



Alan Podvin &lt;alan@acpstormrepair.com&gt;

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**RE: Beitz Country Financial matter; Claim No. 164-0057874**

7 messages

**Brendan Powers** <powers@sprlaw.net>

Mon, Apr 16, 2018 at 11:33 AM

To: Alan Podvin &lt;alan@acpstormrepair.com&gt;, Thom Beitz &lt;thom@sagecare.com&gt;

Cc: Melissa Phillips &lt;phillips@sprlaw.net&gt;

Mr. Beitz and Mr. Podvin,

I did not receive a response to the email below in the above-referenced matter. I also have not received a response to my repeated request for date on which you will make yourself available for examinations under oath concerning the subject hail claim. We need to schedule your examinations under oath. The request for the examinations under oath and the request for relevant documents is made pursuant to the conditions of the policy. These are conditions precedent to coverage. An insured's failure to comply with the conditions of the insurance policy can serve as independent grounds for the denial of benefits. Please contact me at your earliest convenience to schedule a time for the examinations under oath. If I do not hear from you within five days of the date of this email, I will simply set the examinations at my convenience and notify you of the time and date.

Thank you for your attention. We look forward to hearing from you within five days of the date of this email. Of course, I am happy to address any questions or concerns that you may have.

Brendan O. Powers, Esq.

**Spies, Powers & Robinson, P.C.**[950 South Cherry Street, Suite 700](#)

Denver, Colorado 80246

(303) 830-7090/ fax (303) 830-7089

**SPIES,  
POWERS &  
ROBINSON, P.C.**

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**From:** Brendan Powers**Sent:** Wednesday, March 28, 2018 6:20 PM**To:** 'Alan Podvin' <alan@acpstormrepair.com>; Thom Beitz <thom@sagecare.com>**Subject:** RE: Beitz Country companies matter

Mr. Beitz and Mr. Podvin,

I attempted to reach Mr. Beitz by telephone this afternoon to discuss the scheduling of the examinations under oath. I look forward to his return call. I am pleased to read in the email below that you both will cooperate with the examinations under oath and the request for relevant documents, including documents reflecting material and labor costs incurred for repair or replacement. My letter to Mr. Beitz quotes the policy conditions upon which these requests are made.

In the email below Mr. Podvin appears to suggest that the appraisal should proceed before the examinations under oath. That is not correct. As noted in my prior correspondence, the examinations under oath are necessary to determine what, if anything, remains for appraisal. The appraisal clause contains the condition that appraisal may be requested if there is a disagreement as to the amount of loss. Country requires your cooperation with the examinations under oath and document requests in order to determine whether there is an actual disagreement as to the amount of loss, and if so, where that disagreement lies. Those specific points of disagreement, if any, can proceed to appraisal if necessary. As such, the examination under oath will provide necessary information to be considered by the appraisers and umpire and to assist the appraisal process, if an appraisal is appropriate after the examinations are completed.

Mr. Podvin's email appears to question the relevance of the documents reflecting the repair and replacement costs incurred (in the form of labor and material receipts, time cards, subcontractor invoices, and the like). Please note the definition of replacement cost in the policy. This is found on page 4 of the policy booklet. Replacement cost is defined as "the cost actually and necessarily incurred to repair or replace the damaged property using standard new construction materials of like kind and quality and standard new construction techniques." We look forward to receiving those documents prior to the commencement of the examinations under oath.

It is unclear what Mr. Podvin intends to say in his reference to "additional work . . . believed to be needed to properly repair to code," but we can address such issues on the record during the examinations. I suggest conducting the examinations in my office on April 16 beginning at 9:30 a.m. The examinations while each of you is out side of the presence of the other. Accordingly, we can schedule Mr. Podvin for a later start time if he does not wish to wait in my reception area while I am meeting with Mr. Beitz. Please advise whether that date and time will work, and please advise whether that will allow you sufficient time to gather the requested documents.

Thank you for your attention.

