

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOSEPH R. RISO, ET AL

CIVIL ACTION

VERSUS

NO. 07-4332

HARTFORD INSURANCE COMPANY OF THE MIDWEST

SECTION "N" (5)

ORDER AND REASONS


Presently before the Court is Defendant Hartford's Motion for Summary Judgment (Rec. Doc. No. 13). The Court has carefully considered the parties' submissions relative to this motion. On the showing made, the Court is not in a position to find that no genuine issue of material facts exists, and that Defendant is entitled to judgment as a matter of law, with respect to the timeline of events occurring relative to Plaintiffs' home being damaged, the extent of that damage, and the source of that damage.

In other words, the Court is unable to find, based on evidence to be presented at trial, that a reasonable juror could not parse out Plaintiffs' damages so as to yield a determination that their home suffered damage from wind, versus flood waters, exceeding that for which Defendant already has paid them. In so concluding, the Court notes, among other things, the extensive damage to Plaintiffs' roof, as evidenced by photographs attached to Defendant's summary judgment submission, and documentation submitted by the parties suggesting that the flood waters entering Plaintiffs' home did not rise to the level of the ceilings therein. Additionally, though Plaintiffs'

burden in demonstrating their entitlement to relief under La. R.S. 22:658 and/or 22:1220 will be a most difficult one, the Court likewise declines to enter judgment in Defendant's favor at this juncture, on the showing made, with respect to those claims.

Accordingly, for the reasons stated herein, **IT IS ORDERED** that Defendant's motion for summary judgment is **DENIED**. All of these rulings, however, are without prejudice, of course, to the Court's consideration of a properly supported motion made pursuant to Rule 50 of the Federal Rules of Civil Procedure following the submission of evidence at trial.

New Orleans, Louisiana, this 26th day of September 2008.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE

Clerk to Copy:
United States Magistrate Judge Alma Chasez