THE RIGHTS AND DUTIES OF MORTGAGEES AND LIEN HOLDERS IN FIRST PARTY PROPERTY CLAIMS

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I. Terminology

The following terms may seem obvious, but their importance to the concepts discussed below warrants a brief overview. "First Party Coverage" focuses not on liability to a third party arising from conduct arising from the property, but on the property itself and protecting a person or entity that has an insurable interest in the value of the property from any diminishment in the value of the property. A "mortgagor" is a person who mortgages his property to another and, for the purposes of this discussion, is typically the named insured. A "mortgagee" is the person to whom the mortgage is made, typically a bank or financial institution. A "lien holder" is a person or institution holding a mortgage or having a legal claim in the specific property, or another person holding a security interest.

II. Insurable Interest Requirement

A person taking out an insurance policy must have an insurable interest in the subject matter of the insurance, otherwise the policy is void.[1] A person has an insurable interest in property whenever he would profit by or gain some advantage by its continued existence and suffer some loss or disadvantage by its destruction.[2] The insurable interest doctrine has developed over the course of several centuries in response to certain public policy concerns related to insurance. The foremost historical justification for the insurable interest requirement is prohibiting wagering contracts under the guise of insurance.

III. Creation of Lien Between Mortgagor and Mortgagee

A mortgagee as such, has no interest in, or claim to, a policy of insurance created by the mortgagor upon the mortgaged property for his or her own benefit.[3] In the absence of agreement or obligation created by contract, a mortgagee cannot claim the benefit of a policy of insurance created upon the mortgaged property by the mortgagor, and although each has an insurable interest, neither can, without an agreement in such respect, take advantage of insurance created by the other.[4] On the other hand, a mortgagee may be entitled to insurance proceeds from mortgaged property by reason of a loss-payable or mortgage clause in the policy itself or by reason of an assignment of the policy to the mortgagee as his or her interest may appear.[5] As a general rule, a covenant, express or implied, by the mortgagor, stating he or she will keep the mortgaged premises insured for the benefit of the mortgagee, creates an equitable lien in favor of the latter upon the money due for a loss upon a policy created by the former in his own name upon the mortgaged property.[6] In reality, all modern and sophisticated mortgagees require the mortgagor to maintain a policy of insurance protecting the property and carrying a loss payable clause protecting the mortgagee's interests.

IV. Loss Payable/Mortgage Clauses

Generally, a loss payable clause is a provision in an insurance policy authorizing payment in the event of a loss to a person or entity other than the named insured having an insurable interest in the subject property. Policies issued to protect the interests of a mortgagee usually contain what is known as the "union" or "standard" mortgage clause by which it is stipulated, in addition to the simple loss-payable clause, in case the loss is directed to be payable to a mortgagee, the interest of the mortgagee in the proceeds of the policy shall not be invalidated by the act or neglect of the mortgagor or owner of the insured property.[7] Generally, this type of clause is considered to constitute a separate contract of insurance between the insurer and mortgagee.[8] Thus, the policy constitutes two separate contracts of indemnity which relate to the same subject matter, but cover distinct interests therein, and it effects a new and independent insurance which cannot be destroyed or impaired by the mortgagor's acts or by those of any person other than the mortgagee or someone authorized to act for the mortgagee.[9]

A second distinct and less protective clause is the simple or open loss payable clause. Under a simple loss-payable clause in a policy of insurance issued to the mortgagor, and payable to the mortgagee "as his interest may appear," the mortgagee is simply an appointee of the insurance fund, whose right of recovery is no greater than the right of the mortgagor.[10] Therefore a breach of the conditions of the policy by the mortgagor, which would prevent a recovery by him, precludes recovery from the insurer by the mortgagee.[11] A loss-payable clause provides merely for an allocation of the proceeds of the policy and therefore anything that would void the policy in the hands of the mortgagor also voids it as to the mortgagee.[12] In this type of clause, any defenses available against the mortgagor are available against the mortgagee.[13] Because of the lack of protection afforded the mortgagee under simple loss payable clauses, almost all insurance policies are now written in the standard or union form.

