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July 15, 2020

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## **ACP Submits Amicus Brief to New Jersey District Court Concerning Independent Adjuster Duty of Care**

WASHINGTON— The Association of Claims Professionals (ACP) recently submitted an amicus brief to the U.S. District Court for New Jersey outlining its perspectives on the Court’s recent ruling in *Hankins v Crawford* concerning independent adjuster’s duty of care to claimants.

Noting this as an important issue not yet considered by any New Jersey court, ACP’s brief argues that the imposition of a limited duty of care standard on responding field claims adjusters is not only contrary to public policy but would also have severely negative consequences on the adjusting industry, ultimately leading to higher premiums and failing to benefit claimants in any meaningful way.

### **Background**

The case in question — *Hankins v Crawford*, 2-15-cv-203 (N.J. 2020) — concerns a lawsuit originally filed in the Superior Court of Ocean County, New Jersey following the tragic death of an individual by a fallen tree that had been knocked over weeks earlier by Hurricane Sandy. The plaintiff (Hankins) alleged that the defendants (Crawford et al) were negligent and liable for the individual’s death due to informal advice allegedly provided by an independent claims adjuster regarding the tree’s removal.

The case was moved to the federal District Court for New Jersey in 2014. The District Court ruled in favor of the defendants but left open the question as to whether the independent adjuster involved owed a duty of care to the plaintiff. That order was then vacated on appeal by the Third Circuit and remanded to the District Court for further proceedings. On February 25, 2020 the District Court denied the defendant’s motion for summary judgement and held that an independent adjuster has an undefined “limited duty” of care to warn policyholders of dangerous conditions the adjuster sees at a claim location. The defendants are now seeking redetermination of the decision or certification to the Third Circuit.

### **ACP’s Position**

ACP's brief solely concerns the District Court's extension of a limited duty of care to independent claims adjusters and potential negative consequences it could have for adjuster-insured interactions.

In tort law, a duty of care is a legal obligation imposed on an individual requiring that they adhere to a standard of reasonable care while performing any acts that could foreseeably cause harm. It is the first element that must be established to proceed with an action in negligence.

The brief draws a clear distinction between the roles and responsibilities of independent and public adjusters. Independent adjusters — which ACP exclusively represents — work on the behalf of insurance carriers and self-insured entities to assess damages and process claims. By contrast, public adjusters are retained by policyholders for the purpose of representing the policyholder's interests in claims against insurance carriers and a duty of care therefore exists on their part towards the policyholder.

The District Court's February 25, 2020 opinion failed to address this distinction. In denying Crawford's motion for summary judgement after the case had been remanded from the Third Circuit, the District Court ruled that an independent adjuster's role was "to help" insured parties and that a "position of trust" existed between them. ACP maintains in its brief that this description is accurate only for public adjusters — which are not at issue in the case — and therefore urges the Court to reconsider its motion denying summary judgement.

In supporting Crawford's position, ACP's brief cites two prior New Jersey Supreme Court rulings and calls upon the Court to adopt a similar framework with respect to the application of the duty of care standard. The brief also cites evidence from other jurisdictions on the role of independent adjusters and the absence of any adjuster duty of care to a claimant.

The full brief is available [HERE](#).

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*About Association of Claims Professionals (ACP)*

*The Association represents the interests of independent claims professionals. Since its inception in 2002, the Association has promoted adjuster licensing uniformity and reciprocity to enhance quality and ensure prompt and equitable reimbursement of claims. In 2016, the Association updated its name to the Association of Claims Professionals and repositioned itself to embrace the forward-looking vision of its member companies. ACP's vision for the future is a claims management industry viewed as a trusted advisor and business partner by its customers and as a helpful and caring frontline responder by claimants. ACP companies are committed to providing career opportunities to attract the next generation of claims professionals. Learn more at [claimsprofession.org](http://claimsprofession.org).*