CLAIM DENIED – ACCESS DENIED: THE BLACK WALL STREET INSURANCE GRIFT

ANDRÉ DOUGLAS POND CUMMINGS*
AND
KALVIN GRAHAM**

INTRODUCTION

The subject of Corporate Reparations has gained noteworthy momentum in recent years. The murder of George Floyd at the hands of former police officer Derek Chauvin in 2020 galvanized major United States corporate leadership into thinking about and committing to playing a sizeable role in ending systemic racism and bringing economic equality and social justice to the nation. Doug McMillon, Chief Executive Officer (CEO) of Fortune #1 company Walmart, Inc. expressed as much when he stated in the wake of the George Floyd summer of protests:

> What I've come to realize is that it wasn't just the physical weight of the officer that killed George Floyd. The forces at work were

* Associate Dean for Faculty Research & Development and Charles C. Baum Distinguished Professor of Law; Co-Director, Center for Racial Justice and Criminal Justice Reform, University of Arkansas at Little Rock William H. Bowen School of Law. J.D., Howard University School of Law. To my co-author Kalvin Graham, I am appreciative for the deep commitment to racial justice and the support in numerous efforts to achieve such. We are grateful to Professors Guadalupe Luna and Yvette Lindgren for reading and providing terrific feedback on early drafts of this article. We are further grateful to Katherine James Clark for excellent research assistance. I am grateful to the St. Thomas Law Review editorial board for inviting this opportunity, planning and executing an impressive symposium, and for strong editorial suggestions. Finally, I am grateful to the University of Arkansas at Little Rock William H. Bowen School of Law Summer Research Grant that financially supported this research and our findings. As usual, any errors within are the sole responsibility of the authors.
** J.D., University of Arkansas at Little Rock William H. Bowen School of Law. To all of my friends and family, I thank you for your continued and dependable support, feedback, and encouragement. The St. Thomas Law Review's patience and feedback through the editorial process and their excellent symposium also deserve special recognition and sincere thanks. I remain ever grateful for my co-author, Dean andré douglas pond cummings. Without his instruction, guidance, friendship, scholastic partnership, and commitment to justice, this work would not be possible.

> much greater. Behind the weight of the man was the weight of society — the weight of institutions and structures in which systemic inequity and injustice are engrained. The weight that killed George Floyd also was the weight of history — 400 years of discrimination against Blacks in this country. Together, these forces conspired to crush him. That weight needs to be lifted. . . . It will take broad cooperation of leaders from every sector of society working together to create a force sufficient enough to bring about the necessary change. So that's what we're doing.[1]

True to his word, CEO McMillon and Walmart created shared value networks and racial equity divisions within its employee ranks,[2] while committing $100 million dollars to racial equity causes.[3] In support of those efforts, The Walmart Foundation and Walmart Inc. contributed $1.21 million to the Center for Racial Justice and Criminal Justice Reform at the University of Arkansas at Little Rock William H. Bowen School of Law.[4] This Walmart

---

[1] Doug McMillon, *Walmart CEO: Business Roundtable Members Have New Plans to Fight Historic Racial Injustice*, USA TODAY (October 15, 2020, 4:00 AM), https://www.usatoday.com/story/opinion/2020/10/15/fighting-racial-injustice-large-businesses-mobilize-column/3651277001/.

[2] *See Better Together: Culture, Diversity Equity and Inclusion, 2020 Report*, WALMART, 3, https://corporate.walmart.com/media-library/document/2020-culture-diversity-equity-and-inclusion-report/_proxyDocument?id=00000178-fc22-db6f-adfe-fca721920000#page=12 (last visited Aug. 1, 2023) (demonstrating Walmart's commitment to and efforts to increase economic equality and racial justice, within this report to investors, by stating: "In order to help address deeper, systemic inequities that exist throughout our society, we began investing business and philanthropic resources in strategies which we believe will increase fairness, equity and justice in aspects of everyday life – focusing in particular on racial equity in our nation's financial, healthcare, education and criminal justice systems. *We're doing this through four Shared Value Networks (SVNs) which we launched in June 2020 to help tackle the root causes of racial disparity in these systems. Through Walmart and the Walmart Foundation, we made a $100 million commitment to create a new Center for Racial Equity within the Walmart Foundation*. There are no simple answers to the questions and challenges we all face. The structures of systemic racism are complex and deeply engrained in society. The past year was awful in many ways, but it also revealed what we're capable of as teams, organizations and communities. We know we are stronger as a company and a country when people are heard, included and empowered. While I hope that in this report you will see some meaningful progress has been made, please know that leveraging the power of our collective strengths for good will continue to be the focus of our efforts going forward.") (emphasis added).

[3] *See* CENTER FOR RACIAL EQUITY, https://walmart.org/diversity-equity-and-inclusion/center-for-racial-equity (last visited Aug. 1, 2023); *see also Center for Racial Equity Grants*, CENTER FOR RACIAL EQUITY, https://walmart.org/center-for-racial-equity/center-for-racial-equity-grants (last visited Aug. 1, 2023).

