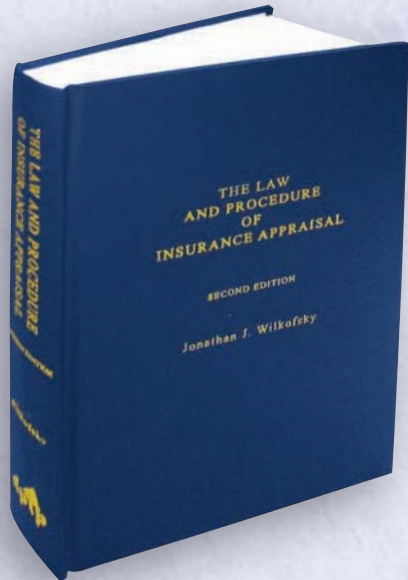




**THE SECOND EDITION
AN EXHAUSTIVE RESOURCE
ON INSURANCE APPRAISAL**

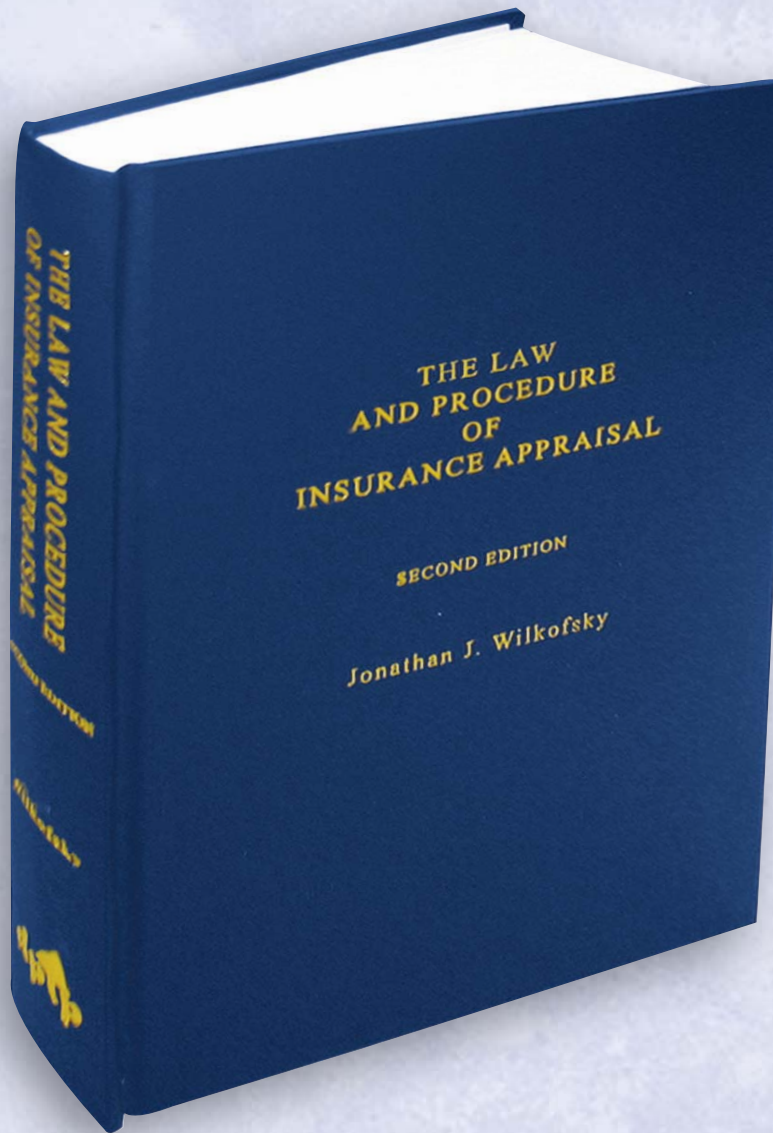


THREE WAYS TO ORDER

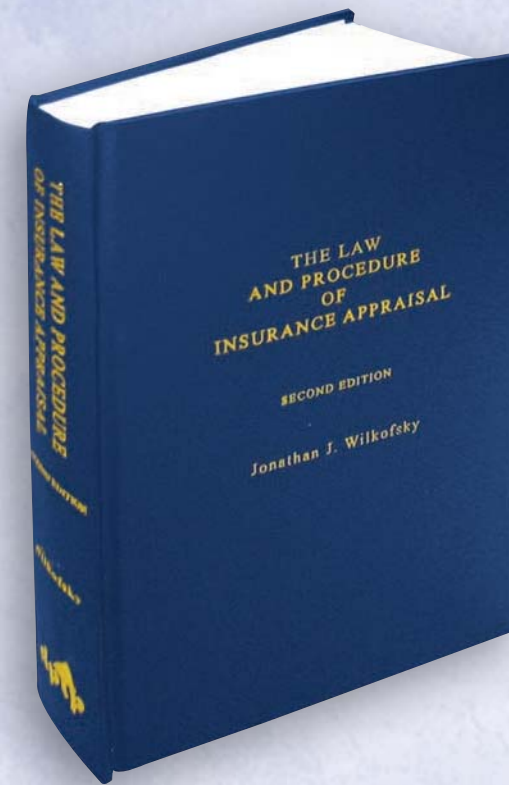
1. Call toll-free 888-791-778
2. Complete, detach and mail order card
3. Fax completed order card to 877-285-1341