Brendan O. Powers, Esq.  
**Spies, Powers & Robinson, P.C.**  
[950 South Cherry Street, Suite 700](#)  
Denver, Colorado 80246  
(303) 830-7090/ fax (303) 830-7089



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**From:** Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)>  
**Sent:** Wednesday, March 28, 2018 2:55 PM  
**To:** Brendan Powers <[powers@sprlaw.net](mailto:powers@sprlaw.net)>; Thom Beitz <[thom@sagecare.com](mailto:thom@sagecare.com)>; Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)>  
**Subject:** Re: Beitz Country companies matter

Mr Brendan Powers,

ACP Storm and Mr Beitz are YES willing to both cooperate and submit to your examination under oath. Please list some times and dates that are available. I cant speak for Mr Beitz but he has indicated agreement to yes participate in the EUO to ACP and will email in agreement shortly as well.

The questions

1) what is available in dollars for code upgrade now, available "if" additional damages are found at this property, should be a question you can answer now?

As mentioned to you and the adjuster, much additional work above the 24K due and owing now is believed to be needed to properly repair to code, we just need the dollar amount. We believe proper repairs will hit 45K and according to the policy, we have until 2 years after storm date add this to the claim.

2) Also noted in the policy, the appraisal process is the given method for resolving disputes could you please begin the appraisal process now.

Then your EUO could include questions on the possible new code items added. The appraisers would also resolve requirements of code and price.

It appears that the appraisal process would answer all questions at hand if you could please name your appraiser and contract with him to start right away.

ACP would be happy to furnish you the costs that Mr Beitz incurred and the costs that ACP Storm incurred. However these costs would not change the xactimate price or fair retail market price nor the appraisal price owed under the terms of this policy in this claim. In the multiple cases ACP has participated in, not one was our subcontractor costs divulged after objection. Simply the cost of the repair is a measure of how profitably we run our business and how its structured, not a measure of what could be owed.

Lets resolve this simply and amicably, point questions only at processes used to repair, and correcting your estimate to use xactimate pricing system correctly.

Please advise us on the appraiser you have selected we have 4-5 to refer to Mr Beitz ready to take this claim, we would like to conclude the appraisal prior to the EUO.

Thank You

Alan Podvin

On Fri, Mar 23, 2018 at 2:33 PM, Brendan Powers <[powers@sprlaw.net](mailto:powers@sprlaw.net)> wrote:

Mr. Podvin,

Thank you for this email. I am not certain that I understand the question. It actually appears that you are asking two separate questions. To the extent I understand the question(s), Country needs the examinations and the requested subcontractor bids and invoices, and all other material and labor records, to adequately address the issues your email appears to concern.

It is my understanding that the work has been completed. Accordingly, the actual cost of repair or replacement should be discernable from the records Country has requested. There also is a question as to when the work was completed. This, too, can be clarified by the examinations and the documents requested.

Brendan O. Powers, Esq.  
**Spies, Powers & Robinson, P.C.**  
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Denver, Colorado 80246  
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**From:** Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)>  
**Sent:** Tuesday, March 20, 2018 10:40 AM  
**To:** Brendan Powers <[powers@sprlaw.net](mailto:powers@sprlaw.net)>; Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)>; Thom Beitz <[thom@sagecare.com](mailto:thom@sagecare.com)>  
**Subject:** Re: Beitz Country companies matter

Mr Powers,

The insured Mr Thom Beitz called me this am we are discussing your requests of paperwork and under oath statements to come to a amicable resolution.

We need a piece of information as soon as possible to help COUNTRY and Beitz make a decision

Please provide to ACP and/or the insured the dollar amount available today after any deductions for other items COUNTRY feels are code upgrade on this claim for code upgrade.

At least provide in dollars not a percentage the amount available on the main structure "the home".

If you could please provide this today we could have a response to you this evening that can resolve and hopefully close and settle this matter.

Thank You

Alan Podvin

On Mon, Mar 19, 2018 at 2:37 PM, Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)> wrote:

Mr Brendan Powers of

Spies, Powers and Robinson.