V. Rights

Ohio courts hold a standard mortgage clause creates a separate contract of insurance between the mortgagee and the insurance company.[14] This means mortgagees have a unique set of rights under the insurance policy apart from those of the mortgagor. These rights are typically provided for explicitly in the mortgage clause and each mortgagee must look to its specific policy to determine its rights. As with most agreements, these rights also have corresponding duties. Both the rights of the mortgagee and the duties arise, however, from the same instrument--the insurance contract. We will first address the issue of the mortgagee's rights under the policy as interpreted by Ohio courts.

A. Right to Proceeds

While courts defer to specific policy language, most policies provide the mortgagee, under a standard mortgage clause, has the right to direct payment for a loss to the extent of its lien at the time the loss occurs. Certain policies may provide for shared rights between the mortgagee and the insured.[15] If the mortgagee wishes to be paid directly, the policy should clearly reflect such considerations. Otherwise, the mortgagee may be forced to rely on the mortgagor for payment. When in doubt, and unless the policy provides otherwise, or the claim has been denied to the named insured, most insurers, when issuing payment under the standard mortgage clause, will still want to name both the named insured(s) and the mortgage holder on any payment.

Waterfield Mortgage v. Buckeye State Mutual Ins. Co. illustrates how Ohio courts handle ambiguous provisions concerning payment. In *Waterfield*, the insurance policy stated "a loss payable […] will be paid to the mortgagee and you, as interests appear."[16] After a fire loss, the insurance company made a check jointly payable to both the insureds and mortgagee.[17] The court found the policy language concerning payment to be ambiguous and limited because it did not clearly specify how payment was to be made in event of a loss.[18] The court noted the phrase "as interests may appear" is commonly used in insurance contracts to mean "the insurer will pay the mortgagee to the extent to which his mortgage is a lien or charge on the premises."[19] However, this was insufficient to determine if the check should have been made payable directly to the mortgagee, mortgagor, or both.[20]

It should be noted, if more than one mortgagee is named, the order of payment will be in the same order as precedence of the mortgages or liens. Again, it is important for the insurer to be aware of its duty to list all mortgagees from the policy on the settlement check together with the named insured, unless circumstances clearly warrant otherwise.

If the insurance company has named all parties on the check, and those parties still cannot agree who has rights to the proceeds, the insurer has several options. First, the insurer may issue the check and simply allow the parties to litigate the issue. If this is done, the insurer should document clearly all funds due and owing have been paid and, at the insured and mortgagee's request, the entitlement to the proceeds will be handled through their own independent litigation or mediation. Another option available is the use of interpleader requesting the court to determine the ownership rights to the money. Interpleader may be done by the insurer instituting the legal action, or if litigation is already pending between the parties (such as a foreclosure), the insurer may move to intervene in an already pending action for purposes of interpleading the monies. When interpleader is utilized, the insurer should petition the court to accept deposit of the monies at issue and then immediately dismiss the insurer from the interpleader action. This may be done even if the insurer is the party initially filing the legal action.

Another issue which frequently arises is the need for the insurer to determine the proper party to send the settlement check to when claim is being made by the named insured and the mortgagee. Although this should ordinarily not be a problem, if a dispute has arisen over the proceeds, the insurer may be in a position where they cannot easily ascertain to whom the actual check should be sent even if all parties are named as payees. As the *Waterfield* court explained, mailing the check directly to the insured is not unreasonable if the check is made payable to both the insured and mortgagee.[21] As the sending of a check directly to the insured can be an unsettling situation for a mortgagee, the issue should be avoided by careful wording in the policy, or if not addressed in the policy, then by clearly notifying both the named insured and mortgagee in writing when the settlement check is issued.

Whether the loss proceeds are to be applied to the mortgage balance or used to repair the premises has also been addressed by Ohio courts. In *State ex rel. Squire v. Royal Ins. Co*., where the fire insurance policy contained a standard mortgage clause in favor of the mortgagee, and a loss occurred at a time when the mortgage was overdue and in default, the loss having been less than the amount of the mortgage, the court found the mortgagee to be the real party in interest and entitled to the proceeds.[22] The court went on to rule the mortgagee, and not the named insured, had the option to decide whether the money was to be applied to the mortgage obligation or used to repair the premises.[23]

B. No Act or Neglect

Standard or union mortgage clauses typically provide the right of the mortgagee to the proceeds of the policy shall not be invalidated by any act or neglect of the mortgagor or owner of the insured property.[24] This can create difficult situations for insurers where losses which may be clearly excluded due to the policy terms and conditions still may require payment to the mortgage holder.

