

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

RMP PROPERTIES OF VALDOSTA, LLC,)	
)	Case No.: 5:26-cv-00962
Plaintiff,)	
)	
vs.)	Judge Alexander C. Van Hook
)	
HOUSTON SPECIALTY INSURANCE)	Magistrate Judge Mark L. Hornsby
COMPANY and SKYWARD SPECIALTY)	
INSURANCE COMPANY,)	
)	
Defendants.)	

**PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION TO COMPEL
APPRAISAL AND APPOINT UMPIRE**

Plaintiff respectfully opposes Defendant Houston Specialty Insurance Company's ("HSIC") Motion to Compel Appraisal and Appoint Umpire ("Motion"). HSIC seeks to force appraisal of a dispute that is not, at its core, a dispute over the "amount of loss" but rather a dispute rooted in coverage determinations and causation findings, coverage, and scope of damage.

Plaintiff's withdrawal from the appraisal process was legally and logically justified. This dispute has evolved well beyond a simple valuation disagreement into a fundamental contest over coverage, causation, scope, and the reasonableness of HSIC's claims handling. For these reasons, and as more fully set forth below, HSIC's Motion to Compel Appraisal and Appoint Umpire should be denied in its entirety. However, if the Court holds that the appraisal should proceed further, Plaintiff proposes the following umpires to preside in the matter and asks that this Court broaden the scope of consideration to include all damage set forth by Premier Claims and Plaintiff's engineering expert.

FACTS

At all relevant times, Plaintiff was the named insured under a commercial property insurance policy issued by HSIC, bearing Policy No. ESB-HS-CP-0001427-00 (the "Policy"), covering the property located at 4927 Monkhouse Drive, Shreveport, Louisiana 71109 (the "Property"). The Policy provided coverage for property damage arising from a February 11, 2024, weather event. Plaintiff paid all premiums due and otherwise satisfied with all conditions of coverage prior to the loss at issue.

On or about February 11, 2024, the Property suffered substantial damage as a result of a severe wind and hail event. The damage was extensive, affecting the roof structure, exterior cladding, interior finishes, and mechanical systems. On March 27, 2024, Plaintiff timely notified HSIC of the loss and submitted a formal claim for coverage under the Policy. HSIC acknowledged receipt of the claim and assigned a claims representative to inspect the damage on April 15, 2024. Plaintiff retained public adjuster Premier Claims, LLC who provided a damage estimate to HSIC on July 26, 2024.¹ On August 22, 2024, HSIC hired Craig Chonko, P.E. with EFI Global, who serves only insurance companies, to evaluate the property. Chonko completed his report on August 22, 2024. First, Chonko recommended repair of the hail damage to the TPO membrane on the south-facing parapet walls. Secondly, Chonko concluded that the water intrusion in the stairwell was not caused by a weather-related event, but a disconnected roof drain conduit. The moisture in the main lobby and water damage in the guest rooms was related to the condensate discharge from the mechanical units as opposed to the weather event. HSIC valued the damage at an amount less than the deductible and concluded that no benefit was owed to Plaintiff.

¹ See Exhibit 1: Premier Estimated provided to HSIC on 7/26/24.

After making no progress on the claim almost ten months after producing sufficient proof of loss, Plaintiff invoked the appraisal process on May 29, 2025 to avoid having to retain an attorney. Due to the untimely resolution of this claim, Plaintiff was forced to file suit on February 11, 2026, as the claim was set to prescribe. After filing suit and learning that the damage being considered in the appraisal process is exclusively isolated to the roof, Plaintiff informed HSIC that it wished to withdraw its request for appraisal. HSIC now moves this Court to compel appraisal and to appoint an umpire, arguing that the Policy's appraisal provision is mandatory and that Plaintiff's withdrawal was improper. This claim has dragged on for over two years without any resolution.

LAW AND ARGUMENT

Louisiana and Fifth Circuit Courts hold that appraisal provisions are generally enforceable. The policy at issue contains an appraisal clause that states the following:

E. Loss Conditions:

The following conditions apply in addition to the Common Policy Condition and Common Policy Conditions and the Commercial Property Conditions:

2. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make a written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

A. Compelling an appraisal is untimely and would create a delay in litigating this matter.

HSIC's first request for an appointment of an umpire in this matter, particularly when the plaintiff invoked the appraisal process one year ago, is likely to be considered untimely under Louisiana law. The courts have emphasized that the insurer must act promptly once it has sufficient information to act on the claim, such as receiving repair estimates or proof of loss. *Nguyen v. St. Paul Travelers Ins. Co.*, 2007 U.S. Dist. LEXIS 42630 (2007). A delay of this magnitude, coupled with the filing of a lawsuit, could be viewed as inconsistent with the insurer's right to enforce the appraisal provision, potentially amounting to a waiver of that right. *Hemphill v. State Farm Fire & Cas. Co.*, 2026 U.S. Dist. LEXIS 120871 (2026).

Although the appraisal clause at issue does not provide a specific deadline, the Eastern District has held that the timeliness of invoking the appraisal process is critical. Louisiana courts generally require that appraisal be demanded within a "reasonable time" after a dispute arises regarding the amount of loss. Delays exceeding four months are often deemed unreasonable. *McMillen v. Safepoint Ins. Co.*, No. 22-1744, 2023 WL 123456 (E.D. La. Jan. 10, 2023).