**"SECOND EDITION"
THE LAW AND PROCEDURE
OF INSURANCE APPRAISAL**



**For: Insurance Counsel,
Claims Executives, Independent
and Public Adjusters, Appraisers,
Judges and Umpires**



**A GUIDE TO
THE APPRAISAL
PROCESS**

- Legal precedents
- Strategies
- Public policy
- State by state comparison
- Scope of the appraisal provision
- Issues of coverage
- Waiver
- Qualifications of appraisers and umpires

- Almost 150 Pages of New Material
- Almost 800 Case Citations with National Coverage
- Updated through December, 2008
- Now Available in Soft Cover, Hardcover and on CD
- Table of Cases and Authorities and a Detailed Index
- New Sub-Chapters and Forms Added
- Readable and User Friendly
- Written for Insureds, Insurers and Neutrals
- Helps to Get the Greatest Benefit from the Appraisal Process

**NOW...THE FIRST AND MOST UP TO DATE
TREATISE ON THIS IMPORTANT TOPIC**

THE LAW AND PROCEDURE OF INSURANCE APPRAISAL



Ditmas Park Legal Publishing, Ltd.



DITMAS PARK LEGAL PUBLISHING, LTD.
P.O. BOX 1020
PECK SLIP STATION
NEW YORK, NEW YORK 10038-1020



ORDER NOW:

HARD COVER EDITION WITH SEARCHABLE DISC - \$289.00
SOFT COVER EDITION - \$189.00
BOOK ON DISC - \$139.00
Plus applicable sales tax, and \$9.50 shipping and handling

TOTAL CHARGE: \$ _____
\$ _____
\$ _____

YES! Please send me *The Law and Procedure of Insurance Appraisal* immediately upon its release. I will be notified as updated supplements are issued.

Check enclosed payable to Ditmas Park Legal Publishing, Ltd. Please include appropriate state sales tax and shipping and handling charges.

Payment by Credit Card: Charge my VISA MasterCard American Express

Card Number _____

Expiration Date _____

Sec. Code _____

Signature (Required on all orders) _____

Shipping Address _____

Telephone (_____) _____

Home Office

Table of Contents

I An Introduction To The Appraisal Process

- A) Author's Perspective
- B) History
 - 1. Legislative
 - 2. Judicial
- C) Appraisal as Distinct From Arbitration

II Circumstances Warranting Appraisal

- A) Disagreement Necessary
- B) Appraisal Where There Are Questions of Liability or Coverage
- C) Cost, Time and Other Considerations
 - 1. Cost
 - 2. Time
 - 3. Other Benefits
 - 4. Bankruptcy
 - 5. Multiple Policies
- D) In Actions Against Agents and Brokers
- E) In Actions Involving Third Parties

III Scope of the Issues Covered by The Appraisal Clause

- A) Appraisers May Not Exceed Their Commission
- B) Appraisal of "Loss and Value" to Property as well as Economic Loss and Other Claims
- C) Valued Policies and a Total Loss
- D) Scope of Loss, Causation and Coverage
 - 1. Scope of Loss
 - 2. Issues of Causation
 - 3. Issues of Coverage
 - 4. The Order of Priority Between Litigation and Appraisal
- E) Issues of Bad Faith

IV Issues of Waiver and Estoppel

- A) Waiver of the Appraisal Provision by Claim Denial, Litigation or Repair
- B) Waiver of Policy Provisions or Defenses to Liability by Submission to Appraisal
- C) Reservation of Rights to Litigate Liability
- D) Waiver of Right to Participate by Non-appointment or Non-participation
- E) Waiver of Breach of Contract Claim by Acceptance of Award
- F) Waiver of Objection to Appraisal by Participation

V Timing Issues

- A) When Appraisal Should Be Demanded
- B) Responding to the Demand for Appraisal
- C) Timing of the Award
- D) When the Loss is Payable
- E) Time to bring suit
- F) Competing Demands
- G) Moving To Set Aside An Award

VI The Mechanics of Demanding an Appraisal

- A) The Demand
- B) The Appraisal Agreement
 - 1. Agreement to Appraise
 - 2. Agreement to Select Umpire
- C) Remedies if Appraisal Wrongfully Refused
- D) Failure of Appraisal

VII The Appraisers

- A) Qualifications
- B) Disinterested but Permissibly Predisposed
 - 1. Generally
 - 2. Public Adjusters
 - 3. Building Damage Estimators
- C) Fees

VIII The Umpire

- A) The Umpire's Qualifications, Duties and Scope of Authority
 - 1. Qualifications
 - 2. Duties and Responsibilities
 - 3. The Umpire's Scope of Authority
- B) Fees
- C) Written Agreement
- D) Court Appointment
- E) When to Appoint