The issue of whether the mortgagee is precluded from recovering proceeds based on an act of neglect of the mortgagor before the inception of the policy is an unresolved issue, but even for these actions which predate the policy inception, the insurer still may be liable for payment to the mortgagee. In looking at these unique issues we must first consider the language of the insurance policy and second the applicable state law. The following cases address the issue under Ohio law.

In *Ohio Farmers' Ins. Co. v. Hull*, the court found the mortgagee was unaffected by any act or neglect of the mortgagor of which the mortgagee was ignorant, whether such act or neglect was done or permitted prior to or subsequent to the issuance of the mortgage clause.[25] Furthermore, the court found a mortgagor's breach of the conditions of a fire policy, including fraud, concealment such as failure to disclose limited ownership, or misrepresentation by him, whether occurring before or after the issuance of the policy, did not prevent a recovery by the mortgagee where the policy contained a standard union mortgage clause and where the mortgagee had no knowledge of the actions of the mortgagor.[26] A similar result came in *Farmers' Nat. Bank v. Delaware Ins. Co*. There, the court held under the standard mortgage clause the mortgagee was entitled to the proceeds of the policy despite concealments, false and fraudulent representations, and violation of conditions by the mortgagor.[27] These cases are important because they show in Ohio the mortgagee is protected from acts or neglect of the mortgagor before the mortgagee ever enters the picture, specifically in the context of fraud in the application for insurance.

An example of how a neglect of the insured affects the mortgagee's rights occurred in *Ohio Farmers' Ins. Co. v. Hull*. There, the insured's failure to furnish timely proof of loss and concealment of the fact he only had a half interest in the personal property insured was held not to preclude the mortgagee's recovery.[28]

Mortgagees commonly invoke the "no act or neglect" language in the context of arson. As an example, if a mortgagor's home is destroyed by a fire, and it is determined the mortgagor participated or conspired in the arson, the insurance company cannot avoid payment to the mortgagee because of the mortgagor's bad acts.

One growing trend among a few select insurers is to insert policy language (similar to precluding coverage to innocent spouses) whereby the mortgagee or lien holder shall not be paid in the event of any fraud or intentional act by any other insured. Advocates of this more stringent approach point to examples of collusion between insureds and mortgage holders to engage in arson or other similar action, or "strong arm" tactics of mortgage holders which the insured claims forced them to intentionally damage or destroy the property. At the current time, there is no Ohio case law on point addressing these types of policy provisions. Nor, is there any information as to whether banks or other mortgage holders may veto acceptance of these types of policies as proper evidence of insurance. Finally, changes such as this to policy language would also require approval and consent from the Ohio Department of Insurance.

Before leaving this issue of rights and duties, however, it is also important to note the separate and distinct duties which do attach directly to the mortgagee or lien holder when the property is vacated and they are on notice of the property being vacant due to foreclosure or for any other reason. When this occurs, the mortgagee does have the duty to reasonably protect the property from further loss which may include, among other things, continuing utility service to the property to avoid freezing of pipes, water backup due to sump pump failures, or preventing of mold. Failure of the mortgagee to take timely action once they are in possession of the property or know the property is vacant may, depending upon policy language, be a very valid reason to deny coverage for the loss.

C. Consent to Adjustment

The right to agree or consent to an adjustment amount following a loss is another right enjoyed by the mortgagee. In Ohio, it is well settled a mortgagee to whom a loss is payable is not bound by an adjustment to which they are not a party, and which is made without the mortgagee's knowledge or consent. An adjustment made only between the insurer and the insured mortgagor is without effect to the mortgagee.[29] This is important because the mortgagor or named insured is the person with whom the insurer will normally interact in reaching an agreed adjustment of the loss. Although it will be the very rare claim where an amount is agreed to between the insurer and insured, and later objected to by the mortgagee, this can occur and the insurer must be aware of this potential risk.

From a practical standpoint, most courts will not look favorably upon a subsequent attempt by a mortgagee to set aside an agreed amount of settlement or adjustment of a claim. Further, in most cases the duty will rest upon the mortgagee to demonstrate the amount of the agreed damages is patently unfair, is not in keeping with the terms of the insurance coverage contracted for, or actions were taken to withhold information from the mortgage holder. To avoid even such an argument being made, however, an insurer in doubt should affirmatively notify the mortgagee(s) listed on the policy regarding the final terms of any settlement or adjustment and should virtually always include all named insureds and lien holders on the settlement check.

