



## Jury Verdicts & Settlements

Jury awards \$3.87 million to condo association

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By: Review staff & VerdictSearch

Case: QBE Insurance Corp. v. Dome Condominium Assoc.

Case No: 08-cv-20906

Description: Breach of contract

Filing date: April 3, 2008

Trial dates: Dec. 2-18, 2009

Jury decision: \$3.867 million

Judge: Senior U.S. District Judge Jose Gonzalez, Fort Lauderdale

Plaintiff attorneys: Dan Rosenbaum and John Siracusa, Katzman Garfinkel Rosenbaum, West Palm Beach

Defense attorneys: William Berk and Sorraya Solages, Berk Merchant & Sims, Coral Gables; Constantine Nikas and William Fink, Wicker Smith O'Hara, McCoy and Ford, Miami

Details: North Miami Beach-based Dome Condominium Association filed a claim with its insurance company, QBE Insurance, for damage from Hurricane Wilma in 2005. The 320-unit condo complex claimed \$3.4 million in damages, citing damage to roofs, sliding glass doors, drywall, windows, elevators and mechanical systems.

The insurer disputed some of the damages, saying they occurred before the hurricane and offered to settle for \$2.5 million plus the \$2 million deductible. The company accused Dome in a complaint of committing insurance fraud and filed a motion requesting a neutral umpire similar to an arbitrator. The association balked, filing a [counterclaim](#) against QBE for breach of contract, seeking \$11.5 million in damages.

Plaintiff's case: To make their point that all the damage was post-hurricane, plaintiffs relied on the testimony of experts including Davie insurance adjuster Andrew Fuxa Sr., Miami structural engineer Gerald Zadikoff and Boca Raton certified roofer John Mitala.

Defense case: The defense also relied heavily on experts to support its claim of pre-existing damage and accused Dome of insurance fraud by fraudulently exaggerating the claim. Testifying for the defense were hurricane expert Brian Jarvinen of Miami, engineering expert Daniel Lavrich of Davie, electrical engineering expert Edward Brill of Fort Lauderdale and elevator expert Joe Brizzolara of Fort Lauderdale. They testified that damage was significant in some areas and repairable in others.

Outcome: After deliberating for eight hours, jurors concluded Dome did not intentionally conceal or misrepresent facts



John Siracusa and Katzman Garfinkel Rosenbaum

to QBE or fail to comply with the post-loss conditions of the QBE policy. Jurors also found QBE breached the insurance contract by failing to pay for covered hurricane losses and awarded damages of \$3.87 million.

Quote: "I think the jury did a very good job of sorting through a long and complicated case and arriving at a just [verdict](#)," Rosenbaum said.

Post-verdict: The defense is considering an appeal. Plaintiffs filed a motion Dec. 29 to request pre-judgement interest and attorney fees totaling \$5.5 million, Rosenbaum said. Plaintiffs also may request the policy deductible of \$1.9 million, depending on a pending Florida Supreme Court ruling in a similar case against QBE. Additionally, plaintiffs plan to file a bad faith suit against QBE, which has lost other hurricane claims on similar arguments.

— Julie Kay