims' constitutional right not to be deprived of their liberty and property without due process of law, a violation by them and other officials of FEMA, officials of CSC, officials of the WYOs, and officials of those third party NFIP examiners and processors under contract with FEMA.

33. At all times pertinent to the claims asserted in this action, Defendants Brown, Maurstad and Conner have been well aware that the actions in which they and the other Defendants have been engaged are outside the scope of authority permitted under, and are contrary to, the NFIP regulations. They have been notified by flood victims, members of Congress, Maryland's Governor Ehrlich, and/or Maryland's Insurance Commissioner Alfred Redmer, Jr., of many of the problems and consequences outlined in the Statement of Facts (below), yet Defendants Brown, Maurstad and Conner have refused to take any corrective action as requested and warranted. Instead, Defendants Brown and Maurstad are on record as stating that no such action is warranted and have publicly advised the flood victims to avail themselves of their legal remedies.

34. Defendant James Shortley is FEMA's Claims Section Chief. On May 7, 2004, he authored a claims guidance memorandum setting forth FEMA's position regarding a number of points of low-balling. The memorandum was in accord with the express statutory intent that SFIP coverage shall return the flood victims' homes to their pre-flood condition. Yet as the director of the Isabel Task Force, he never provided the

Task Force with access to the memorandum or its contents. He was directly responsible for assembling the Task Force, a group that was not independent as the Senate Banking Committee had directed, but rather was comprised largely of the same adjusters or adjusting firms that low-balled the victims in the first place. His level of awareness of wrongdoing has been equal to or greater than that of Defendants Brown, Maurstad and Conner

35. Many victims, including many of the Plaintiffs, have become ill and debilitated from exposure to mold, sewage and fuel oil contamination stemming directly from the flooding of their respective properties, because Defendants Brown, Maurstad, Conner and Shortley refused to legitimately address their claims.

36. Defendant Paul M. Cofoni is employed by CSC as Vice-President of CSC and President of CSC's federal sector, which oversees the day-to-day operation of the NFIP. On July 30, 2004, in the office of Maryland State Senator Sharon Grosfeld, Defendant Cofoni's counsel, CSC's Vice President and Deputy General Counsel Harvey Bernstein, was made aware of the training disparity and CSC's potentially deadly practice of training adjusters to tell flood victims that fuel oil could be remediated with an absorbant and deodorizer. Fuel oil is a known toxin, irritant and suspected carcinogen. CSC has failed to change its position nearly a year after its senior management was made aware of the situation.

37. Defendant Ramsey Gray was employed by CSC, and was CSC's Isabel Task Force Supervisor.

38. At all times pertinent hereto, Defendants Brown, Maurstad, Conner, Shortley, Cofoni and Gray were aware of, approved, encouraged and participated in the

conspiracy and/or concert of action which brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

39. Defendants Gerry Bora, Rodney Cross, Bill Gambee, Robert Hodges, Owen Ivey, Ed Kristapson, and Frank Ward, are employed by CSC, and are CSC's Isabel Task Force General Adjusters. At all times pertinent hereto, they were aware of, approved, encouraged and participated in the conspiracy and/or concert of action which brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

40. Defendant Joseph Buzzelli is employed by CSC, and is CSC's NFIP Claims Manager. He was and is responsible for oversight of NFIP claims adjustments. He has firsthand knowledge of claims that were correctly paid, and others with identical damages that were denied. He was responsible for selecting and recruiting the adjusters who made up the Isabel Task Force that was supposed to reexamine the 24,000 flood loss claims as had been mandated by Congress, to correct the low-ball adjusting that had transpired. He was in a position to correct the wrongly denied claims and refused to do so. He was in a position to select an impartial Task Force, but instead selected a Task Force comprised largely of those adjusters who had engaged in the original wrongdoing. He knew that the NFIP's purpose was to make the loss claimants whole at the same time that he was in charge of instructing and training the General Adjusters and independent adjusters to do precisely the opposite. At all times pertinent hereto, he was aware of, approved, encouraged and participated in the conspiracy and/or concert of action which

brought about and sustained the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

41. Upon information and belief, Defendant Jerry Dubyak was, at the time Isabel passed through Maryland, a claims examiner employed by Defendant Omaha Property and Casualty, the WYO with the largest number of flood policies at that time. Subsequently, Fidelity Property and Casualty acquired Omaha Property and Casualty's entire book of business. Defendant Dubyak was intimately familiar with proper claims handling procedures. However, he wrongfully and intentionally denied many of Plaintiffs' flood loss claims. In addition, he intentionally and wrongfully provided misinformation to some of the Plaintiffs regarding coverage. Despite the intervention by FEMA's former federal insurance administrator Lowe, and attempts by Mr. Lowe's staff to issue corrective claims guidance to Defendant Dubyak, Defendant Dubyak nevertheless continued to issue misinformation contrary to FEMA's regulations. In addition, Defendant Dubyak conspired with others to wrongfully and intentionally train claims adjusters and sales agents contrary to the stated intent of the NFIP, conducting a seminar, for example, where he stated that the NFIP is "not insurance, but rather an aid program." On April 14, 2005, William P. Griffin, Jr. an Omaha Casualty and Property Independent Broker, testified before the House Subcommittee on Housing and Community Opportunity:

