

The Virgin Islands Consortium

Scotiabank Is Hit With Lawsuit For Allegedly Failing To Provide Hurricane-Related Insurance Coverage Under Its Force-Placed Policy

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As Virgin Islanders ire with insurance companies and banks heat up following Hurricanes Irma and Maria in September, fueled by a belief that they're being treated unfairly because these institutions are weary of paying out millions of dollars to policyholders and are looking to cut costs, Scotiabank this week was hit with a class action lawsuit that alleges the bank has been denying Virgin Islanders who have mortgages with it insurance coverage under the bank's force-placed insurance policy.

Force-placed insurance, also known as creditor-placed, lender-placed or collateral protection insurance, is an insurance policy placed by a lender, bank or loan servicer on a home when the property owners' own insurance is cancelled, has lapsed or is deemed insufficient and the borrower does not secure a replacement policy. This insurance allows the lender to protect its financial interest in the property.

The suit, filed by lawfirm Colianni & Colianni LLC, alleges that after the 2017 storms struck the territory, Scotiabank's borrowers with force-placed insurance contacted Scotiabank to make property damage claims under the force-placed policy. The suit says Scotiabank is the named insured under the policy, so the borrowers could not file their claims directly with the insurer. The bank has a contractual duty to file claims under its force-placed policy because Scotiabank's mortgage agreement obligates Scotiabank to use the proceeds of the policy to repair the borrower's home or to reduce the borrower's loan balance, according to the suit.

The suit further alleges that Scotiabank has refused to file or process the claims and has "stonewalled" borrowers' attempts to get information about their claims. As a result, the borrowers cannot repair their hurricane-damaged homes, according to the lawsuit. (See full complaint [here](#).)

Parties involved in the class action include Daryl Richards, a U.S. citizen and resident of St. Croix. And Loretta S. Belardo, a U.S. citizen and also resident of St. Croix.

According to the suit, Mr. Richards, who owns a home in Estate La Grange, entered into Scotiabank's standard mortgage agreement when he received his home loan. He failed to maintain his own property insurance, and as a result Scotiabank force-placed insurance on Mr. Richard's property. Mr. Richard's force-placed insurance was renewed by Scotiabank in March 2017 at an annual premium of \$1,751, according to the suit.

Ms. Belardo, who owns a home in Estate Campo Rico, entered into Scotiabank's standard mortgage agreement when she received her home loan. Ms. Belardo failed to maintain her own property insurance, which resulted in Scotiabank force-placing insurance on Ms. Belardo's property, according to the suit.

The suit says Ms. Belardo's home was damaged by Hurricane Maria, and she promptly notified Scotiabank of the damage and asked the bank to submit a claim to its force-placed insurer. However, in the five months since the storm, Scotiabank has repeatedly refused to file a claim on Ms. Belardo's behalf, according to the suit, adding that Ms. Belardo cannot afford to repair the hurricane damage to her home without the insurance proceeds.

The Scotiabank class action lawsuit is the first known of its kind following Hurricanes Irma and Maria in the territory. Senator Alicia Hansen and Attorney Lee Rohn [vowed to launch](#) a class action suit against insurance firms on behalf of homeowners, but Mrs. Hansen and Ms. Rohn -- who provided the media with a release stating their intent -- have yet to provide an update with documents confirming the class action suit.

At a press conference [held on January 30](#), the Division of Banking and Insurance, which falls under the Office of the Lieutenant Governor, detailed the work it had done to assure that insurance firms were adhering to the laws pertinent to insurance claims. However,

some residents saw the press conference, which was also held to provide residents with valuable information on the insurance claims process, as too little too late.

At the time, there were 9,332 claims filed for Hurricane Irma as of January 10, of which 3,013 claims were closed, which equated to \$435,661,453.61. “That represents 38 percent of the claims that were filed,” Lieutenant Governor Osbert Potter said. “There’s still a lot of claims in the pipeline at various stages, so this in itself shows a lot of progress, but at the same time shows that there are still more claims to be handled and the process for dealing with claims continues.”

For Hurricane Maria, the total number of claims filed was 5,549 as of January 10, of which 1,314 claims were closed — equating to \$82,837,319.06. “These figures are building up and continue to build because we issued an order to these insurance companies to make sure that there is not a delay in the process,” the lieutenant governor said.

Following persistent criticism, Mr. Potter [issued an emergency order](#) last week requiring insurance companies to conduct a second review of each Hurricane Irma and Hurricane Maria-related claim for which a determination of underinsurance was made. Mr. Potter’s office said the order was generated as a direct result of numerous underinsured-related complaints that homeowner’s insurance policyholders filed with the Division of Banking, Insurance after the two hurricanes. Underinsured means the amount of homeowner’s insurance held on the property is insufficient to cover the total dollar amount of losses to the property.