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HURRICANE SEASON: PREPARE YOURSELF FOR PROPERTY DAMAGE CLAIMS

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We are now in the 2020 Hurricane Season and our area is still suffering the effects of Hurricane Irma from 2017 and the downturn in the economy from COVID-19. We are keeping our fingers crossed that we do not suffer any serious storms or hurricanes, especially this year. However, an absolute certainty in Southwest Florida is that during the summer and early fall significant rain storms will hit our area.

On May 21, 2020, the National Oceanic and Atmospheric Administration (NOAA) announced its predictions for the 2020 Hurricane Season. In short, they forecast a likely range of 13 to 19 named storms (winds of 39 mph or higher), of which six to 10 could become **hurricanes** (winds of 74 mph or higher), including three to six major **hurricanes** (category 3, 4 or 5; with winds of 111 mph or higher). Here is a link to their predictions: <https://www.noaa.gov/media-release/busy-atlantic-hurricane-season-predicted-for-2020>

The storms may cause damage to real estate and personal property for both homeowners and business owners. Property owners need to be aware of a program for prevention but also the knowledge of how property damage claims should be handled.

The purpose of this Article is to provide you with key points in the event that your real estate or personal property suffers property damage resulting in a claim for such damage.

Property Damage Claims – Property damage claims are legal claims that involve damages to real property (such as your home or your commercial building) as well as damage to your personal property (such as equipment, furniture, clothes), either household or property that is used in your business. Property damage claims involve insurance companies, either the property owner or that of the person or entity causing damage. The policies that cover such losses may be either your homeowner's policy or the insurance policy at your place of business.

Types of Property Damage Claims and Causes – If your real or personal property has been damaged in Florida due to a natural disaster, or some other occurrence, you need to be aware of your legal rights and the procedure to address those rights and pursue your claim.

Notice of Loss to be provided to your Insurance Company – Most insurance policies require you to provide a Notice of Loss to your insurance company in the event you suffer property damage or loss.

Maintain your Insurance Policy in a Safe Location – If property damage occurs, you will need to access your insurance policy to have it available to review with your attorney. Consider keeping your insurance policy in a safe and secure location in your home or in a safe deposit box at your bank.

Your duty to attempt to minimize and mitigate your damages in a timely and reasonable manner – In Florida, when damage occurs to real or personal property, the person suffering the loss cannot stand idly by and allow further damage to be suffered (duty to mitigate damage). Example: If you see a water leak that has resulted in damage to your property, you need to attempt to stop the water leak or hire a professional to stop the leak to avoid additional damage. Failure to mitigate damage can negatively affect your claim.

Real Property Damage and your Mortgage – The damage to your home or business may require major repairs resulting in the home being uninhabitable or the place of business unable to conduct operations. If you cannot make your mortgage payments for a few months, contact your lender and seek the advice of your legal advisor who can assist you in times in which a severe damage claim has impacted your real property.

State or Federal Government Assistance – Both the State of Florida and Federal Emergency Management Agency (“FEMA”) may provide assistance to homeowners struck by disaster.

Property Damage Losses and the Impact on your Income Taxes – You may also be entitled to make claims for your losses against your prospective income taxes. You should seek the advice of your tax advisor to provide you with information on how to effectively file for tax relief.

Damage to your property by a Third-Party (Subrogation) -Your Insurance Company may seek to recover your claim against the person or entity causing such loss. At such time as you receive compensation from your insurance company, your insurance company may require you to legally assign your rights as to the person or entity that may have caused the loss known as the tortfeasor (the negligent third party).

Preventive Measures to protect your home from loss due to severe weather -
The following are some excellent websites to provide you with ideas that you can implement to protect your home and your family from the effects of severe weather:

1. Electrical Power Surge Protection from FPL-Storm Shield:

https://www.fplhome.com/content/fpl-home/surge-protection22.html?campaignid=8365141857&adgroupid=85693908956&network=g&device=c&gclid=EAAlQobChMlp7nho6W26QIVmInICh2RLwH9EAAYASAAEgK1mPD_BwE

2. Checklist of issues as to how to protect your home from Storms:

<https://disastersafety.org/uncategorized/how-to-protect-your-home-from-hurricanes/>
<https://www.psafinancial.com/2012/08/prevent-hurricane-damage-your-home-before-storm/>
<https://www.bankrate.com/finance/insurance/11-ways-to-avoid-hurricane-damage-1.aspx>

STAY SAFE!!

This information is designed to assist you in considering property damage claims before any issues arise, how to minimize and mitigate your loss and reduce the stress that accompanies such loss. If you have further questions or need legal assistance, please contact our office at (239) 337-1147 or visit our website:

www.KFJlaw.com.

The author, Kevin F. Jursinski, is Florida Bar Board Certified Real Estate and Bar Certified Business Litigation Attorney with nearly 40 years of legal experience.

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