Several months after Isabel struck; I attended a Fidelity sales meeting where Mr. Dubyak was introduced as Fidelity's primary spokesperson regarding flood insurance claims. At the meeting, Mr. Dubyak told the group that the NFIP did not provide insurance, but rather assistance in the form of aid. He continued on to say that coverage only exists in the event that flood waters physically come in contact with the damaged property. I

believed that this misstatement was so significant that I brought it to the attention of Mr. Dubyak's manager, Ms. Deb Price, yet to no avail. I understand Fidelity is now the nation's largest flood insurance carrier.

At all times pertinent hereto, Defendant Dubyak was aware of, approved, encouraged and participated in the conspiracy and/or concert of action which brought about the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

42. Upon information and belief, Defendants Dave Woodward, Debbie Woodward, Dick Woodward and Mike Maroney are independent claims adjusters who wrongly and intentionally denied some of the victims' flood loss claims. These same defendants were subsequently hired by CSC as Task Force examiners selected to reexamine 24,000 flood loss claims pursuant to Congressional mandate to review flood loss claims which had been underpaid. At all times pertinent hereto, they were aware of, approved, encouraged and participated in the conspiracy and/or concert of action which brought about the vast difference between the instruction of the marketers of the SFIP and the instruction of the insurance community segment dealing with claims adjustment.

STATEMENT OF FACTS

43. Each of the Plaintiffs lived in a primary residence home, which carried flood insurance under the NFIP, and which was devastated by flood resulting from Tropical Storm Isabel.

44. Each Plaintiff who was an NFIP policyholder filed a flood loss claim in timely fashion with his/her WYO or through NFIP Direct, as the case may be, for benefits due for flood loss under the SFIP.

45. Over the course of time since then, the insured Plaintiffs have received only a small fraction of the insurance coverage benefits due them, which has, in most if not all cases, resulted in irreparable additional harm to them.

46. As a result, those Plaintiffs with resources to do so were forced either to repair and rebuild their damaged homes or build a new home, thereby depleting their savings and paying on multiple mortgages in the process. Others without such resources wound up as a result living on their home property contaminated by mold, sewage and fuel oil, in cramped FEMA campers, without water, sewer or adequate heat (when the temperature fell below freezing). These victims are suffering from deteriorating health, a lack of privacy for them and their children, and/or with the continuing threat that FEMA is going to repossess their government issued trailers (which at least provide shelter from the elements) because the families could not show progress had been made in repairing or rebuilding their respective homes (the lack of progress was the direct result of the Defendants' failure to pay benefits called for under the SFIP). Still other victims who were unable even to obtain a FEMA trailer continue living in their damaged, unrepaired homes or garages, exposed to the same problems as those living in the trailers. Due to the systematic low-balling, high pressure tactics by which they have been buffeted, and continue to be buffeted, many of the Plaintiffs found that efforts to recover on their SFIP became a full-time enterprise, and/or found themselves suffering from illness or disease from daily exposure to contamination resulting from the flood, and/or found themselves suffering emotionally from the strain and stress associated with their fruitless efforts to recover under their policies, the buffeting, the consequential illness or disease, or a combination of these, and consequently lost substantial time and opportunities at work or

in some cases lost their jobs. Many of the Plaintiffs, particularly the children of tender years, found themselves having nightmares and developing problems at school as a result of the unending insufferable conditions they were facing at home. Some of the Plaintiffs were forced into bankruptcy as a direct result of the shortfall in payment under their SFIPs. The financial stress and poor living conditions led many marriages to fail and left many children in broken homes. Many families, living in campers nearly two years after the flood, face the bleak prospect of becoming wards of the state as FEMA continues to recall the trailers because the occupants have not repaired their respective homes. As a result of the breaches of constitutional, civil, and contractual duties owed them as stated in the First through the Fifth Causes of Action set forth below, each and every Plaintiff has suffered monetary damage and non-monetary losses, such as physical or emotional pain and suffering and mental anguish.

47. In enacting the NFIP, Congress expressed its intent that SFIP insured flood victims' homes were to be returned to their pre-flood condition. This intent was recognized by both Houses of Congress and the President of the United States in the Flood Insurance Reform Act of 2004. Three former federal insurance administrators have gone on record that, under their tenures, the NFIP was instructed to fully restore all covered losses to their pre-flood condition.

48. NFIP marketing statements, written materials and website entries provided to prospective purchasers were prepared under the supervision of agents, servants and employees of CSC and officials of FEMA. These materials stated expressly that flood loss benefits payable under the SFIP were to be of a magnitude to make the insured flood loss victims whole.

49. Under the supervision of agents, servants and employees of CSC and officials of FEMA, and with the approval, encouragement and participation of the other individual and corporate defendants, the marketers of the SFIP were instructed in formal sales training sessions arranged by CSC to inform prospective purchasers of the SFIP, including the Plaintiffs, or cause them to be informed, that benefits under the SFIP, in the event of flood loss, would, subject to the deductible, make them whole and, subject to the policy limits, return their primary residences to their pre-flood condition..