[4] *See* Tina Medlock, *Bowen Law School Receives $1 Million from Walmart to Fund Court Observation Project*, UNIVERSITY OF ARK. AT LITTLE ROCK (Sept. 17, 2021), https://ualr.edu/news/2021/09/17/walmart-bowen-justice-initiative/; *see also* Tina Medlock, *UA Little Rock Bowen School of Law Announces Financial Gift from Walmart to Create Enhanced Community Policing Project*, UNIVERSITY OF ARK. AT LITTLE ROCK (Mar. 18, 2022), https://ualr.edu/news/2022/03/18/enhanced-community-policing-project/

funding commitment launched the state-wide Court Observation Arkansas project (COAR) and the Enhanced Community Policing Project (ECPP) at the Center for Racial Justice and Criminal Justice Reform which to date has employed more than seventy-five students working across Arkansas seeking social justice and economic equality.[5]

CEO McMillon is not alone. Hundreds of corporate executives made powerful statements and massive financial commitments to equality and justice in the wake of the police killings of George Floyd, Breonna Taylor and Rayshard Brooks in the summer of 2020, including CEO Jamie Dimon at J.P. Morgan Chase. Dimon, after committing Chase to investing $30 billion combatting racial inequities primarily in Black and Latinx communities, stated, "Systemic racism is a tragic part of America's history. . . . We can do more and do better to break down systems that have propagated racism and widespread economic inequality, especially for Black and Latinx people. It's long past time that society addresses racial inequities in a more tangible, meaningful way."[6] Of these hundreds of corporate leaders that made similar statements and financial commitments, many began immediately executing on those promises.[7]

Today, it remains unsettled whether these corporate commitments will continue to be honored and executed, particularly in the "woke" backlash era that has emerged in the wake of the George Floyd summer that led to so many pledges of support for social justice.[8] The results and outcomes of the

---

[5] These students have begun the process of both state-wide court observations to ensure fairness in the state's district courts and have also engaged in global research ascertaining the very best policing practices while observing and evaluating Shop-With-a-Cop programs in Northwest Arkansas and the Delta region.

[6] *See JPMorgan Chase Commits $30 Billion to Advance Racial Equity*, JPMORGAN CHASE & CO. (Oct. 8, 2020), https://www.jpmorganchase.com/ir/news/2020/jpmc-commits-30-billion-to-advance-racial-equity.

[7] *See* Gillian Friedman, *Here's What Companies Are Promising to Do to Fight Racism*, N.Y. TIMES (Aug. 23, 2020), https://www.nytimes.com/article/companies-racism-george-floyd-protests.html (listing firms committing to ending systemic racism and contributing to social justice efforts including Walmart, J.P. Morgan Chase, Facebook, PepsiCo, Fitbit, Goldman Sachs, Bank of America, Apple, Wells Fargo, American Express, Alphabet (Google), NASCAR and Citigroup, among many others).

[8] *See* Michael Harriott, *War on Wokeness: the Year the Right Rallied Around a Made-Up Menace*, THE GUARDIAN, (Dec. 21, 2022, 1:00 AM), https://www.theguardian.com/us-news/2022/dec/20/anti-woke-race-america-history (describing the anti-woke hysteria guiding the Governor Ron DeSantis campaign for President as follows: "DeSantis was summoning the resentment that produced the racial terrorism of Reconstruction, the pro-lynching Red Summer of 1919, and the pro-segregation states' rights movement. This time, it was called anti-woke: a modern-day mixture of McCarthyism and white grievance. In 2021, the right became increasingly irate at what it described as "wokeness" but which tended to mean any attempt to engage in civil rights or social justice. In 2022, anti-woke became an ideology in itself, an attempt for the right to rebrand bigotry as a resistance movement."); *see also* Paul Bond, *As 'Woke' Businesses Face Right-Wing Wrath, Culture War Capitalists Cash In*, NEWSWEEK (Aug. 3, 2022, 5:00 AM),

formidable corporate commitments have been mixed thus far.[9] Many of the companies that made enormous dollar commitments in 2020, did so in a way that benefits the committing firm directly in profit potential as much as it benefits the damaged communities. Further, many corporations have been wary to invest directly in Black Lives Matter and in organizations committed to reforming policing or criminal legal system reform.[10] Critics agree that 400 years of corporate discrimination cannot be overcome and reversed with pledges, commitments, and wary contributions.[11]

Still, the corporate commitments made in the aftermath of George Floyd's murder remain a watershed moment in U.S. history. In an environment where corporate leadership is recognizing that U.S. corporations have a role to play in ending systemic racism and in some instances are even acknowledging the roles that their corporations have played in perpetuating inequality, discrimination, and racial wealth gaps, will Corporate Reparations take root in meaningful and healing ways?

In deliberating on the potential for powerful change, one is confronted with the conundrum of what can be done about corporations and economic sectors that have historically engaged in blatant racial discrimination and to this day continue to ignore calls to repair the historical damage that these companies have done to communities of color, and particularly black communities. This article examines and evaluates one of the primary corporate sectors that engaged in disabling historical discrimination that visited severe harm on communities of color, and in particular the black community—namely the insurance industry. Using the 1921 Tulsa Race Massacre as a backdrop, we seek to provide a clarion call to insurance companies, many that continue in existence today, to own up to and begin to repair the debilitating harm that they perpetuated more than 100 years ago.

---

https://www.newsweek.com/2022/08/12/woke-businesses-face-right-wing-wrath-culture-war-capitalists-cash-1730249.html.

9 *See* Tracy Jan, Jena McGregor & Meghan Hoyer, *Corporate America's $50 Billion Promise: A Post Analysis of Racial Justice Pledges After George Floyd's Death Reveals the Limits of Corporate Power to Effect Change*, WASH. POST (Aug. 24, 2021, 7:03 PM), https://www.washingtonpost.com/business/interactive/2021/george-floyd-corporate-america-racial-justice/.

10 *See* Chauncey Alcorn, *George Floyd's Death was a Wake-Up Call for Corporate America. Here's what has — and hasn't — Changed*, CNN BUSINESS (Oct. 7, 2021, 7:00 PM), https://edition.cnn.com/2021/05/25/business/corporate-america-anti-racism-spending/index.html ("The outpouring of rage and empathy that followed [the murder of George Floyd] shook the foundations of Corporate America in unprecedented ways, but experts say it's far too early to say whether the business world's pledged commitments to lasting social change will stand the test of time. 'Change was never going to happen overnight,' said Rashad Robinson, president of Color of Change, a racial justice nonprofit that works with private companies. 'So many of the corporations that spoke up have deep systemic challenges that can't be solved with a tweet, a statement, a diversity committee.'").