D. Right to Notice

Mortgagees are entitled to right to notice from the insurance company of the insurance company's election to restore the property. Most policies contain provisions which give the insurer the option to restore the property in case of a loss, and the right of a mortgagee to recover money damages under a standard mortgage clause has been held subject to the reserved option of the insurer to rebuild destroyed property.[30] Mortgagees should note clear and unequivocal notice of the exercise of the option must be given by the insurer, and this may be done by act or word.[31] Failure to give proper notice may waive the insurance company's right to make such an election.[32]

Two other important rights often enjoyed by the mortgagee are the right to notice of cancellation and right to notice of substantive change to the policy. Any change in either of these regards may increase the mortgagee's risk exposure and may constitute a default of the mortgage contract between the mortgagor and mortgagee. When in doubt, the insurer should make certain all notices which do constitute a potential for cancellation or substantive change in the policy are served on both the named insured(s) and the mortgagee.

E. Right to Sue

A mortgagee possesses the same right to bring suit to enforce its rights under the insurance policy as would the named insured. This would include any claims for breach of the insurance contract and for bad faith. The mortgagee's right to sue stems from its status as a real party in interest under the policy. In *Ohio Farmers' Ins. Co. v. Hull,* the court held the mortgagee of real property, to whom a sum is owing equal to or greater than the loss suffered upon the destruction of buildings on the mortgaged premises by fire, is a real party in interest and is a proper party to bring suit on an insurance policy containing a loss payable clause.[33] The same holds true in the case of a chattel mortgagee where the mortgagee's interest represents practically the total amount due on the policy.[34] In the event the insurance proceeds due and owing are greater than the amount of the mortgage, the mortgagee holds the excess funds for the benefit of the owner or his assignee to which he is obligated to account, but this does not preclude the mortgagee from the right to file suit.

In the rare event a mortgagee's right stems from a simple or open loss payable clause, at least one Ohio court has looked elsewhere to determine when a mortgagee may bring suit. In *Waterfield Mortgage v. Buckeye State Mut. Ins. Co,* the court had to determine if the mortgagee was able to bring suit for an alleged breach by the insurance company.[35] While the policy at issue contained a simple loss payable clause, the court found it did not matter if the clause was a simple mortgage clause or a standard mortgage clause.[36] The analysis turned on whether the mortgagee was a third-party beneficiary of the insurance contract.[37] The test articulated was if the promisee intends a third party should benefit from the contract, then the third party is an "intended beneficiary" who has enforceable legal rights under the contract.[38] If the promisee has no intent to benefit a third party, then any third party beneficiary to the contract is merely an "incidental beneficiary" who has no enforceable rights under the contract.[39] The mere conferring of some benefit on the supposed beneficiary by the performance of a particular promise in a contract is insufficient; rather, the performance of that promise must also satisfy a duty owed by the promisee to the beneficiary.[40] Importantly, the court went on to note the mortgagee's requirement the mortgagor obtain insurance on the mortgaged property as a condition of the mortgage shows intent to benefit the mortgagee.[41] Based upon this analysis, the court ruled the mortgagee did have the right to file suit.

Today, under a standard loss payable clause, an Ohio court will allow the mortgagee to sue because the mortgagee is likely the real party in interest and the clause creates a separate contract of insurance between the mortgagee and insurance company.

VI. DUTIES

Although mortgagees generally enjoy many rights under the standard mortgage clause, they also must equally fulfill distinct obligations if set forth in the insurance contract to maintain their protected status. The most common duties placed upon the mortgagee, and those explicitly provided for in the policy, are the duty to notify the insurer of change in ownership, occupancy, increase in hazard, the duty to pay premiums should the named insured fail to do so, and the duty to submit a sworn statement in proof of loss if the mortgagor neglects to do so. Policies may also provide in the mortgage clause for additional duties to be placed on the mortgagee including the duty to submit requested documents and provide, if requested, examination under oath testimony. Absent these duties being expressly set forth in the policy, it is unlikely a court will find or imply other duties on the mortgagee, even if the duty may appear elsewhere in the policy and be required of the mortgagor.