Representing COUNTRY companies,

Good afternoon Mr Powers, hope you avoided all the hail and snow yesterday and this message finds you in you warm cozy offices.

Last week , you had said "Please allow me until Friday" regarding the matter with the Beitz claim.

Could we ask please for a update as to how we can help you move this claim along?

We are on a timeline here and need to complete appraisal ( IF NEEDED) in 60 days.

Please let ACP point out, COUNTRY and ACP ore on the same estimating system using the same prices for the same items.

There should not be a dispute here if COUNTRY knows the codes and create a estimate properly for the same repairs.

Billings sent/Recoverable requested a early as 1 of 2017 and again 8-8-2017 and again 2-27-2017 this is an amount COUNTRY already agreed to. It is to be paid in 60 days or less per Colorado law

Additionally a new adjuster was requested Feb 2017, as the last one was emailing off hours and contacting a elderly client inappropriately , a reasonable request but resulted in a attorney being retained?

ACP for Beitz has discussing with you how to proceed to amicable agreement for 17 days since March 2.

May we propose the following:

1) Release recoverable depreciation all of it for all items NOW PLEASE . We can discuss the rest over the coming days. There was some amount not to be released as the items were not fixed within the 1 year time limit. ACP would ask this be paid as well. These items had additional steps not paid or considered by COUNTRY and needed to be reinspected so they could not be completed. Also such items like windows had additional 1 or 2 windows and would have required a return trip and more fees incurred to repair only one window. In other other words grouped together to save COUNTRY repairs costs and not incur the labor minimums.

2) Assign a new adjuster or meet at offices of COUNTRY to walk your estimators, legal staff, CEO whomever need be, through a proper estimate as exists already and is standard.

IF no agreement reached,

3) invoke appraisal and let that process conclude which needs to be complete y 5-3-2018-BEITZ HAS APPRAISER READY WITH SIGNED APPRAISER CONTRACT NOW

4) If none of the above resolve the dispute ACP has been authorized to file suit, please note additional amounts over claim price with double damages will be sought for the delays mentioned above including the appraisal costs and 45% interest on the owed amounts. Beitz the client is incurring these fees now.

Appraisal is not needed here ACP and COUNTRY are on the same estimating system pricing the same repairs, if COUNTRY knows how to estimate properly the price will be the same.

Please respond by 3-22-2018 with the course of action you prefer.

Alan Podvin

for ACP Storm Repair and ACP Client Care

[303-351-2022](tel:303-351-2022)

On Tue, Mar 13, 2018 at 6:01 PM, Brendan Powers <[powers@sprlaw.net](mailto:powers@sprlaw.net)> wrote:

Mr. Podvin,

Thank you for your email and the voice message that you left with my office this afternoon. As I mentioned on the phone, I am in trial this week. I have received Country's file. My trial will finish on Thursday. Please allow me until Friday to review the file and call you to discuss further handling.

Thank you for your attention. I look forward to discussing this matter with you further.

Brendan O. Powers, Esq.

**Spies, Powers & Robinson, P.C.**

[950 South Cherry Street, Suite 700](#)

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**From:** Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)>

**Sent:** Tuesday, March 13, 2018 4:17 PM

**To:** Brendan Powers <[powers@sprlaw.net](mailto:powers@sprlaw.net)>; Alan Podvin <[alan@acpstormrepair.com](mailto:alan@acpstormrepair.com)>; Thom Beitz <[thom@sagecare.com](mailto:thom@sagecare.com)>

**Subject:** Beitz Country companies matter

Mr Brendan Powers,

Attorney for Country Companies

ACP Storm the contractor for the Beitz had contacted you last week. You requested we give you a call had we not heard by Tuesday.

ACP hopes you have received the file on the Beitz matter you mentioned.

The Beitz would like to invoke appraisal as soon as possible so we can easily and expediently have this claim resolved and paid.