11 *See id.*

Much has been written in recent years on the racially motivated atrocities and massacres of the early 19th century.[12] However, save for those scholars viewing the events, in part or in whole, through the critical lens of racial capitalism in its myriad academic forms, less attention has been paid to the industries and businesses who directly or indirectly benefitted from the atrocities specifically, and white supremacy and government-back oppression broadly. Fortunately, through the work of activists, survivors, and archivists, this is less true of the 1921 Tulsa massacre, and it is to that atrocity that we return our attention here. In an effort to better understand the intertwining and commingled relationship between the U.S. state and the insurance industry, from the colonial period to Tulsa to the present, we hope to continue a conversation within and among the legal profession about the often-blurred line between legal, "constitutional" political institutions and the corporations and industries they charter and, ostensibly, leave relatively free to participate in commerce as they please but often prop up, take lead from, and even unintentionally wind up benefitting all at the expense of the population the political institutions are intended to govern of, by, and for. By first sketching a brief history of insurance in the United States, from its British maritime origins through the early standardization of fire insurance rates in the late 19th century, we will better understand the historical role of insurance in the United States, despite the industry so often remaining behind the scenes. We can then turn to Tulsa specifically and learn more about the insurance policies taken out by businesses and individuals on Black Wall Street in the early 20th century, what they expected to be covered by those policies, and why all claims made against those policies following the Tulsa Race Massacre have so far been denied. After then examining the scale of the destruction at the time and its lingering aftermath, we will tune our ears to the echoes of insurance and injustice which

---

[12] *See* Graham Lee Brewer & Elizabeth Chuck, *Tulsa Marks 100 Years Since Massacre with Somber Ceremonies, Demands for Reparations*, NBC NEWS (May 31, 2021, 11:26 PM), https://www.nbcnews.com/news/us-news/tulsa-residents-mark-100-years-massacre-demanding-reparations-black-wall-n1269134 (emphasizing the new "national attention" that the Tulsa massacre is receiving); *see also* Yun Li, *Black Wall Street was Shattered 100 Years Ago. How the Tulsa Race Massacre was Covered up and Unearthed*, CNBC (June 1, 2021, 12:05 PM), https://www.cnbc.com/2021/05/31/black-wall-street-was-shattered-100-years-ago-how-tulsa-race-massacre-was-covered-up.html (mentioning that the Tulsa massacre was just recently included in American textbooks in the last few years); *see also How a Racist White Mob Ruined 'Black Wall Street' 100 Years Ago*, PBS NEWS HOUR (May 31, 2021, 6:45 PM), https://www.pbs.org/newshour/show/how-a-racist-white-mob-ruined-black-wall-street-100-years-ago (noting how the Tulsa massacre was rarely recognized and how that has recently changed); *see also* Samara Lynn, *Tulsa Marks 100 Years Later: Black Wall Street Reimagined as Black Tech Hub*, ABC NEWS (Sept. 12, 2021, 9:04 AM), https://abcnews.go.com/Business/tulsa-massacre-100-years-black-wall-street-reimagined/story?id=79418755 (discussing the renewed attention of the Tulsa massacre 100 years after it occurred); *see also* RISE AGAIN: TULSA AND THE RED SUMMER (National Geographic 2021) (bringing recent attention to the Tulsa massacre); *see also* TULSA BURNING: THE 1921 RACE MASSACRE (History Channel 2021) (documenting the events leading up to the Tulsa massacre and the aftermath over a century after it happened).

continue to ring today. Following examination of such echoes, the question is begged, whether the insurance industry will take stock and decide to affirmatively repair the historical atrocities the industry has visited upon black Americans.

I. THE DESTRUCTION OF BLACK WALL STREET

Today, due in large part to media attention surrounding the 100-year commemoration of the Tulsa Race Massacre, much modern reflection has been paid to the destruction of Black Wall Street in Greenwood, Oklahoma in 1921.[13] There, a mob of white Tulsa residents burned the beautiful and burgeoning Black Wall Street to stubble, murdering more than 300 Black Americans in a local and state government sanctioned massacre of United States' citizens.[14] Up through 2023, no reparations have been paid to the black families and black owned businesses that were destroyed in the white mob violence

---

[13] *See* Brewer & Chuck *supra* note 12; *see also generally* VICTOR LUCKERSON, BUILT FROM THE FIRE: THE EPIC STORY OF TULSA'S GREENWOOD DISTRICT, AMERICA'S BLACK WALL STREET (2023) (tracing the history and aftermath of the Tulsa Race Massacre, the destruction of Black Wall Street, and the campaign against restoration); Professor Suzette Malveaux describes:

> More than a century ago, Tulsa's Greenwood District was a beacon of success and an unapologetic example of Black self-determination at a time when lynching, legal segregation, rampant discrimination and racialized terror ruled. In 1921, this proud, tightknit 35 square blocks was home to a dozen churches, a garment factory, several restaurants, grocery stores and bars. Its members included nationally renowned doctors and lawyers. The "Negro Metropolis of the Southwest" had its own hospital, library and newspaper, as well as the famous theater Dreamland. A dollar would circulate in Greenwood many times over before it left the community. A district of 11,000 residents, it embodied independence, resistance and resilience — characteristics that invited the ire of white supremacists.
>
> Over the course of 15 hours spanning May 31 and June 1, 1921, thousands of White people — deputized and armed by the city of Tulsa and the National Guard of Oklahoma — razed the Black mecca, killed more than 300 people, demolished 1,256 homes and 150 businesses, and looted the community bare. Greenwood residents were shot at point-blank range with their hands up, gunned down with their backs turned, picked off by machine guns perched atop a hill and bombed from above by planes. They were viciously beaten to death, or tied to vehicles that dragged them to their death. Children hiding under beds were smoked out of homes systematically doused in kerosene and torched. Black residents who had not been killed were rounded up, ridiculed and marched at gunpoint to internment camps by law enforcement, where they were held captive subject to a White employer's retrieval.