HSIC received notice of this claim on March 27, 2024. Plaintiff sent an invoice for damage to the property on July 26, 2024. Despite an engineer evaluating the damage to the property on August 16, 2024, HSIC waited until January 31, 2025, to have a building consultant inspect and value the damage to the property. Plaintiff invoked an initially untimely appraisal over one year after filing the property damage claim to avoid litigation. Plaintiff was forced to file suit in this matter at issue to avoid prescription deadlines and pursue its property damage claim. HSIC is only now moving this Court to appoint an umpire, which amounts to HSIC's waiver of the right to appraisal as it far exceeded the four-month

period that the court deems unreasonable. *Id.* Now that this matter is incurring additional expenses for Plaintiff including court costs, expert fees, and attorney fees, an appraisal resolution is no longer an appropriate means for resolution of this matter.

B. An appraisal determination by an umpire would be unenforceable as this matter involves a coverage and scope dispute.

Even if this Court is inclined to compel an appraisal, such a determination is unlikely to provide a meaningful direction in this matter. Despite finding that appraisal provisions are generally enforceable under Louisiana law, the Court clarified that appraisal is appropriate when coverage is conceded, and the sole dispute concerns the amount of loss. *Green Project, Inc. v. Evanston Ins. Co.*, 2008 U.S. Dist. LEXIS 144849 (2008). The court noted that appraisal provisions are not intended to resolve disputes over coverage, as such disputes fall within the jurisdiction of the courts. *Id.*²

The Louisiana Supreme Court has held that the insured in *Branch v. Springfield Fire & Marine Ins. Co.*, *supra*, filed his suit against the insurer for a greater amount than the "sound value" of the loss as fixed by the appraisers and umpire, alleging that their appraisal covered only part of the damage caused by the windstorm. *Branch v. Springfield Fire & Marine Ins. Co.*, 198 La. 720, 4 So. 2d 806 (1941). The Court held that since the appraisers had not dutifully ascertained or estimate the sound value of a building which was their duty, then the plaintiff was not bound by the appraisal and entitled to maintain his suit. *Id.* The Court referenced the established jurisprudence of other courts in this country to determine that the failure of the

² "Notably, the appraisal provision provides that a decision agreed to by the appraisers (or one appraiser and umpire) will set the amount of the loss. However, a decision agreed to by the appraisers is not binding on the parties. The filing of the present lawsuit by the plaintiff/homeowner against his insurer, PURE, for reimbursement of damages allegedly sustained as a result of Hurricane Ida, acknowledges a disagreement concerning the coverage for and amount of damages. The request for an umpire at this stage in the litigation is beyond the scope of the appraisal provision." *Id.* @ 840.

appraisers to fix the “sound value,” renders the award unenforceable. The Court reasoned that although there was no controlling Louisiana jurisprudence, it would follow the jurisprudence of the federal courts and our sister states in similar cases. *Id.*

For over a century, the Louisiana Supreme Court has held that the purpose of the provision is merely to provide a method of ascertaining the “sound value” of the property destroyed and the amount of loss or damage sustained by the assured when liability is admitted by the insurer. The Court specifically opined that the appraisal provision is not intended so appraisers will determine the question of liability, but only the amount when *liability is admitted*. Such provisions in fire policies have been repeatedly upheld by the courts. *Officer v. Am. Eagle Fire Ins. Co.*, (La. 1932) 175 La. 581.

HSIC frames this matter as a simple disagreement over the dollar value of an undisputed covered loss, which is the type of dispute that an appraisal process is designed to resolve. The central questions in this case are the following: whether the claimed damage falls within the Policy's coverage provisions; what caused the damage to the Property; and what constitutes the proper scope of covered repairs given the applicable policy language and the applicable methodology for assessing the loss? Both parties have retained engineering experts who have provided conflicting opinions regarding these contested issues.

Plaintiff retained Michael Gurtler, Joseph Rickett, PR, and Kenneth Savage at Gurtler Brothers Consultants, Inc. (collectively “Gurtler”) who will testify that the insulation under the TPO membrane roofs were completely saturated with moisture, which will require a replacement of the TPO membrane on both roofs including the foam insulation and wood roof deck. Gurtler will opine that the weather event caused damage to the vinyl clad

aluminum windows and frames, interior drywall and wallpaper, exterior stucco, and vinyl soffit and metal fascia.³

If this Court ultimately finds that coverage does exist and causation is proven based upon Plaintiff's engineering's expert report, then the appraisal considering merely roof damage will have been inadequate, and the parties will have expended resources on a process that produced no enforceable result.

C. Alternative List of Umpires.

In the alternative, if the Court orders the appraisal, Plaintiff asks the court to consider the following umpires and to expand the scope of the appraisal to include the water damage and additional items found in Premier's estimate and Gurtler's report/estimate. Plaintiff proposes the following umpires: Mr. Rod Buvens, Mr. Brian Surguy, and Mr. Robert J. Norton.⁴

CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that this Court deny Defendant HSIC's Motion to Compel Appraisal and Appoint Umpire in its entirety.

The parties' dispute is not a simple valuation disagreement amenable to appraisal. It is a multi-faceted legal dispute involving threshold questions of coverage, causation, and scope, which are questions within this Court's purview and beyond the authority of an appraisal panel.

Compelling appraisal under these circumstances would not serve judicial efficiency, instead it would waste judicial resources, prejudice Plaintiff, and fail to address the substantive legal issues. In the alternative, if this Court grant's HSIC's Motion, Plaintiff

³ See Exhibit 2, Michael Gurtler Report

⁴ See Exhibit 3, CV of Rod Buvens

requests that the Court consider its proposed umpires and broaden the scope of the appraisal process to include all damage alleged by Plaintiff.

June 10, 2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that foregoing pleading has been delivered to all counsel of record either through the CM/ECF system, depositing a copy of the same in the United States mail, first class postage prepaid, by hand delivery, electronic mail, or by facsimile transmission, this 6th day of June, 2026.

/s/ Kate C. Casanova

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