50. While the marketing materials and the sales training instructions conformed with Congress' intent, the marketing materials were disseminated and the instruction was arranged and carried out by the individual and corporate defendants, who either knew or acted with a reckless disregard for the truth that the flood loss victims would in fact not be made whole or have their properties returned to their pre-flood condition, but instead would be subjected to a well organized and comprehensive pattern of low-ball, high-pressure tactics designed to convince and pressure the victims into accepting SFIP benefits amounting to pennies on the dollar. The individual and corporate defendants acted, and continue to act, with a reckless disregard for the devastating consequences that their actions have visited upon the Plaintiffs.

51. At the same time as the marketing materials were being disseminated and the marketers were receiving the formal training, under the supervision of agents, servants and employees of CSC (including CSC's General Adjusters) and officials of FEMA, and with the approval, encouragement and participation of the other individual and corporate defendants, adjusters charged with adjusting the SFIP flood loss claims were instructed in formal training sessions arranged by CSC to adjust the flood victims'

claims employing a systematic pattern of low-ball, high-pressure tactics. These tactics were expressly designed to deny the flood loss victims the insurance benefits that would make them whole, deny them the benefits which would place their primary residences back into their pre-flood condition, and convince and pressure them into accepting SFIP benefits amounting to pennies on the dollar, under threat of receiving no money at all if they did not accept the amount offered.

52. Upon information and belief, CSC conducts billions of dollars of business with its insurance company clients; its participation in the high-pressure low-balling scheme supported and encouraged by the insurance industry defendants is consistent with its business interests.

53. Upon information and belief, the WYOs have approved, encouraged, and participated in, and continue to approve, encourage, and participate in, the training, instruction and utilization of the systematic pattern of low-ball, high-pressure tactics. Those tactics maintains the precedent for the same tactics to be employed by the WYOs with respect to adjusting claims from non-flood perils such as wind and wind-driven rain under their homeowners' policies. The maintenance of that precedent is supported by leaders of the property insurance industry, including officials of many of the defendant WYOs. Former federal insurance administrator Robert Hunter is on record confirming that "they told me so point blank." In fact, if the flood loss claims were fairly paid (for an item such as drywall, for example) and the WYO then attempted to pay a lesser amount for drywall damaged in the same home by wind driven rains, where it comes out of the carrier's pocket, the WYO's low-balling on its homeowner's policy would be obvious. Rather than fairly paying the flood claim, the adjuster working on behalf of the

WYO enters the reduced amount, thereby providing the WYOs a windfall profit at the expense of the flood victims

54. Upon information and belief, the independent adjusting companies under contract with the WYOs, and under contract with NCSI under NFIP Direct, have approved encouraged, and participated in, and continue to approve, encourage, and participate in, the training, instruction and utilization of the systematic pattern of low-ball, high-pressure tactics, and have required that independent claims adjusters whom they hire do the same, because the success of their third-party adjusting businesses depends upon the continuation of their contracts, and to deviate from the high-pressure low-balling scheme would risk probable loss of the contracts on which their businesses depend.

55. Consistent with their instruction and training, the adjusters selected by the WYOs and the independent adjusting companies utilized and continue to utilize the pattern of high-pressure low-balling tactics to convince and pressure the Plaintiffs into accepting SFIP benefits amounting to pennies on the dollar. The pattern is utilized by all of the Plaintiffs' insurers, independent adjusting companies and adjusters, no matter which WYO or independent adjusting company is involved, and no matter whether the SFIP was issued by a WYO or by NFIP Direct

56. The low-ball high-pressure tactics, all of which are contrary to the terms of the SFIP, the intent of Congress and the content of the NFIP marketing materials, include but are not limited to the following misstatements of fact and other wrongful tactics:

- a. The SFIP only covers damaged caused by direct physical contact with flood waters.
- b. The SFIP pays for the outside HVAC equipment if destroyed, but not the related indoor equipment if such equipment is not contacted by flood waters.
- c. The SFIP only pays for the portion of an electrical circuit that has been flooded.
- d. The SFIP does not pay for moisture damage.
- e. Depreciation is taken on Replacement Cost Value (RCV) losses, with the adjusters stating that the withheld depreciation will be released only upon the completion of the repairs (which in a large proportion of the cases never happens because the flood victims have been so underpaid that they cannot repair their residences).
- f. The SFIP does not pay “Like for Like” on covered items.
- g. The SFIP does not pay to replace a building component that is no longer manufactured.
- h. The SFIP does not pay to replace a building component that cannot easily be obtained.
- i. Prices that adjusters are permitted to submit for claims settlement are controlled by the federal government and cannot be exceeded.
- j. The NFIP sets prices allowed for damaged items, and it can set them at whatever level it wishes. Flood insurance is unlike other insurance and is merely a form of assistance.
- k. The NFIP does not permit the adjusters to deviate from the pricelist or database used for adjusting claims.