A. Change in Ownership, Occupancy, or Risk

Most standard mortgage clauses contain a provision requiring the mortgagee to notify the insurance company of any change in ownership, occupancy, or risk. A mortgagee's failure to do so will defeat coverage under the policy. An example would be if an insured mortgagor vacated the home during a pending foreclosure action and the mortgagee was aware the property was now vacant. The mortgagee must then notify the insurer or risk a loss of coverage in the event of a loss. Additionally, a vacant property with no utility services, especially in winter months, can be a substantial increase in risk and the mortgagee both has the duty to protect the property and to notify the insurer of the changed conditions thereby increasing the risk of loss.

Ohio courts have addressed the issue of whether a change in ownership from the mortgagee to the mortgagor constitutes a noticeable event. In *Washington Ins. Co. v. Hayes*, the property of the insured was under a mortgage at the time the policy was issued. Later the named insured delivered possession and control of the property to the mortgagee, while the policy was still in effect. The mortgagor failed to notify the insurance company of the change in ownership, however, the court ruled this was not such a sale as would invalidate the policy.[42] Another Ohio court found the "change in ownership" in a loss-payable clause of a fire insurance policy providing for payment of the policy in case of loss to the mortgagee, provided he or she notifies the insurance company of any change in ownership coming to his or her knowledge, referred to a sale to a third person, and not a party already in interest under the insurance contract.[43] Consequently, a provision in the standard loss-payable clause attached to a policy of fire insurance and providing the insurance would be forfeited in case of a change of ownership of the insured property did not constitute forfeiture where ownership was assumed by the mortgagee.[44]

The basic rule is to the extent the mortgagee comes into possession of the whole title by virtue of foreclosure or transfer, or otherwise taking possession of the premises, it is not such a change of ownership as is contemplated in the loss payable clause. Absent a change of occupancy to a true third party, the mere execution of a land contract is not an event requiring the mortgagee to give notice to the insurer.[45]

Insurers who wish to protect their interests must use specific language in their policies. For example, the policy should explicitly require the mortgagee to notify the insurance company of a vacancy or foreclosure proceeding, any sale or transfer of the property, or any substantial change in the condition or use of the property.

Notification of increased risk or hazard is another common duty placed on mortgagees. An example in a commercial context is if the mortgagee is aware the mortgagor has turned off a sprinkler system or some other safety system in order to save costs. Such a situation would be considered an increase in risk because the risk to the property is fundamentally different from when the policy was created. As noted earlier, this same concept applies equally to residential properties where utility service has been turned off thereby increasing the risk of loss.

Insurance companies sometimes argue the obtaining of additional insurance on the part of the mortgagor constitutes an increase in hazard. In *Great American Ins. Co. v. Merchants & Manufactures Mutual Ins. Co.*, the court found the issuance of “additional insurance” on the property did not constitute an “increase in hazard” because the coverage was diffused amongst different interests in the names of different people and was not for the benefit of the named insured.[46]

B. The Duty to Pay Premiums

Almost all standard mortgage clauses will require the mortgagee to pay premiums neglected by the mortgagor. This holds true for both missed payments and additional increased premiums reflecting the increased risks of a subject property. Insurers should clearly state in their policy, however, the duty of the mortgagee to pay the premium promptly upon notice of non-payment by the named insured. If payment is then not made, it is the duty of the insurer to serve notice of cancellation in accordance with the policy terms and Ohio law. Failure to do so may continue coverage to the mortgagee even with unpaid premiums. The court in *Olmstead & Co. v. Metropolitan Life Ins. Co.* found the provision of the standard mortgage clause where, in case the mortgagor or owner shall neglect to pay any premium, the mortgagee shall, on demand, pay the same, to be a condition rather than a covenant and ruled the mortgagee could not be held liable for premiums.[47]

C. Proofs of Loss

Most insurance policies also provide in the event a mortgagor fails to submit a sworn statement in proof of loss, and after the mortgagee receives notice from the insurance company, the mortgagee may be required to submit a sworn statement in proof of loss within a specified period of time, typically 60 days.

Additionally, the mortgagee may need to furnish the insurance company with additional documentation including payment history, appraisals, photographs, inspection reports, mortgage applications, forced placed policy information, and authorizations to investigate or enter the premises. What specific duties attach to the mortgagee when the named insured breaches the duties under the policy will be determined solely by the specific terms, conditions, and duties set forth in the mortgage clause of the policy.