See Suzette Malveaux, *The Destruction of 'Black Wall Street' and its Long Aftermath*, WASH. POST (Jun. 19, 2023, 8:00 AM), https://www.washingtonpost.com/books/2023/06/19/built-fire-tulsa-black-wall-street-massacre-victor-luckerson-review/ (reviewing Victor Luckerson's Built From the Fire).

[14] *See* andré douglas pond cummings & Kalvin Graham, *Racial Capitalism and Race Massacres: Tulsa's Black Wall Street and Elaine's Sharecroppers*, 57 TULSA L. REV. 39, 47 (2021). Many of the more than 10,000 white rioters and murderers had been deputized by local law enforcement thereby making their actions of murdering, torching and looting black Americans in Greenwood authorized under the color of state and municipal authority. *See also* Deneen L. Brown, *Tulsa Finally Confronts the Day a White Mob Destroyed a Black Community*, NAT'L GEOGRAPHIC (May 27, 2021, 4:56 AM), https://www.nationalgeographic.co.uk/history-and-civilisation/2021/05/tulsa-finally-confronts-the-day-a-white-mob-destroyed-a-black-community (highlighting how "white rioters" burned down the town, killing many blacks and destroying all of their assets).

that eviscerated a robust and growing black economy in Tulsa, Oklahoma in the early 20th century.[15] Most of the black owned businesses on Black Wall Street were insured.[16] Following the razing of Black Wall Street, African American lawyers representing most of the burned-out businesses filed insurance claims with reputable American insurance companies to receive insurance payouts that would allow the Greenwood residents and business owners to rebuild. Every single insurance claim filed by black residents following the destruction of Black Wall Street was denied.[17] Lawsuits followed, nearly all of which failed due to the massacre being characterized by local white

---

[15] *See* Alexander v. Okla., 382 F.3d 1206, 1218–19 (10th Cir. 2004), *cert. denied*, 544 U.S. 1044 (2005) (describing the black wall street massacre as "certainly tragic" but "not relevant to the narrow issue presented") (concluding that the District Court did not abuse its discretion in holding that the statute of limitations had expired with there being no basis for Plaintiffs' argument that the statute tolled because of Defendant's concealment); *see also* Adam Cortez, *Reparations for a Public Nuisance? The Effort to Compensate Survivors, Victims, and Descendants of the Tulsa Race Massacre One Hundred Years Later*, 43 CARDOZO L. REV. 1641, 1648-1649 (2022) (explaining that while there is a pending lawsuit based on public nuisance, thus far, no "efforts to hold perpetrators of the massacre accountable and to compensate victims" has found success); *see also* Elizabeth Olsen, *Tulsa Race Massacre Victims See 'Nuisance' Suit as Justice Route*, BL (June 2, 2021, 4:17 PM), https://news.bloomberglaw.com/business-and-practice/tulsa-race-massacre-victims-see-nuisance-suit-as-justice-route ("Although there have been other legal efforts in past decades on behalf of the Tulsa massacre victims, none have managed to compensate thousands of people who were affected."); *see also The Case for Reparations in Tulsa, Oklahoma: A Human Rights Argument*, HUM. RTS. WATCH (May 29, 2020, 8:00 AM), https://www.hrw.org/news/2020/05/29/case-reparations-tulsa-oklahoma#_Toc41573959 [hereinafter *The Case for Reparations*] ("Following the massacre, government and city officials, as well as prominent business leaders, not only failed to invest and rebuild the once thriving Greenwood community, but actively blocked efforts to do so. No one has ever been held responsible for these crimes . . . . Efforts to secure justice in the courts have failed due to the statute of limitations.").

[16] *See* Timothy M. Thornton Jr., *The Tulsa Race Massacre and Use of "Riot" in Property Insurance Insuring Agreements, Exclusions and Limitations*, A.B.A., TORT TRIAL & INS. PRAC. SECTION 1 (Feb. 2022), https://grayduffylaw.com/wp-content/uploads/2022/03/The-Tulsa-Race-Massacre-Reprint.pdf ("Many of the properties were insured under fire policies. More than one hundred persons who lost property filed lawsuits for property damages against the city or their own insurance companies. The insurers denied coverage because of riot exclusions. Those denials were upheld in the courts.").

[17] *See Black Wall Street in Tulsa, OK Destroyed on 6/1/1921*, LIBRARY OF CONGRESS, https://guides.loc.gov/this-month-in-business-history/black-wall-street-destroyed (last visited Dec. 12, 2022) ("No insurance claims were honored for African Americans in the Greenwood District . . . ."); *see* also Andre M. Perry et al., *The true costs of the Tulsa race massacre, 100 years later*, BROOKINGS (May 28, 2021), https://www.brookings.edu/research/the-true-costs-of-the-tulsa-race-massacre-100-years-later/ ("Greenwood residents would go on to file over $1.8 million dollars in damage claims; in today's dollars, this would be over $27 million. All but one of these claims were denied; a white shop owner was given compensation for guns taken from his shop."); *see also* Kori Hale, *From Tulsa To Today: The Significance Of Black Wall Street*, FORBES (Feb. 23, 2022, 8:26 AM), https://www.forbes.com/sites/korihale/2022/02/23/from-tulsa-to-today-the-significance-of-black-wall-street/?sh=6267e27646e1; *see also* Alexis Clark, *How the Tulsa Race Massacre Was Covered Up*, HISTORY (Jan. 27, 2021), https://www.history.com/news/tulsa-race-massacre-cover-up ("Though Black residents filed $1.8 million in riot-related claims, they were all denied.").

authorities as a "riot."[18] Despite all of the black business owners paying insurance premiums for years leading up to the burning of Black Wall Street, all claims were denied.[19] The city of Tulsa escaped liability entirely and the many insurance companies that denied claims were able to do so based on the massacre being characterized as a "riot,"[20] all as part of an organized and calculated effort by Tulsa city officials, Oklahoma state government representatives, private insurance agents, bankers, and real estate brokers, to ensure that Greenwood never rebuild and remain incapacitated.[21] Access to economic justice was denied to law abiding black citizens that played by the capitalistic rules of the United States.