- l. The SFIP does not reimburse or pay for sales tax on covered items.
- m. Compensation for cleanup of mold that has appeared after a flood is denied, regardless of mitigation attempts. The SFIP does not pay to clean-up or to remediate mold contamination and it never has.
- n. The SFIP only pays to clean-up mold contamination with soap and water or chlorine bleach solution.
- o. The SFIP does not pay to clean-up mold contamination, be it only with soap and water or chlorine bleach solution, unless the area to be cleaned is readily accessible.
- p. The SFIP limits the amount of coverage for mold clean-up.
- q. The SFIP does not pay for foundation settlement regardless of the cause.
- r. Once a building has been improved it is deemed a post-FIRM structure, regardless of the age of the building and the value of the improvements.
- s. The SFIP only pays for very limited coverage in basements or other areas below the lowest elevated floor, regardless of when the structure was built.
- t. Fuel oil contamination is not a covered peril, and/or it can be remediated with chlorine bleach or absorbents with deodorizers.
- u. Unless signs of contamination are open and obvious, the SFIP will not pay for clean-up of contamination of mold or sewage.
- v. The SFIP has a limit of ten thousand dollars for remediation of damage caused by pollutants.

- w. The “Pairs and Sets” clause applies to building materials such as kitchen cabinets.
- x. In order for a garage to be covered it must have doors of a particular size.
- y. If the cost of repairs is, in the adjuster’s opinion, just “too costly”, the adjuster may place a limit on payment of benefits.
- z. The second portion of the ICC payment will not be released until the policyholder obtains a final occupancy permit.
 - aa. All ICC payments are on hold due to the large number of claims from the recent storms in Florida.
 - bb. Advance payments are limited to small fractions of the damage or otherwise are not available, or SFIP policy no longer has an advance payment, or any provision for an advance payment, or the SFIP limits the amount of an advance payment to \$5,000.
 - cc. The proof of loss form in order to receive any insurance proceeds, including any advance payment.
 - dd. Adjusters depreciate items and articles at widely varying rates for the identical materials. For example, neighboring homes, of the same age and condition may have differences in depreciation rates for their foundation of zero to 25 percent.
 - ee. Adjusters fail to adjust the flood loss on entire portions of homes, e.g., didn’t include the kitchen and laundry.
 - ff. Adjusters limit payment of benefits by minimizing the significance of damage, such as “there was only one inch of water on the floor”.

gg. The NFIP requires itemized repair estimates even when a local municipality deems their structure substantially damaged [totaled].

hh. New construction data is used to estimate the cost of far more expensive repair and replacement construction. The publisher of the new construction estimate books has submitted Congressional testimony that read in part,

Such use of our data was never intended by the publisher and, if used as is, would result in pennies on the dollar for insurance claims.” He also wrote, “Moreover, leading the consumer to believe that new construction pricing represent[s] a fair and complete valuation of their damages is, in my expert opinion, fraudulent.

57. When Congress learned of the systematic underpayment of NFIP flood loss claims, it mandated that FEMA review more than 24,000 flood claims, the largest such event in FEMA’s history. It also resulted in President George W. Bush signing into law a directive that the General Accountability Office determine if “the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met.”

58. Upon information and belief, in April, 2004, Defendants Buzzelli and Shortley (of CSC and FEMA, respectively), assembled a task force, ostensibly to comply with the Congressional mandate to review the 24,000 flood loss claims. This task was defectively carried out in the following respects:

a. The task force that was assembled was composed largely of the same group of adjusters and adjusting firms, and with all of the identical management that had sanctioned and utilized the systematic pattern of high-pressure low-balling

tactics in the first place; in one instance, an additional Task Force manager was hired to evaluate the claims, however, he was the former business partner of Mr. Buzzelli.

b. A number of the flood loss victims never received any communication from CSC or FEMA about the opportunity to request a review.

c. An additional number of the flood loss victims received an empty envelope only.

d. The notice that was sent to the remainder gave no indication of why the review would likely result in additional claims proceeds for the victims, as Mr. Shortley had publicly stated would be the case. For example, Mr. Shortley stated publicly that the notice of review would include examples of circumstances in which the review would likely result in an increased claim settlement

e. Task Force members led many of the flood victims to believe that if they requested a review, it could likely lead to a *reduction* in the claims settlement whereby the victim would have to return a portion of the meager benefits they received.

f. As a result of review process defects b, c, d and e, a great portion of the 24,000 flood loss victims, including many of the Plaintiffs herein, did not request the review that they otherwise would have requested, for fear that they would have to return a portion of the low-balled amount they were paid.

g. Of those Plaintiffs that did request a review, the task force rubber-stamped the earlier utilization of the systematic pattern of low-balling, either denying any further payment or approving only a miniscule additional payment which did not begin to address the large magnitude of shortfalls that were present, even though FEMA's own

statistical summary of the claims review process states that on average each claim that was reviewed had been shorted by approximately fifty-percent.