D. Examination Under Oath

While working with a mortgagee in the claims process, an insurance company may request the mortgagee submit to an examination under oath. While no Ohio court has weighed in on the issue, at least one court in another state found the mortgagee was not required to submit to an examination under oath. The New York Court of Appeals, in *U.S. Fidelity & Guar. Co. v. Annunziata*, found the policy in question, which contained a fairly common standard mortgage clause, did not require the mortgagee to submit to an examination under oath.[48] The policy required, "The insured, as often as may be reasonably required, shall […] submit to examinations under oath."[49] The court then examined the policy's declarations page which listed the mortgagor as "insured" and the mortgagee as "first mortgagee."[50] The court further noted other portions of the policy specifically referenced the mortgagee when imposing obligations.[51]

Based on this New York case, an Ohio court may decide the mortgagee is not obligated to submit to examination under oath testimony unless the policy specifically sets forth this duty. Insurance policies should contain clear and unambiguous provisions requiring the mortgagor to cooperate in the investigation and submit to examination under oath testimony if so requested. Many insurers address these duties in a more omnibus way by including language in the mortgage clause providing, "<u>All policy conditions will apply to mortgagee</u>, except misrepresentation, concealment or fraud, unless committed by the mortgagee or its representatives." In these types of policy situations, it is likely the Ohio courts would then hold the mortgagee would have the duty to fully cooperate and submit to an examination under oath.

VII. Foreclosure

The financial crisis of the past few years has seen an increased number of homeowners defaulting on their mortgages or abandoning their homes. This correlates directly with an increase in foreclosure proceedings. Because mortgagors are no longer around or simply do not care to pursue first party claims, mortgagees have increasingly begun to pursue their rights under homeowners policies and commercial insurance agreements.

Ohio courts hold a mortgagee's insurable interest will continue so long as the policy is in effect and all conditions are complied with until such time as the mortgage debt is satisfied by either recovery of the insurance proceeds or foreclosure sale.

If a mortgagee decides to commence with foreclosure proceedings, and a property loss occurs prior to a confirmation of the sheriff's sale, the mortgagee will have the option to either recover from the insurance proceeds the full amount of the mortgage obligation (or the amount due under the policy, if less), or the mortgagee may foreclose on the mortgaged real estate and, to the extent the foreclosure sale does not satisfy the mortgage loan, recover the balance from the insurance proceeds.

If the mortgagee elects to foreclose on the property and receives the full unpaid principal balance of the mortgage loan in a sheriff's sale, the court should find no insurance proceeds would be recoverable by the mortgagee. This should remain true even if the mortgagee bids on and purchases the real estate in the foreclosure sale.

VIII. Subrogation

While not a right or duty, additional provisions involving subrogation may be important to the mortgagee. In the event the insurance company pays the mortgagee, it may receive a right of recovery against any party responsible for the loss, i.e., the mortgagor suspected of arson. The insurance company may also, at its option, pay off the entire mortgage debt to the mortgagee. Then the insurance company may request and receive full assignment and transfer of the mortgage, including all security held as collateral to the mortgage debt, and the insurance company will be subrogated to all the rights of the mortgagee under the mortgage.

IX. Conclusion

Mortgagees and lien holders, acting through standard mortgage clauses in the mortgagor's insurance policy, possess distinct rights and duties under the insurance policy. It is the duty of insurers to clearly and unambiguously set forth in their policies the specific rights, duties, conditions, and obligations which attach to the mortgagee's interest in the insurance policy. As with any other provisions of insurance contracts, any ambiguity in the policy duties, terms, or conditions will be strictly construed against the insurer and in favor of the mortgagee.

Specific duties such as notice provisions, increased risk, vacancy, and hazard exclusions and duties to cooperate, including submission of proof of loss and to submit to examinations under oath, must be specifically set forth in the policy.

Ohio courts will look carefully and closely at the terms and conditions of the policy and will generally view the relationship between the mortgagee and the insurer as a separate "contract within the policy." It is incumbent upon insurers to clearly address the role of the mortgagee in the insuring agreement and to make certain all claims handlers are fully trained and aware of the specific laws of Ohio and the duties of the insurer and mortgagee as we continue in an era where mortgagee claims are an ever increasing part of the claims process.

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