

Mediation Tips

In the wake of property devastation caused by Hurricane Ida in August of 2021, the Louisiana Department of Insurance (LDI) has established the Hurricane Ida Mediation Program for all authorized property and casualty insurers and surplus lines insurers and their residential policyholders.

The Hurricane Ida Mediation Program allows policyholders to sit down with insurers at no cost to attempt to come to an agreement on a fair settlement of Hurricane Ida claims. A previous program after hurricanes Katrina and Rita helped approximately 12,000 policyholders through mediation.

LDI offers the following tips for policyholders encountering mediation for the first time. The Department is not and does not offer legal advice. The information below is for general knowledge purposes.

General Information

- The program is voluntary on a claim-by-claim basis, although I have urged all property insurers to participate.
- Policyholders interested in the Hurricane Ida Mediation Program should contact their insurers to request mediation. Bulletin 2021-07 refers to a “written offer” to mediate.
- The Program is underway now and expires on June 30, 2022, unless terminated sooner.
- The program is designed to mediate residential property insurance claims of up to \$50,000.
- This is your shot to solve your dispute once and for all. Be prepared!

Before Mediation

- Policyholders should not wait until they have requested a meeting to start getting their paperwork and photos in order. The mediation firm will set the mediation meeting to occur within 30 days of both parties agreeing to enter mediation.
- It is best to request mediation in writing and request a response in a defined amount of time, for example, 10 business days. Save a copy of your email or choose the certified mail option at your post office to have a record of the exact day your letter is sent and received.
- If you’re unclear about why the settlement was lower than expected, ask your insurer for clarification. If the company cites an exclusion or other specific language in your policy, ask the company to point out the section in question.
- Document in writing everything your insurer and/or claims adjuster tells you. Keep a log of dates, who you spoke to and what was said. If you get information by phone or in person, send a follow-up email confirming what you heard.

- Be ready to submit documents that can help prove your case. For example, if your insurance company has estimated that your home repairs will cost a certain amount but you think it will be more expensive, get a written estimate from an independent contractor.
- Be sure to bring a copy of your policy, a copy of the adjustment from your insurer, photos of your damage, repair estimates, receipts for things that you have paid for out of pocket, etc. Remember, you've only got 90 minutes to make your case, so do your homework.
- You may want to wait to request mediation until you have a good idea of your damage and have gotten a written estimate from licensed contractor for repair costs. Think about when it's best to set the mediation process in motion.

During Mediation

- The policyholder needs to be prepared to explain the issues of the case at the mediation. You can write a narrative document that lays out your argument to have something to refer to during the mediation and not have to remember it off the top of your head.
- During the mediation, each party will be given an opportunity to present their side of the controversy. In so doing, parties may use any relevant documents and may bring any individuals with knowledge of the issues, such as adjusters, appraisers, or contractors, to address the mediator, as long as they have submitted the names of these individuals to the mediator at least six days before the mediation.
- The mediation session can last up to 90 minutes of actual mediation with the parties. The 90 minutes does not include time spent on telephone calls, document review, research, or any other administrative tasks that the mediator may find necessary to prepare for the mediation.
- The terms of any settlement will be hammered out by you, the insurer and the mediator. Think carefully about any contingencies and working them into your agreement. For example, what happens if you find more damage later? Or if the cost of labor and materials rises? Ask questions before you sign any settlement agreement and structure the agreement accordingly.
- You can request a virtual meeting by the mediator. It is up to the mediator whether to grant it.
- All statements made and documentation produced at a mediation can be used by either side should the matter go to litigation.
- During the mediation, it is normal for the mediator to meet with both parties first, and then meet with each party separately. This is how mediators work.

After Mediation

- If you are unsatisfied or unable to come to an agreement during mediation, it is not binding. If a policyholder requests mediation but finds that they can't come to common ground with their insurer during the mediation session, they can decline any offer and continue on with other means of finding a settlement, including a lawsuit.
- If an agreement is reached between the parties, the parties will put the agreement in writing. Both parties shall sign the agreement signifying the portions of the claim dispute that have been resolved in whole or in part, including the specific dollar amount agreed to by both parties.
- The insurer shall disburse the specific dollar amount agreed to by both parties to the policyholder within 10 business days of the conclusion of the mediation.



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