



April 27, 2015

The Honorable Dade Phelan
Room E1.324
PO Box 2910
Austin, Texas 78768
April 27, 2015

Dear Sir:

The purpose of this correspondence is to express my concern about pending legislation before both legislative houses at this time. SB 1628 and HB 4636 both contain language that would reduce the protection and rights of the citizens of Texas and give the insurance industry undue protection and power under the law. It is my desire to encourage you to act in the defense of the people of Texas in this matter and OPPOSE these bills.

Please allow me to explain my personal experience in this matter. I am the Pastor of the First Baptist Church of Vidor, Texas, a 7 building complex and the largest church in Orange County. On September 24, 2005, Hurricane Rita brought significant damage to our church property. While the disaster of that date is well documented, our disaster continued for the next SIX YEARS. The Church was insured by Guide One Insurance Company. The facts about our case are too numerous to cover in this letter; I will focus on issues that pertain to the legislation in question as best I understand it.

As a church we did all we could to avoid litigation. The Church originally received a payment of \$4,022.79. A year later, Guide One issued a supplement for \$23,420.54, including repayment of the \$5,000.00 deductible from the first payment (the Church had a \$5,000.00 deductible but, in the first payment, Guide One applied a \$10,000.00 deductible). We made agreements with the insurer to extend the statutory period so that we could reach a compromise. It was not until the second anniversary of the event that we retained legal counsel, notwithstanding we had worked with the insurer since the storm diligently to resolve the matter. We patiently worked with the insurance company providing information and research. We provided cost estimates as well as opinions from highly respected engineers in the area. We provided this support at our expense. We sought the assistance of the Texas Department of Insurance; none came.

Terry L. Wright, Pastor

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During this time the Church was forced to raise money from its members to make repairs to keep the insurance company from claiming that we were not mitigating our damages. It was obvious to us that our damages greatly exceeded the \$4,022.79 we were paid. At the suggestion of our mortgage holder, we employed a public adjuster to seek settlement. After repeated efforts, the public adjuster reported that Guide One was not serious about settling our claim.

After the Church filed suit against Guide One, that company used one legal maneuver after another to complicate the process and add expense to the proceedings. We had to make available for deposition our secretary, our maintenance employee, myself (twice), as well as the engineer we privately retained, the contractor (H.B. Nield) who built the Church, and the retained experts. Despite all of the evidence to support our claim, Guide One made multiple motions to dismiss (summary judgment). They lost all of them.

After five years of legal maneuvering, a trial date was set. Yet, despite all of their attempts to dismiss the case and all of the information they learned about the amount of our damages, Guide One invoked the appraisal clause of the policy within 30 days of the trial setting (4 years after the hurricane). Their tactic was made clear in their request – after all of the legal maneuvering and delay, when liability to pay was clear, they chose a tactic to circumvent the late payment statute and its penalties. The Judge granted their request (there is no real waiver law in Texas for this provision). This delay tactic delayed settlement for over another year. It also CHEATED the church out of being reimbursed for all the expenses of pursuing the settlement and legal fees. At the close of the case, the Church's attorney had incurred \$128,204.48 in case expenses. It also granted undue protection to the insurance company from paying the 18% penalty due us for "delay in unpaid claims". The appraisal umpire (a retired state court judge) determined the amount of loss was \$1,714,566.10. This was \$1,710,543.31 more than the \$4,022.79 that Guide One originally paid the Church. Guide One gladly paid the award then moved for dismissal.

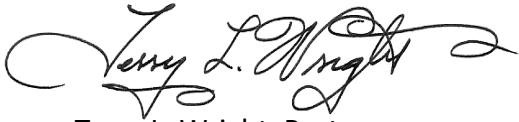
Unfortunately, a substantial portion of the appraisal award was used to pay the expenses and legal fees of the case. The church was forced to borrow an additional \$2.5 million to complete the repairs to the property. The difference in the amount offered in 2005 (\$4,022.79) and the amount awarded in 2012 (\$1.7 million) should be proof of our rightful claim and the unfair trade practice of the insurance company in our case. Yet under the law we had no realistic recourse. Appraisal gave Guide One immunity for the way they treated our Church and mishandled the claim, and our congregation was left paying the consequences. From the appraisal award of our covered damages, the Church had to pay an attorney fee and reimburse the firm for their litigation expenses.

I strongly encourage you to seek reform on behalf of the public in these areas. LIMIT THE TIME OF" APPRAISAL" to within 90 days of the claim. INCREASE "ACTUAL DAMAGES" to include amounts paid by the insured to pursue settlement, including legal fees and expense. EXPAND LEGAL PENALTIES OF 18% ON "DELAY IN UNPAID CLAIMS" to apply to all

and any delay beyond 90 days and remove the exception of appraisal. Include criminal prosecution for adjusters and insurance personnel when settlement by a court or appraisal process reveal "unfair trade practices" to delay settlement.

The people of Texas are not prepared for the disasters that befall them. However, it is very discouraging to find in the aftermath of such events that Texas law can be manipulated by those more familiar with the process, thus perverting justice. Please carefully consider these requests.

Respectfully,

A handwritten signature in black ink, reading "Terry L. Wright". The signature is written in a cursive style with a large, decorative flourish at the end.

Terry L. Wright, Pastor
First Baptist Church, Vidor, Texas

cc: The Honorable Robert Nichols
PO Box 12068
Capitol Station
Austin, Texas 78711