To refresh your memory, **the roof permit payment was omitted form the last estimate and the windows permit was not paid as well as recoverable depreciation.**

Country Companies owes about \$4,000.00 just for these 3 items that can be accounted for with no construction estimating ability.

Another example, on the roof the wrong ridge line item was used by Country staff easily verified in the click for detail white papers of xactimate. Country gave RFG RIDGC it at least should have been RFG RIDGCS, but RFG RIDGC+ was existing as can be verified by documentation ACP would be glad to share with you.

These kind of mistakes by Country adjusters not verifying the line items they estimate has led to a \$24,000.00 underpayment that needs to be resolved right away.

As you can see it is apparent more money is owed to repay this claim properly as seen on even these easy items.

ACP and Beitz the owners request your assistance and timely response.

Our goal is to resolve the matter/ complete appraisal and paid in the next 60 days.

**Thank You Very Much,**

*Alan C Podvin Jr*

**ACP Storm Repair LLC**

**303-351-2022** Direct to Alan

**800-648-1509** Office and Fax

**ACP Storm Repair.com**

**"The StormEraser" .com**

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**Note to Adjusters**, claim reps and other representatives of insurance companies: Please take notice that ACP is in communication as a contractor completing and collecting on wonderfully orchestrated code approved work and to explain, provide documentation, and collect what is fair to be paid under the terms of the insureds policies on said work. ACP reserves the right to document by any means possible all communications with insurance representatives. All information obtained may be used for collection and possible prosecution purposes.

**Note to Clients**, ACP Storm repair is a contractor completing repairs only. ACP Storm Repair representatives are not Public adjusters. ACP Storm Repair representatives are not legal advisers. Any legal advice given, quoted, spoken of or referenced to is as advisement of future possible actions ACP Storm will be taking in team with our clients against insurance companies and their representatives in the event a claim is not paid properly. Therefore legalese is used is not advice but preparation for possible events against insurance companies. Please consult with an attorney on applicability of any quoted laws, bills, acts or policy terms. Regardless ACP Storm always acts in unison and in the best interests of our clients to complete the repairs the best possible way.

--

**Thank You Very Much,**

*Alan C Podvin Jr*

**ACP Storm Repair LLC**

**303-351-2022** Direct to Alan

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*Alan C Podvin Jr*

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**Thank You Very Much,**

*Alan C Podvin Jr*

**ACP Storm Repair LLC**

**303-351-2022** Direct to Alan

**800-648-1509** Office and Fax

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**Thom Beitz** <thom@sagecare.com>  
To: Alan Podvin <alan@acpstormrepair.com>

Mon, Apr 16, 2018 at 5:38 PM



Begin forwarded message:

**From:** Brendan Powers <powers@sprlaw.net>  
**Subject:** RE: Beitz Country Financial matter; Claim No. 164-0057874  
**Date:** April 16, 2018 at 9:33:28 AM MDT

**To:** Alan Podvin <alan@acpstormrepair.com>, Thom Beitz <thom@sagecare.com>  
**Cc:** Melissa Phillips <phillips@sprlaw.net>

[Quoted text hidden]

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**Alan Podvin** <alan@acpstormrepair.com>

Fri, Apr 20, 2018 at 5:30 PM

To: Brendan Powers <powers@sprlaw.net>, Thom Beitz <thom@sagecare.com>, Alan Podvin <alan@acpstormrepair.com>

In response to your repeated requests for an EUO,

ACP is available April 30 and May 1 and 2 you can pick one day at 1 pm.

DO you agree that your EUO would count as your deposition should we proceed in court?

ACP need this time in order to prepare the support documents so Country, you and ACP can understand what is needed to rebuild this home.

ACP and or the insured still needs a complete copy of the policy with all referenced exclusions dec pages and the policy with the insured and address within the same document, previous copies.

We again request you to supply a appraiser of your choosing to begin the appraisal process.