The backdrop to the Tulsa Race Massacre included a changing attitude among black Americans living in the South at the turn of the 20th century. In

---

[18] *See* Jared Council, *Insurance Exclusions Left Black Tulsans Footing the Bill for the Massacre*, WALL ST. J. (May 29, 2021, 9:00 AM), https://www.wsj.com/articles/insurance-exclusions-left-black-tulsans-footing-the-bill-for-the-massacre-11622293201 (explaining how insurance companies avoided paying claims by characterizing the event as a riot because of the use of exclusionary clauses "for loss 'caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power'"); *see also* Thornton Jr., *supra* note 16 (noting the strong effect of exclusionary clauses); *see also The Case for Reparations*, *supra* note 15 ("Insurance companies denied claims based on "riot exclusion" clauses in the contract . . . . Many also filed claims . . . . All were denied, except for one filed by a white pawnshop owner for $3,994.57 for ammunition taken from his shop . . . .").

[19] *See* Thornton Jr., *supra* note 16.

[20] *See* Alex Albright, et al., *After the Burning: The Economic Effects of the 1921 Tulsa Race Massacre*, HARVARD DEP'T. OF ECON. 12 (2022), https://scholar.harvard.edu/files/nunn/files/tulsa_draft_short.pdf ("Black residents who filed insurance claims were never compensated since companies, as it was standard in their contracts, were not liable for loss caused by 'riot.'") ("Despite years of litigation, no compensation, either from insurance companies or the government, was received by any of the victims."); *see also* Council, *supra* note 18 (pointing out the exclusionary clause); *see also* Thornton Jr., *supra* note 16; (explaining how dissatisfaction led to the coining of a riot); *see also The Case for Reparations*, *supra* note 15 (discussing the clauses as a legal escape); *see also* Karen Gantt, *Looking Forward: Black Wall Street: Wealth and Lessons for Today*, 57 TULSA L. REV. 277, 279 (2021) (explaining how the state Supreme Court supported insurance denials based on insurance policies having "explicit exclusions for loss or damage caused by riot").

[21] *See* Suzette Malveaux, *A Taxonomy of Silencing: The Law's 100-Year Suppression of the Tulsa Race Massacre*, 102 B.U. L. REV. 1273 (2022) ("In its most barbaric form, the government used brute force, violence, and intimidation to outright destroy the Black Tulsan community. A campaign of lynchings and lawlessness set the stage for one of the worst government sanctioned racial massacres in U.S. history. With a government overwhelmingly dominated by the Ku Klux Klan . . . and committed to white supremacy, it was not difficult for the state and local governments to bring all of their resources to bear to crush Black Wall Street. The City of Tulsa and the state of Oklahoma armed, empowered, and instructed a white mob to decimate one of the most successful Black communities—a feat accomplished in just twenty-four hours. Violence as a means of control was replaced with more bloodless—but no less tenacious—attempts to squash the Greenwood community. In the face of tremendous resilience, the government turned to the antiseptic use of zoning regulations, segregation mandates, urban renewal policies, and systemic discrimination to prohibit community rebuilding. . . . Thus, the government employed laws and policies that operate as institutional barriers to recovery— an approach that has resulted in Black Tulsans faring worse on almost every economic and social indicator today.").

the early 1900s, racial injustice in the U.S. toward black Americans was finding significantly less tolerance from black citizens as African American World War I veterans were returning to their homes after fighting for their nation, emboldened and more willing to stand against the lynching and injustice visited upon their people.[22] As the Ku Klux Klan rained terror upon black Americans in the South, black American war veterans, inspired by black newspapers throughout the country, were bearing arms and standing up to the mobs of white Americans that were attempting to terrorize black Americans.[23] As such, when black shoeshine man Dick Rowland, a teenager, was accused of assaulting a white teenager, Sarah Page in downtown Tulsa in the summer of 1921, and was jailed in the Tulsa Police Station, a group of African American Greenwood residents, including armed war veterans, surrounded the Tulsa jailhouse to ensure that the gathering white mob would not lynch Rowland ahead of a trial or opportunity for Rowland to defend himself.[24] Multiple eyewitness accounts at the time indicated that Rowland merely slipped and bumped into young Sarah Page on a Tulsa elevator.[25] As a large white mob gathered looking for Rowland at the jailhouse, a confrontation between the white mob leaders and some of the black war veterans surrounding the Courthouse ensued leading to a shot fired and a following hailstorm of bullets. This

---

[22] *See* cummings & Graham, *supra* note 14, at 46–47; *see also* ALBERT L. BROPHY, RECONSTRUCTING THE DREAMLAND: THE TULSA RIOT OF 1921 ix, 3-4, 30, 32 (2002) ("By 1921, Greenwood residents who had served in the war . . . were ready to demand the freedom and equality that they had been promised.").

[23] *See generally* Brophy, *supra* note22, at 4–6 (discussing how the returning veterans expected a "new reconstruction" and met lynch mobs with armed opposition).

[24] *See* Antoine Gara, *The Baron of Black Wall Street*, FORBES, https://www.forbes.com/sites/antoinegara/2020/06/18/the-bezos-of-black-wall-street-tulsa-race-riots-1921/?sh=26bad31ff321 (last visited Jan. 11, 2023); *see also* HANNIBAL B. JOHNSON, BLACK WALL STREET FROM RIOT TO RENAISSANCE IN TULSA'S HISTORIC GREENWOOD DISTRICT 35 (1998) ("Dick Rowland became the talk of the town.").

