I. INITIAL CHECKLIST FOR STRUCTURAL DAMAGE

- What were the wind speeds in the area?
- What wind speed was the building rated to withstand per the building specifications?
- What are the wind speed requirements under applicable codes?
- When was the building built?
- Have there been any significant renovations?
- Were other buildings in this area similarly damaged?

If indicated by preliminary findings based on the above analysis, consider retaining one or more of the following experts:

- Structural/Civil engineer
- Metallurgist (analysis of building members)
- Materials science expert (analysis of concrete, polymers, roof membranes)
- Weather Expert
- Mechanical Engineer

II. LEGAL OBSTACLES

*Issues to Be Wary Of*

- Statute of Repose (15 years in Florida for real property)
- Notice requirements:
  - Florida’s “Contractor Friendly” statute, Fla.Stat. § 558.002: For residential buildings, including condominiums, the building owner “shall endeavor” to serve notice on the contractor of a potential claim within 15 days of notice of the defective condition in the structure.
  - Governmental notice: The claimant must provide written notice within 3 years to the governmental agency and the Department of Insurance. Florida Statute § 768.28(6).
- Statute of Limitations: Claimant must file suit within 4 years if a latent defect. Fla.Stat. § 95.11(3)(d).
- Waivers of Subrogation (AIA contracts, other construction contracts)
- Limitations in lease agreements
- Limitations in construction contracts or warranties

III. KEY ITEMS TO OBTAIN/RETAIN

- Construction documents (contracts, plans, specifications)
- Lease agreements
- Instruction manuals and warranties
- Key physical evidence (defective brackets, roofing materials, bracing, etc.)
- Pre-loss photographs and diagrams
- Post-loss photos (consider aerial photos to compare building damage)
- Building officials’ files
IV. PARTICULAR DESIGN, INSTALLATION, AND MATERIALS ISSUES TO CONSIDER

Assuming there is reason to further investigate the subrogation potential, the following are some of the issues one would expect the retained expert to consider:

**Particular Design Errors to Consider**
- Improper load calculations
- Improper location of load bearing walls/devices
- Insufficient number of load bearing walls
- Improper spacing/positioning of trusses
- Improper number of trusses
- Improper size of trusses
- Under designed for expected snow/rainfall/wind

**Particular Installation Errors to Consider**
- Improper spacing
- Deficient welds
- Missing parts/bracing
- Inadequate/missing/improper connections
- Selection of improper materials
- Inadequate adhesion of roofing materials
- Improper drainage

**Particular Defective Materials Issues to Consider**
- Metallurgical defect (improper forging)
- Polymer defect
- Bad concrete
- Corrosive agents
- Material Degradation
- Bad roofing membranes

**Particular Maintenance/Preparation Issues to Consider**
- Failure to install storm shutters for all exterior windows and doors
- Failure to remove dead or decaying trees or limbs
- Failure to secure movable objects or to move them low to the ground
- Failure to protect against potential damage to adjoining property or connected businesses as a result of:
  1. Inadequate construction
  2. Inadequate foundation
  3. Inadequate flood proofing
  4. Susceptible gas mains
  5. Explosive materials
  6. Poorly secured chemicals
- Failure to keep drains unclogged
• Failure to upgrade facilities to retroactive code requirements?
• Failure to flood proof facilities by constructing flood walls or other flood protection devices

V. CONTACT INFORMATION

The above is just a short list of possible subrogation issues. For further assistance, please contact:

Elliott R. Feldman, Esquire
Chair, Subrogation and Recovery Department
1900 Market Street
Philadelphia, PA 19103
(215) 665-2000
(800) 523-2900
Fax: (215) 665-2013
E-mail: efeldman@cozen.com

Jay M. Goldstein, Esquire
Chair, Subrogation, Southeast Region
One Wachovia Center, Suite 2100
Charlotte, NC 28202
800-762-3575
E-mail: jgoldstein@cozen.com

The Hurricane Frances Task Force

Charlotte Office: John W. Reis, Peter F. Asmer, T. David Higgins, Jr., Joshua R. Goodman
Cozen O’Connor
Charlotte, NC
Telephone: 704-376-3400 or 800-762-3575
E-mails: jreis@cozen.com; pasmer@cozen.com; thiggins@cozen.com; jrgoodman@cozen.com

Atlanta office: Samuel S. Woodhouse, III, Esquire
Cozen O’Connor
SunTrust Plaza, Suite 2100
303 Peachtree Street, NE
Atlanta, GA 30308-3264
Telephone: (404) 572-2022 or 800 890-1393
E-mail: swoodhouse@cozen.com
DIRECTORY OF OFFICES & CONTACT ATTORNEYS

Elliott R. Feldman, Esquire
Chairman, Subrogation & Recovery Department
Cozen O’Connor, 1900 Market Street, Philadelphia, PA 19103
800.523.2900 or 215.665.2071 • Fax: 215.701.2071 • efeldman@cozen.com

ATLANTIC REGIONAL OFFICES
1900 Market Street
Philadelphia, PA 19103
Tel: 215.665.2000 or 800.523.2900
Fax: 215.665.2013
Contact: Kevin J. Hughes, Esq. or Vincent R. McGuinness, Esq.