59. On each of two occasions when a FEMA official made known his intent to rectify the NFIP wrongdoing, the official's tenure came to an end shortly thereafter. Upon information and belief, the leaving of office by these two NFIP officials was to halt the official's attempts to rectify the wrongdoing.

60. Immediately upon the ouster of FEMA officials that were attempting to clean house, Defendant Maurstad was installed as the acting federal insurance administrator. Upon information and belief, while he continues in office as director of the NFIP, he continues to be a licensed insurance broker affiliated with several of the largest WYOs that he himself is charged with supervising.

In addition, directly contrary to (1) the expressly stated Congressional intent to provide flood insurance which will place the insureds' homes in their pre-flood condition, (2) the terms of the SFIP which provide for benefits based upon replacement cost value, and the express statements in FEMA's marketing materials that the SFIP insureds are to be made whole, Defendant Maurstad, in an unmistakable signal to the insurance industry that the wrongdoing will continue unabated, now states that the NFIP was never intended to provide insurance, but is intended only to provide "some assistance."

61. Upon information and belief, three former federal insurance administrators who served in three prior administrations, and in one case earlier in the current administration, and who were in charge of NFIP's operations, have concluded that the NFIP operation which resulted in failure of the program to return flood victims'

homes to their pre-flood condition is wholly contrary to FEMA's regulations. One of them concluded that "fraud had likely occurred on a large scale".

62. A number of adjusters have posted their criticisms of the NFIP adjusting process, and also of how the WYOs pay their non-flood claims, on a catastrophe adjuster's website www.catadjuster.org. A few examples include:

(a) "[I]f there is blame [about estimating software] to be put here, it may well be on the [insurance companies] themselves that dictated to the adjuster what program to use." Posted March 13, 2004 at www.catadjuster.org.

(b) "USAA just kicked back an Isabel file to me for the remove/reset [sic] of a toilet in the bathroom where the wallpaper had to be replaced. I had explained in the log it was to provide access to [remove/reset] the wallpaper. The USAA reviewer comment is 'Unless photographic evidence is provided that Rem/Reset of toilet is necessary[,] it will not be allowed.' Have you ever seen a toilet far enough from the wall to do wallpaper[?] Me neither, and certainly not this one for sure. I'll just re-do the estimate and short the Insured. I'm NOT revisiting the loss for photos when this kind of ignorance is involved. Posted October 18, 2003 at www.catadjuster.org.

(c) "I would not advise calling Allstate if you wish to keep your integrity intact. After almost 7 years with them and having held a variety of positions, including the sole Quality Evaluator for the entire southern half of Texas, I finally became fed up with their approach requiring every adjuster to knowingly underpay every claim, and left them this past July.

The head of Allstate in Texas - Gary Briggs - had the nerve to stand up in front of an agent's meeting last spring and say (QUOTE) "I love the new HOA+ policy! It doesn't cover anything and WE STILL GET TO KEEP THEIR MONEY"!

I used to tell people whose claim I was handling that "the good hands of Allstate were right here" as I held out my hands for them. I could no longer do that in good faith and look myself in the mirror so I left.

One of these days the Texas DOI is going to catch up with their property handling practices and then it will all hit the fan! Good luck with anyone else!”

63. Five members of Congress – Senators Sarbanes, Mikulski, Dole and Allen as well as Representative Jo Ann Davis have called for a Justice Department investigation regarding DHS’s efforts to cover-up the wrongdoing regarding the NFIP, CSC and the WYOs. Senators Sarbanes and Mikulski as well as Representative Davis also requested that Secretary Tom Ridge personally intervene to address the wrongdoing. Rep. Davis wrote in part,

Due to the failed claims process, many are unable to rebuild their homes and lives. They remain trapped in a nightmarish existence. Their children have no place to play; they have two minutes of hot water, no washer, no dryer, no dishwasher in FEMA campers. I believe we can do better and request your immediate assistance and oversight of the claims process.

64. Shortley thereafter, Representative Jo Ann Davis wrote to President Bush about the attempts by DHS to cover-up the NFIP problems that had left her constituents in Virginia, and others similarly situated, homeless. She wrote in part, “I believe a bureaucratic problem has permitted the National Flood Insurance Program’s (NFIP) private insurance partners to low-ball thousands of flood victims, leaving many families unable to rebuild their homes and lives.”

65. She and her colleagues, as well as Maryland Insurance Commissioner Alfred Redmer, Jr., urged Congressman Michael Oxley, Chairman of the House Financial Services Committee, to “investigate the policy sales, use of premiums and claims handling practices of the NFIP.”

66. Commissioner Redmer, who also serves as co-chairman of the National

Association of State Insurance Commissioners Governmental Affairs Task Force was so concerned with the problems he learned of within the NFIP, he recently wrote to thirteen other state commissioners to alert them of the problems. He wrote in pertinent part:

Immediately following Hurricane Isabel, my office started receiving complaints of low-balling and other problems with NFIP claims. Although the Maryland Department of Insurance lacks jurisdiction over the program, we nevertheless conducted an exhaustive investigation. Recently I have received new information regarding what I believe to be the root cause of the low-balling. As a result, I now share Congresswoman Jo Ann Davis' concerns detailed in the attached letter to President Bush. I also share her view that congressional intervention is required and have urged Congressman Michael Oxley, Chairman of the House Financial Services Committee, to investigate the policy sales, use of premiums, and claims handling practices carried out by the NFIP, its contractors and business partners.