[25] *See* Guha Krishnamurthi & Peter Salib, *Reparations, Constitutionality, and the Model of Civil Damages*, 57 TULSA L. REV. 303, 305 (2021) ("Page refused to press charges on Rowland. It seemed that Rowland innocently tripped and accidentally fell against Page. Indeed, 'police later said what whatever happened, it was almost certainly not intentional.'"). *See generally* Scott Ellsworth, et al., *The Long Shadow: The Tulsa Race Massacre a Century Later, An Interview with Scott Ellsworth*, 54 CONNECTICUT L. REV. 909, 910-911 (2022) ("We don't know exactly what transpired, but we think that when Rowland walked onto the elevator, he tripped and shot out his hands to break his fall. He perhaps caught Sarah Page on the shoulder, she screamed out in fright, and he ran out of the building. A white clerk in a clothing store in the building heard Page's scream, ran out into the hallway, and saw Rowland running away. The clerk concluded that Rowland attempted to assault Page . . . Page refused to press charges, and Rowland was ultimately exonerated . . . . [I]t's important to remember that nothing drove Americans crazier at that time than the idea of an African American male sexually assaulting a white female."). *See generally Reflecting on the 100th anniversary of the Tulsa Race Massacre*, NCCJ (May 28, 2021), https://www.nccjtriad.org/2021/05/28/tulsa-race-massacre/ ("Even though Page confirmed that Rowland was innocent and the charges against him were later dropped, an angry white mob gathered outside the courthouse where Rowland was being held – and then marched into Greenwood.").

attempt to protect Rowland from being lynched, then devolved into thousands of white Tulsa and white Oklahoma residents converging en masse on Greenwood firing wildly into homes and businesses, burning down businesses and homes, using small aircraft to drop kerosene bombs onto Greenwood businesses and homes, and military weaponry being perched on surrounding hillsides firing automatic rounds into black homes and businesses.[26] "The vengeful [white] mob, some armed and deputized by city officials, destroyed 35 blocks of the prosperous . . . Black Wall Street. They torched and firebombed dozens of businesses, a school, a public library, churches and more than 1,000 homes. In less than 24 hours, the wealth the community had built vanished into ashes."[27] The city of Tulsa and the state of Oklahoma literally waged warred against its own black citizens and neighbors using modern day war weaponry destroying Black Wall Street and the Greenwood district of Tulsa.[28]

The tragedy of the destruction of Black Wall Street is illustrated in the incredible success that black entrepreneurs had found in Greenwood, eschewing the need to rely upon the white economic center in downtown Tulsa and instead offering every conceivable business and amenity through black owned businesses catering to black city residents.[29] Numerous black lawyers and doctors offered their services on Black Wall Street.[30] Restaurants, music

---

[26] *See* cummings & Graham, *supra* note 14, at 47 (describing the destruction of Black Wall Street and the bombing of black-owned businesses); *see also* Brophy, *supra* note 22, at 45–47 (noting witness testimony of the events of the Tulsa riots and the destruction of Black Wall Street). *See generally* Johnson, *supra* note 24, at 45–48 (reporting over 4 million dollars' worth of destruction).

[27] Matt Reynolds, *Tulsa Reckoning: An Ongoing Lawsuit Seeks Justice for Massacre Victims*, ABA J. (Oct. 1, 2022, 12:00 AM), https://www.abajournal.com/magazine/article/tulsa-reckoning (noting the mob and armed public officials torched Black Wall Street to the ground in less than twenty-four hours).

[28] *See* cummings & Graham, *supra* note 14, at 47–48 ("Black Wall Street, the beacon of economic success to Black Americans, had been burned to the ground . . . Survivors . . . were rounded up by the National Guard and placed in internment camps for weeks and months . . . Most of the dead bodies were never recovered, presumed by some to have been buried in an unmarked mass grave that has still never been located."); *see also* Brophy, *supra* note 21, at 38, 43, 45-46 (noting the Tulsa Police Department waged war against the Black citizen, rather than protect them from the mob uprising). *See generally* Johnson, *supra* note 24, at 44–48 ("Fires raged. Dozens, scores, perhaps hundreds of lives were lost in the calamity. Property losses far exceeded the initial seven-figure estimates.").

[29] *See* cummings & Graham, *supra* note 14, at 43–44; *see also* Brophy, *supra* note 22, at 1–2. *See generally* Johnson, *supra* note 24, at 9–10, 14–18, 25–27 ("Just how these African-American pioneers managed to transform the undeveloped land just north of the Frisco Railroad tracks into a thriving Midwest mecca, revive it from the ruinous Tulsa Race Riot of 1921, and set in motion its current rebirth remains one of the best kept secrets in America.").

[30] *See* cummings & Graham, *supra* note 14, at 43–44 (explaining that Greenwood's district had numerous black lawyers and doctors to establish a self-sufficient community rather than rely on white lawyers and doctors); *see also* Brophy, *supra* note 22, at 1, 3 (explaining that Greenwood had various businesses and thrived in developing entrepreneurship in the legal and medical

venues, movie theaters, hotels, tailors, automobile sales and repair, and grocery stores, amongst many other businesses were plentiful and very successful on Black Wall Street.[31] A dollar bill was rumored to change hands more than thirty times before that bill left the safe confines of Black Wall Street.[32] Laborers would work in white Tulsa and bring their earnings back to Black Wall Street to support the thousands of entrepreneurs that offered their services and goods in Greenwood.[33] Black Wall Street had become the most successful black economy in the United States and was a model of what black Americans could accomplish if simply left alone and unmolested.[34]

Black Greenwood residents followed all of the rules demanded by an entrepreneurial U.S. economy, and the wealth that accompanied many of the business owners on Black Wall Street did not escape notice of jealous and incredulous white Tulsans.[35] Therefore, in 1921, following the Red Summer of 1919, white Americans raged again against successful black business owners and families, literally wiping them out. The white criminal perpetrators

---

profession). *See generally* Johnson, *supra* note 24, at 10, 18–19, 25 ("Some African-Americans found security in living "amongst their own" in this foreign land called Oklahoma. For others, allblack towns opened windows of opportunity for self-determination—in politics, in the economy, and in all other areas of society.").