1900 Market Street
Philadelphia, PA 19103
Tel: 215.665.2000 or 800.523.2900
Fax: 215.665.2013
Contact: Kevin J. Hughes, Esq. or Vincent R. McGuinness, Esq.

Chase Manhattan Centre
1201 North Market Street, Suite 1400
Wilmington, DE 19801
Tel: 800.523.2900
Fax: 302.912.4830
Contact: Kevin J. Hughes, Esq. or Vincent R. McGuinness, Esq.

1667 K Street NW, Suite 500
Washington, DC 20006
Tel: 800.523.2900
Fax: 202.912.4830
Contact: Kevin J. Hughes, Esq. or Vincent R. McGuinness, Esq.

457 Haddonfield Road, Suite 300
P.O. Box 5459
Cherry Hill, NJ 08002-2220
Tel: 856.910.5000 or 800.989.0499
Fax: 856.910.5075
Contact: Jeffrey L. Nash, Esq.

144-B West State Street
Trenton, NJ 08608
Tel: 609-989-8620
Contact: Jeffrey L. Nash, Esq.

NORTHEAST REGIONAL OFFICES
45 Broadway Atrium
16th Floor
New York, NY 10006
Tel: 212.509.9400
800.437.7040
Fax: 212.509.9429
Contact: Michael J. Sommi, Esq.

One Newark Center, Suite 1900
1085 Raymond Boulevard
Newark, NJ 07102
Tel: 800.437.7040
Fax: 973.242.2121
Contact: Michael J. Sommi, Esq.

SOUTHEAST REGIONAL OFFICES
SunTrust Plaza, Suite 2200
303 Peachtree Street, NE
Atlanta, GA 30308
Tel: 404.572.2000 or 800.890.1393
Fax: 404.572.2199
Contact: Michael A. McKenzie, Esq.

One Wachovia Center, Suite 2100
301 South College Street
Charlotte, NC 28202
Tel: 704.376.3400 or 800.762.3575
Fax: 704.334.3352
Contact: Jay M. Goldstein, Esq.

222 South Riverside Plaza, Suite 1500
Chicago, IL 60606
Tel: 312.382.3100 or 800.989.0499
Fax: 312.382.8910
Contact: James I. Tarman, Esq.

New England Financial Building
8415 East 21st Street North, Suite 220
Wichita, KS 67206-2909
Tel: 800.448.1207
Fax: 316.634-3837
Contact: Stephen M. Halbeisen, Esq.

707 17th Street, Suite 3100
Denver, CO 80202
Tel: (877)467-0305
Fax: 720.479-3890
Contact: Brad W. Breslau, Esq. or Thomas Dunford, Esq.

SOUTHWEST REGIONAL OFFICES
2300 BankOne Center
1717 Main Street
Dallas, TX 75201
Tel: 214.462.3000 or 800.448.1207
Fax: 214.462.3299
Contact: Stephen M. Halbeisen, Esq.

One Houston Center
1221 McKinney Street, Suite 2900
Houston, TX 77010
Tel: 832-214-3900
Fax: 832-214-3905
Contact: Stephen M. Halbeisen, Esq.

WEST REGIONAL OFFICES
501 West Broadway, Suite 1610
San Diego, CA 92101
Tel: 619.234.1700 or 800.782.3366
Fax: 619.234.7831
Contact: Thomas M. Regan, Esq.

777 South Figueroa Street, Suite 2850
Los Angeles, CA 90017
Tel: 213.892.7900 or 800.563.1027
Fax: 213.892.7999
Contact: Mark S. Roth, Esq.

425 California Street, Suite 2400
San Francisco, CA 94104
Tel: 415-617-6100
Fax: 415.617.6101
Contact: Philip A. Fant, Esq.

601 South Rancho Drive, Suite C-20
Las Vegas, NV 89106
Tel: 800.782.3366
Fax: 702.892.3741
Contact: Joseph Goldberg, Esq.

NORTHEAST REGIONAL OFFICES
Washington Mutual Tower, Suite 5200
1201 Third Avenue
Seattle, WA 98101
Tel: 206.340.1000 or 800.423.1950
Fax: 206.621.8783
Contact: Daniel C. Thenery, Esq.

INTERNATIONAL OFFICES
Tower 42, Level 27
25 Old Broad Street
London EC2N 1HQ
Tel: +44 (0)20 7864 2000
Fax: +44 (0)20 7864 2013
Contact: Simon David Jones, Esq.

Cozen O’Connor Subrogation Consultants, Inc.
(www.coscinc.ca)
Canada Trust Tower, BEC Place
161 Bay Street 27th Floor
Toronto, Ontario
Canada M5J2S1
Tel: 416-572-2127
Fax: 613-238-8775
Contact: Vincent R. McGuinness Esq., or
Elaine M. Rinaldi, Esq.

AFFILIATED COMPANIES
National Subrogation Services, LLC
500 North Broadway
Suite 167
Jericho, NY 11753
Tel: 877-983-3600
Fax: 516-949-3621
Contact: Sherri Kaufman or
Jerry Nolan

PLEASE CONTACT ANY OF OUR OFFICES FOR ADDITIONAL INFORMATION OR VISIT US ONLINE AT WWW.COZEN.COM