...

We have now learned of many cases where Maryland victims received incorrect policy information from people they believed to be federal officials, yet who were actually government contractors often wearing blue FEMA jackets. The misinformation in many cases concerned key policy rights and ultimately led to the detriment of the victims by way of low-balling or otherwise wrongfully denied coverage. Since many victims had no reason to doubt apparent government officials, they never complained. In addition, these same contractors lead victims to believe that contested claims could result in reduced payments, thereby also leaving victims fearful of filing official complaints.

We have also had many cases where victims were told a) their RCV policies are subject to depreciation; b) they are not entitled to sales tax; c) the policy only pays for items directly contacted by flood waters, and; d) the NFIP is free to use new construction prices in lieu of more costly repair and renovation prices. As a result, Maryland has been left with many families unable to rebuild their homes and lives after receiving pennies on the dollar for their flood claims. Many remain trapped in FEMA campers seventeen months after their catastrophic loss.

FIRST CAUSE OF ACTION
(BIVENS CLAIM – CIVIL CONSPIRACY – CONCERT OF ACTION)

Plaintiffs incorporate all preceding paragraphs in this First Cause of Action as if fully set forth herein.

67. The Constitution of the United States of America, Amendment V (“the 5th Amendment”), provides, in pertinent part, that “no person shall...be deprived of...liberty, or property, without due process of law”.

68. Acting in concert with one another, Defendants Brown, Maurstad, Conner, Shortley, Cofoni, Buzzelli, Dubyak, Gray, Bora, Cross, Gambee, Hodges, Ivey, Kristapson, and Ward , to their mutual benefit and in violation of the 5th Amendment, conspired to engage, did engage, and continue to engage in a course of conduct which has deprived, and continues to deprive, the Plaintiffs of their constitutional rights to liberty and property with due process of law.

69. These Defendants had a duty to the Plaintiffs to refrain from discharging the duties of their respective offices in a manner in which they either knew or reasonably should have known violated the 5th Amendment.

70. Notwithstanding this duty, and in breach thereof, these Defendants, in the manner set forth herein, systematically and for their mutual benefit misused and continue to misuse the machinery of the United States government to deprive the Plaintiffs of their health and homes, and consequently their liberty and property, in violation of the 5th Amendment, all in a manner in which they knew, or reasonably should have known, was in violation of the 5th Amendment, and in a manner in which they knew, or reasonably should have known, would deprive the Plaintiffs of their property and liberty without due process of law.

71. As a result of the violation of the 5th Amendment by these Defendants, the Plaintiffs were damaged as aforesaid.

WHEREFORE, Each Plaintiff claims compensatory damages, both direct and consequential, against Defendants Brown, Maurstad, Conner, Shortley, Cofoni, Buzzelli, Dubyak, Gray, Bora, Cross, Gamber, Hodges, Ivey, Kristapson, and Ward, jointly and severally, in the amount of one million (\$1,000,000.00) dollars per Plaintiff, plus exemplary (punitive) damages against each of these Defendants in the amount of two hundred fifty thousand (\$250,000.00) dollars per Plaintiff, plus pre-judgment interest, post-judgment interest, attorneys' fees and costs.

SECOND CAUSE OF ACTION
(PROCUREMENT FRAUD – DECEIT – CIVIL CONSPIRACY – CONCERT OF ACTION)

Plaintiffs incorporate all preceding paragraphs in this Second Cause of Action as if fully set forth herein.

72. At all times pertinent to the procurement by SFIP-purchasing Plaintiffs of their SFIPs, all Defendants owed a duty to them to refrain from falsely representing to the Plaintiffs the nature and extent of benefits that would be paid to them in the event of a flood loss, and to refrain from conspiring or acting in concert to cause the nature and extent of benefits that would be paid to the Plaintiffs in the event of a flood loss to be falsely represented.

73. Notwithstanding the duty owed, and in breach thereof, each Defendant made a false representation to the SFIP-purchasing Plaintiffs, or conspired or acted in

concert to cause a false representation to be made to them. To induce them to purchase the SFIPs, they were told by each of the Defendants or their agents, servants and employees, or by one or more of the Defendants or their agents, servants and employees conspiring or acting in concert with each Defendant that, in the event of a flood loss to their primary residence, benefits would be paid to them which would make them whole (after satisfaction of the deductible), and which would be in an amount sufficient to return their property to its pre-flood condition, up to the policy limits.