[31] *See* cummings & Graham, *supra* note 14, at 43–44; *see also* Brophy, *supra* note 22, at 1–2 ("Greenwood . . . was largely a self-sufficient community, with a school, a hospital, hotels, grocery, drug, and clothing stores, two newspapers, and two movie theaters."); *see also* Johnson, *supra* note 24, at 9–10, 14–17, 25–27 (noting how oil transformed a "dusty hamlet" into a prosperous city).

[32] *See* cummings & Graham, *supra* note 14, at 43; *see also* Kimberly Fain, *The Devastation of Black Wall Street*, JSTOR DAILY (July 5, 2017), https://daily.jstor.org/the-devastation-of-black-wall-street/ ("As a result of segregation, a 'dollar circulated 36 to 100 times' and remained in Greenwood 'almost a year before leaving.'"); *see also* Johnson, *supra* note 24, at 22 ("Dollars circulated among the Greenwood District's inviting rooming houses, restaurants, billiard halls, hotels, smoke shops, shoemakers, barbers, hairdressers, shoe shiners, tailors, contractors, doctors, lawyers, dentists, and other professional and business establishments.").

[33] *See* cummings & Graham, *supra* note 14, at 43; *see also* Brophy, *supra* note 21, at 1 ("Greenwood residents frequently worked in white Tulsa, across the railroad tracks, but they returned home at night."); *see also* Johnson, *supra* note 24, at 18 ("Despite the poverty and substandard living conditions in some parts of Oklahoma, they kept right on coming in search of something better.").

[34] *See* cummings & Graham, *supra* note 14, at 58–59 ("John Rogers, the great grandson of Black Wall Street architect J.B. Stradford has stated that what Greenwood proves, is that when Black Americans are left alone, without a knee to the neck, that extraordinary achievements follow."); *see also* Brophy, *supra* note 22, at 1 ("Greenwood itself could easily have passed for a dreamland. It was a place where fewer than sixty years after slavery ended, black people lived in relative freedom."); Johnson, *supra* note 24, at 18–19, 27 (detailing how Greenwood thrived in a difficult time period).

[35] *See* cummings & Graham, *supra* note 14, at 46, 48 ("Tulsa's white residents, particularly those who were poor, began taking offense noting the upscale lifestyle of their fellow African American city dwellers that they deemed inferior."); Alexis Clark, *Tulsa's 'Black Wall Street' Flourished as a Self-Contained Hub in Early 1900s*, HIST. (Sept. 4, 2019), https://www.history.com/news/black-wall-street-tulsa-race-massacre.

suffered no consequence, and the law-abiding black entrepreneurs received no relief.[36] Of the several primary progenitors of this massacre, U.S. insurance companies delivered perhaps the most significant blow when they refused Greenwood and its black business owners the opportunity to rebuild.

To comprehend the insurance industry's callous and cruel rejection of the worthy claims filed by black Tulsans following the mob destruction of Black Wall Street, and to fully appreciate why Corporate Reparations are due and owing to the descendants of Greenwood, a brief historical sketch of the U.S. insurance business follows.

II. HISTORY OF THE UNITED STATES INSURANCE GRIFT

> *Parmenter himself could not always tell where the Agency left off and the corporations began. There were men related by blood and by marriage; there were company directors who were former high-ranking intelligence officers; there were government advisers who were once company directors. It was a society he recognized as a better-working version of the larger world, where things have an almost dreamy sense of connection to each other. Here the plan was tighter. These were men who believed history was in their care.*[37]

The insurance industry in the United States has always been politicized and, to a large degree, even a political institution itself, aiding and influencing traditionally accepted forms of state power (e.g., legislative, executive, and judicial arms). In light of this, the insurance industries prioritization of profit and reliance on Tulsa's label, "riot," and description of the massacre to deny

---

[36] *See* Matt Reynolds, *Tulsa Reckoning*, A.B.A.J., Nov. 18, 2022, at 48, 54 ("After the attack, a grand jury report claimed the Black community was responsible. The only white person held accountable was Tulsa Police Chief John Gustafson, who was convicted on one count of dereliction of duty, fined and fired. No one in the mob was prosecuted for the killings, arson or looting . . . . Black Tulsans filed at least 190 lawsuits after the attack to rebuild and redevelop the community and recover damages from insurance companies. But not one of the suits succeeded."); *see also* Ellsworth, *supra* note 25 ("We have evidence that the chief of police sent his officers to the white photography studios in town to confiscate photographs of the Massacre victims and the destruction of Greenwood. Then, fairly quickly, official National Guard reports and other official records started to disappear . . . . [I]t later turned out that the state government not only refused to pay restitution, but gave the survivors a gold-plated metal instead."); *US: Failed Justice 100 Years After Tulsa Race Massacre: Commission Alienates Survivors; State, City Should Urgently Ensure Reparations*, HUM. RTS. WATCH (May 21, 2021, 2:00 AM), https://www.hrw.org/news/2021/05/21/us-failed-justice-100-years-after-tulsa-race-massacre ("All three living massacre survivors have sued the city of Tulsa, accusing it of continuing to enrich itself at the expense of the Black community by 'appropriating' the massacre for tourism and economic opportunities that primarily benefit white-owned or controlled businesses and organizations . . . . In a May 29, 2020, report . . . Human Rights Watch detailed the massacre and the failure to prosecute anyone for the violence and subsequent destruction that left hundreds of Black people dead, and more than 1,200 black-owned houses burned to the ground . . . .").