IX The Appraisal

- A) Generally
- B) Consultation Necessary
- C) Determining Value
 - 1. Actual Cash Value: The Broad Evidence Rule and Other Formulations
 - 2. Replacement Value Policies
- D) Outside Experts
- E) Notice, Adjournments and Cancellations
- F) Hearings and Inspections

X The Appraisal Award

- A) Generally
- B) Form and Substance of The Award
- C) Recovery of Interest Upon the Award
- D) The Binding Nature of The Appraisal Award - Setting It Aside
- E) Enforcing the Award

XI Mortgages and Lienholders

- A) When The Award is Binding Upon a Mortgagee
- B) Rights of the Mortgagee to Demand Appraisal
- C) Borrower as Third-Party Beneficiary
- D) Rights of a Loss Payee

APPENDIX A Forms

APPENDIX B Table of Cases

APPENDIX C Table of Statutes

APPENDIX D Table of Authorities

INDEX

About The Author



Jonathan J. Wilkofsky is the founding and managing partner of the law firm Wilkofsky, Friedman, Karel & Cummins. He has been litigating insurance coverage and property damage claims for more than 27 years. He has represented victims of catastrophes occurring all over the world including the "Monrovia Fires" in West Africa as well as one of the largest gas pipeline explosions in the country in the "Hellgate" case, which lead to a multi-million dollar settlement during trial. Mr. Wilkofsky, who has yet to lose a jury verdict, has handled several thousand insurance disputes during his career.

Mr. Wilkofsky was lead counsel in the matter of *Riordan v. Nationwide Mutual Fire Insurance Company*. That case, tried before the Chief Judge of the Southern District of New York and argued before the Second Circuit Court of Appeals, was the first case in the history of the State of New York where an insured successfully prevailed against an insurance carrier for attorneys' fees and punitive damages for deceptive acts and practices.

Additionally, Mr. Wilkofsky was lead trial counsel in *Newark Center Building Co. adv. Atlas Assurance Company*, which represents one of the largest property damage verdicts in New York Supreme Court history at 12.6 million dollars. The case involved the asbestos contamination and resulting abandonment of the former New Jersey state office building in Newark, New Jersey.

Mr. Wilkofsky recently won a verdict in excess of \$1 million against Allstate Insurance Company for damage caused to a home by a supersonic Concorde aircraft taking off from JFK. The trial involved the testimony of six engineers and required proof that sonic energy had cracked a steel and concrete waterfront home from more than three miles away.

Mr. Wilkofsky has been the Executive Director and General Counsel of the New York Public Adjusters Association since 1994 and the New Jersey Public Adjusters Association since its founding in 2005.

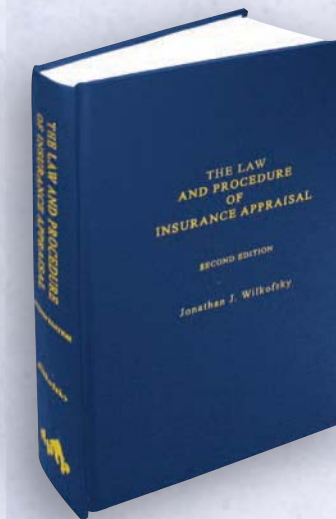
Mr. Wilkofsky has also drafted insurance related legislation and insurance regulations to better protect the consumer. He drafted and spearheaded the passage of legislation requiring language to be added to every property policy issued in New York which mandates the insurance company to share their experts' reports upon demand by the insured. (Insurance Law §3407(a)). The bill was signed into law by Gov. Pataki on September 15, 2001. Mr. Wilkofsky drafted and lobbied for the passage of a law requiring minimum standards and mandatory continuing education for insurance adjusters which passed the legislature and was signed by Gov. Pataki in 1998.

He has lectured for the New York State Bar Association on the subject of trial tactics, and has spoken on the subjects of "The Appraisal Process", the role of the public adjuster in the adjustment process and the Insurance Laws and Regulations of New York. He is also the author of the legal treatise, *The Law and Procedure of Insurance Appraisal* for which he received the 2004 Cordish Writing Award from the National Association of Public Insurance Adjusters. In December, 2007 Mr. Wilkofsky was named Person of the Year by the National Association of Public Insurance Adjusters.

Mr. Wilkofsky regularly represents licensees of the Insurance Department in administrative matters and litigates catastrophic injury cases involving construction sites.

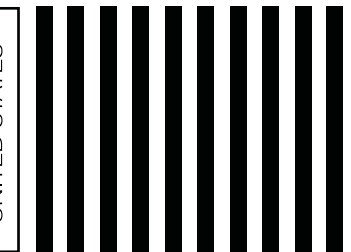
ORDER YOUR COPY TODAY!

THREE EASY WAYS TO ORDER!



- For fastest service call toll-free 1-888-791-7781
- Fax the completed Order Card toll-free to 1-877 285-1341
- Complete, detach and mail the Order Card

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 8704

POSTAGE WILL BE PAID BY ADDRESSEE

DITMAS PARK LEGAL PUBLISHING, LTD.
P.O. BOX 1020
PECK SLIP STATION
NEW YORK, NEW YORK 10038-1020



Ditmas Park Legal Publishing, Ltd.