74. At the same time this misrepresentation was made or at the same time of the conspiracy or concert of action to make this misrepresentation, each Defendant either knew that, in the event of a flood loss, the SFIP-purchasing Plaintiffs would not be made whole and that benefits paid would be but a small fraction of the amount necessary (within policy limits) to make them whole and sufficient to return their property to its pre-flood condition, or that this misrepresentation was being made with reckless indifference as to its truth. At the time, each Defendant knew, or was recklessly indifferent to the truth, that the systematic low-balling, high pressure tactics described in this Complaint would be employed to deprive the SFIP-purchasing Plaintiffs of benefits necessary to make them whole and sufficient to return their respective residences to their pre-flood conditions. At the time of the misrepresentation, each Defendant also knew, or reasonably should have known, of the devastating consequential damages that would be visited upon all of the Plaintiffs as a result of the systematic low-balling, high pressure tactics.

75. The misrepresentation, the conspiracy to misrepresent, and the concert of action in making the misrepresentation were carried out for the purpose of defrauding the

SFIP-purchasing Plaintiffs. The Defendants are either an integral part of the property insurance industry or have strong ties to it, and reap enormous benefits from underpaying NFIP claims, as set forth in this Complaint.

76. The SFIP-purchasing Plaintiffs relied on the misrepresentation by changing their position to their detriment. On the strength of the misrepresentation (which they relied upon to be true), they purchased homes and mortgaged them, believing, as they had a right to believe, that, by purchasing the SFIP, they were secure from financial ruin in the event of a flood loss, and that, in the event of flood loss, they would be made whole and receive benefits sufficient to return their property to pre-flood condition.

77. Each SFIP-purchasing Plaintiff had a right to rely on the misrepresentation, as the express intent of Congress in establishing the NFIP was to have the SFIP pay benefits to flood victims sufficient to return their property to pre-flood condition. The NFIP marketing materials hold out the program as one which provides flood loss insurance whose purpose is to make the SFIP purchaser whole following a flood loss. These Defendants gave lip service to the Congressional intent, knowing at the time of procurement of the purchase of the SFIP that they were not going to follow through, but would instead employ the low-balling, high-pressure tactics which would pay only a small fraction of the benefits necessary to return the Plaintiffs' properties to their pre-flood condition.

78. As a result of the misrepresentation, the SFIP-purchasing Plaintiffs changed their position to their detriment, purchasing the SFIPs unaware that, when they

suffered a flood loss, the money would not be forthcoming to make them whole. As a result, Plaintiffs were damaged as aforesaid.

WHEREFORE, each Plaintiff claims compensatory damages, both direct and consequential, against all Defendants **except FEMA**, jointly and severally, in the amount of one million (\$1,000,000.00) dollars per Plaintiff, plus exemplary (punitive) damages separately against each of these Defendants, in the amount of two hundred fifty thousand (\$250,000.00) dollars per Plaintiff, plus pre-judgment interest, post-judgment interest, attorneys' fees and costs.

THIRD CAUSE OF ACTION
(ADJUSTMENT FRAUD – DECEIT – CIVIL CONSPIRACY – CONCERT OF ACTION)

Plaintiffs incorporate all preceding paragraphs in this Third Cause of Action as if fully set forth herein.

79. At all times pertinent to the adjustment of the insured Plaintiffs' flood loss claims, Defendants Allied American Adjusting Company LLC, Bellmon Adjusters, Inc., CNC Resource, Insurance Claims & Catastrophe Services, Inc., Jackson Adjustment Company Inc., Pilot Catastrophe Services, Inc., Simsol Insurance Services, Inc., Postava, Valco-USA, Colonial Claims, Branham, Covansys, Holmes, EDS, Richardson, NFS, Berger, David, Debbie and Richard Woodward, and Michael Maroney owed a duty to the insured Plaintiffs to refrain from employing low-balling tactics by misrepresenting the nature and extent of the Plaintiffs' SFIP coverage and to refrain from employing high-pressure tactics by misrepresenting the consequences to the Plaintiffs if they refused to accept the low-ball offers.

80. Notwithstanding the duty owed, and in breach thereof, each of these Defendants or their agents, servants and employees, made false representations to the insured Plaintiffs, or conspired or acted in concert to cause false representations to be made to them. To induce them to accept amounts in settlement of their flood loss claims far less than that to which they were entitled, the insured Plaintiffs were falsely told by each of these Defendants, or their agents, servants and employees, or by those conspiring or acting in concert with them, that SFIP benefits to which they were entitled were far less than that which would make them whole (after satisfaction of the deductible), and which would be in an amount sufficient to return their property to its pre-flood condition, up to the policy limits. Specifically, the low-balling methods were employed as set forth in this Complaint. These misrepresentations were accompanied by additional false statements concerning the negative consequences in the event the insured Plaintiffs failed to settle promptly, including but not limited to the misrepresentation that the insured Plaintiffs would receive nothing if they failed to accept the amount offered. These defendants made these misrepresentations in a manner and under circumstances which led the insured Plaintiffs to believe, again contrary to the truth, that the representations were being made pursuant to FEMA mandate.