Thank You  
Alan Podvin

[Quoted text hidden]

---

**Thom Beitz** <thom@sagecare.com>

Fri, Apr 20, 2018 at 7:13 PM

To: Alan Podvin <alan@acpstormrepair.com>

Good work thx



[Quoted text hidden]

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**Alan Podvin** <alan@acpstormrepair.com>

Thu, Apr 26, 2018 at 8:39 PM

To: Brendan Powers <powers@sprlaw.net>, Thom Beitz <thom@sagecare.com>, Alan Podvin <alan@acpstormrepair.com>

Mr Brendan Powers

Did you see this email sent prior these dates are filling up and we likely cannot be available.

Can we reschedule for for mid June.

Sent prior:

In response to your repeated requests for an EUO,

ACP is available April 30 and May 1 and 2 you can pick one day at 1 pm.

DO you agree that your EUO would count as your deposition should we proceed in court?

ACP need this time in order to prepare the support documents so Country, you and ACP can understand what is needed to rebuild this home.

ACP and or the insured still needs a complete copy of the policy with all referenced exclusions dec pages and the policy with the insured and address within the same document, previous copies.

We again request you to supply a appraiser of your choosing to begin the appraisal process.

Thank You

[Quoted text hidden]

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**Brendan Powers** <powers@sprlaw.net>

Fri, Apr 27, 2018 at 9:56 AM

To: Alan Podvin <alan@acpstormrepair.com>, Thom Beitz <thom@sagecare.com>

Cc: Melissa Phillips <phillips@sprlaw.net>

Gentlemen,

We can reschedule for mid-June, if you would prefer. How about June 7 or 8, or June 11 or 12? I would like to conduct Mr. Beitz' examination first since that most likely would be the shorter of the two. I suggest beginning his at 9:30 and beginning Mr. Podvin's at 11:30 in my office. I am in a meeting this morning but will forward the policy when I am back in the office. The examination under oath is not a deposition. The insurer is entitled to examinations under oath per the conditions of the policy. Depositions are a construct of procedural discovery in litigation and are framed by the matters at issue in the litigation. If there is later litigation, counsel for Country likely will request and likely would be allowed appropriate discovery depositions, regardless of whether an examination under oath concerning the claim was obtained earlier. I must admit to being a bit confused by the notion that ACP needs additional time to prepare the requested documents. I had assumed that ACP had prepared invoices with appropriate supporting documentation for labor and materials and invoices for subcontractor labor and materials as with any construction matter. Is that not the case? Is there not a job file that ACP maintains where this documentation is accessed easily? Regardless, we appreciate your providing those documents.

Thank you for your attention. Please advise on which of the foregoing dates you would like to appear for the examinations under oath.

Brendan O. Powers, Esq.

**Spies, Powers & Robinson, P.C.**

[950 South Cherry Street, Suite 700](#)

Denver, Colorado 80246

(303) 830-7090/ fax (303) 830-7089



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**From:** Alan Podvin <alan@acpstormrepair.com>

**Sent:** Thursday, April 26, 2018 6:39 PM

**To:** Brendan Powers <powers@sprlaw.net>; Thom Beitz <thom@sagecare.com>; Alan Podvin

1/30/2019

ACP Storm Repair Mail - RE: Beitz Country Financial matter; Claim No. 164-0057874

[<alan@acpstormrepair.com>](mailto:alan@acpstormrepair.com)

**Subject:** Re: Beitz Country Financial matter; Claim No. 164-0057874

[Quoted text hidden]

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**Alan Podvin** <alan@acpstormrepair.com>

Mon, Apr 30, 2018 at 6:34 PM

To: Brendan Powers <powers@sprlaw.net>, Alan Podvin <alan@acpstormrepair.com>

Cc: Thom Beitz <thom@sagecare.com>, Melissa Phillips <phillips@sprlaw.net>

Please set this for the June 12th at 930.

I am responding for Mr Beitz who will also be there at 930 only because he does not email very often

Thank You

Alan Podvin

[Quoted text hidden]