81. At the same time these misrepresentations were made or at the same time of the conspiracy or concert of action, these Defendants either knew that the insured Plaintiffs should be made whole and that benefits paid should be the amount necessary (within policy limits) to make them whole and sufficient to return their property to its pre-flood condition, or that the misrepresentations were being made with reckless indifference as to their truth. At the same time, these Defendants knew, or were

recklessly indifferent to the truth, that the systematic low-balling, high pressure tactics described in this Complaint would deprive the insured Plaintiffs of benefits necessary to make them whole and sufficient to return their respective residences to their pre-flood conditions.

82. The misrepresentations, the conspiracy to misrepresent, and the concert of action in making the misrepresentations were carried out for the purpose of defrauding the insured Plaintiffs. These Defendants are an integral part of the property insurance industry, and reap enormous benefits from underpaying NFIP claims, as set forth in this Complaint.

83. The insured Plaintiffs relied on the misrepresentations by changing their position to their detriment, as aforesaid. As a result, Plaintiffs were damaged, as aforesaid.

84. Each insured Plaintiff had a right to, and did, rely on the misrepresentations; these Defendants presented themselves as representatives of the NFIP and FEMA, persons upon whom the insured Plaintiffs were expected to rely for correct interpretation of the SFIPs.

85. The Plaintiffs, defrauded in the procurement of their SFIPs by those persons and entities set forth in the Second Cause of Action, were now being defrauded a second time in the adjustment of their flood loss claim, by those persons and entities set forth in this Third Cause of Action. In essence, they were, and continue to be, whipsawed by the fraudulent actors as set forth in the Second Cause of Action and those in this Third cause of Action, such that they were unconstitutionally deprived of their liberty and property by the persons identified in the First Cause of Action.

WHEREFORE, Each Plaintiff claims compensatory damages, both direct and consequential, against Defendants Allied American Adjusting Company LLC, Bellmon Adjusters, Inc., CNC Resource, Insurance Claims & Catastrophe Services, Inc., Jackson Adjustment Company Inc., Pilot Catastrophe Services, Inc., Simsol Insurance Services, Inc., Postava, Valco-USA, Colonial Claims, Branham, Covansys, Holmes, EDS, Richardson, NFS, Berger, and David, Debbie and Richard Woodward, jointly and severally, in the amount of one million (\$1,000,000.00) dollars per Plaintiff, plus exemplary (punitive) damages against each of these Defendants, in the amount of two hundred fifty thousand (\$250,000.00) dollars per Plaintiff, plus pre-judgment interest, post-judgment interest, attorneys' fees and costs.

FOURTH CAUSE OF ACTION
(INTERFERENCE WITH CONTRACT – CIVIL CONSPIRACY- CONCERT OF ACTION)

Plaintiffs incorporate all preceding paragraphs in this Fourth Cause of Action as if fully set forth herein.

86. At all times pertinent to the adjustment of the insured Plaintiffs' flood loss claims, Defendants owed a duty to the insured Plaintiffs to refrain from interfering with the contractual relations between them and the WYOs or (as to NFIP Direct insureds) FEMA..

87. Notwithstanding that duty, and in breach thereof, Defendants, acting outside the scope of their authority, interfered with this contractual relationship.

88. As a result, Plaintiffs were damaged as aforesaid.

WHEREFORE, Each Plaintiff claims compensatory damages, both direct and consequential, against all Defendants except FEMA, jointly and severally, in the amount of one million (\$1,000,000.00) dollars per Plaintiff, plus exemplary (punitive) damages against each of Defendants [Individuals], in the amount of two hundred fifty thousand (\$250,000.00) dollars per Plaintiff, plus pre-judgment interest, post-judgment interest, attorneys' fees and costs.

FIFTH CAUSE OF ACTION
(BREACH OF CONTRACT – FEDERAL REMEDY)

Plaintiffs incorporate all preceding paragraphs in this Fifth Cause of Action as if fully set forth herein.

89. The insured Plaintiffs, whether under contract with a WYO or with FEMA under NFIP Direct, upon suffering a flood loss, were owed benefits under their SFIPs which would make them whole (after satisfaction of the deductible), and which would be in an amount sufficient to return their property to its pre-flood condition, up to the policy limits.

90. Upon sustaining their flood losses, insured Plaintiffs, in breach of their SFIP contracts, were deprived of the benefits of their contracts, as set forth herein.

91. Pursuant to the National Flood Insurance Act, Plaintiffs have a remedy for breach of the SFIP in the amount of the shortfall in payment of benefits, plus delay damages, return of premiums, disgorgement of profits and compensation, and pre-judgment interest.

92. WHEREFORE, Each Plaintiff claims breach of contract damages, against its WYO insurance carrier or, as to those Plaintiffs insured under NFIP Direct, against

FEMA, in the amount of two hundred fifty thousand (\$250,000.00) dollars per Plaintiff, plus delay damages, return of premiums, disgorgement of profits and compensation, pre-judgment interest, post-judgment interest, and costs.

Respectfully submitted,
FREEMAN & FREEMAN, P.C.

By: /s/ Martin H. Freeman /s/
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One Church Street, Suite 200
Rockville, MD 20850
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DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial as to the First, Second, Third and Fourth Causes of Action set forth in this Complaint.

/s/ Martin H. Freeman /s/
Martin H. Freeman