[37] DON DELILLO, LIBRA 126–27 (1991).

its insureds' claims was not a novel *modus operandi* nor one which it has discontinued. Broadly, early colonial maritime insurers and underwriters—both in the form of formal joint-stock corporations granted a royal charter and the more informal, coffeehouse associations—historically found opportunity for lucrative profits insuring commercial vessels in the midst of wider geopolitical conflicts. From the eighteenth-century conflicts between France and Britain, to the new potential for massive profits underwriting the vastly underpowered colonial revolutionary's fleets, the insurance industry's goals and profits were inseparable from their respective states. Following the founding of the United States, insurers played a significant role—as individuals and corporately—shaping the early republic's laws and institutions, often in a way which would guarantee them continued profits and pollical autonomy regardless of the impact on the country and its citizens. This would continue throughout the nineteenth century and the industry's expansion into additional forms of insurance such as fire and life, and through the twentieth century's shifts towards group coverages and industry consolidation. By considering the industry within this wider, political context, it becomes simultaneously easier and more harrowing to understand why victims of racial violence in places like Tulsa could be so easily denied claims made against their insurers.

Prior to 1776 and the American colonies declaration of independence from the British Empire—largely in response to the Empire's increasingly abolitionist position on the question of slavery and its demands that the colonies cease further expansion into indigenous territories to the west[38]—the relationship between colonial merchants and insurers largely matched that of the relationship between British mainland merchants and their insurers: insurance was primarily procured from London brokerages and underwritten with London capital.[39] Throughout this time, the young industry simultaneously projected an image of itself as a decentralized and stateless community of experts, true disciples of *lex mercatoria,* whose business was largely to serve as promoters of imperial growth by insuring colonial exploitation abroad and providing financial backing in the homeland[40] and functioning as an institution so

---

[38] Grandin notes:

> The future first president intended "to secure some of the most valuable lands in the King's part"—that is, west of the partition line [near the Appalachian Mountains]. Washington wrote that he intended to do so "notwithstanding the proclamation that restrains it at present, and prohibits the settling of them at all; for I can never look upon that proclamation in any other light (but this I say between ourselves) than as a temporary expedient to quiet the minds of the Indians." "It must fall," said Washington . . . .

Greg Grandin, The End of the Myth 19–23 (2019).

[39] *See* Hannah Farber, Underwriters of the United States: How Insurance Shaped the American Founding 48 (2021).

[40] *See Id.* at 48–50.

deeply enmeshed with the empire and its imperial project that it relied on the state's navy for protection.[41] Despite this reliance, the nascent industry would still provide insurance to enemies of the Empire—the same enemies creating the risks they were insuring at home—in the profitable pursuit of eliminating any possibility of risk or loss.[42] Indeed, it was during times of war that the imperial insurance industry benefited most: risks were high, so premiums were high and, emphasizing their projected statelessness or metanationality, there was profit to be gained by insuring both sides in a given conflict.[43] Noticing this trend and finally having a war to profit from in its own borders, American merchants began insuring privateers, war matériel, and even private goods within recently conquered cities.[44] The industry's pivot from London to the colonies "created merchant customer bases accustomed to buying locally" but many brokers found it difficult to remain profitable at the end of the war without profits from the rest of the empire.[45] Exemplifying this, one American merchant, Ezekiel Price, opened a brokerage at the conclusion of the war in 1759—mirroring the structure and policies of his London-based predecessors—and actually saw a drop in insured value from 1759 through 1767.[46] During that same period, what profit the nascent insurer was able to realize came in no small part from its underwriters' violations of the Crown's laws by insuring their smuggling activities and otherwise illicit trade ventures.[47]

By the beginning of the American War for Independence, insurance in the American colonies had shifted from having a sole base in London to, following in the footsteps of Lloyds before them, becoming "established nodes of capital, political news, and mercantile expertise in port cities along the Eastern Seaboard of the United States," in turn promoting its commercial growth and

---

[41] *See id.* at 47–49 (noting that this state-provided naval protection was often required to be purchased by the *insured* and that insurers themselves coordinated the navy's expeditions with the insureds' trade routes and expeditions).
[42] *See id.* at 47–48.
[43] *See id.* at 51.
[44] *See id.* at 54.
[45] Farber, *supra* note 39, at 54.
[46] *See id.* at 54–58; *see also* Gerald Horne, Negro Comrades of the Crown: African Americans and the British Empire Fight the U.S. Before Emancipation 37 (2013). Horne further explained:

> It is perhaps also worth mentioning that Price was based in Boston, Massachusetts, the colony which adopted a sort of emancipation-by-sale-of-slaves to far-flung sites, sites which would have likely required insurance policies to reach—and where in 1768 John Hancock and others accused the British of encouraging slave revolts—perhaps foreshadowing the overwhelming support Federalists and the Crown received from the state's Black population during the War of 1812.

Gerald Horne, The Counter-Revolution of 1776: Slave Resistance and the Origins of the United States of America 11, 173, 227 (2014) [hereinafter The Counter-Revolution].
[47] *See* Farber, *supra* note 39, at 55.

ambitions.[48] Following the beginning of the war between the American colonies and the British Empire, merchants on both sides were met with new and increased shipping risks as well as new questions regarding who would insure their goods, and who would underwrite them.[49] Although the potential for wartime profiteering once again loomed high, the shift to domestic insurers brought with it the potential for new political trouble: shouldering the blame for the increase in the price of colonists goods during the war.[50] Amidst the industry's renewed focus on profit during difficult and deadly times, many colonists began questioning whether the industry in its current form was the only option, or whether state-owned offices whose profits would benefit the public as a whole would be preferable to a system in which the plight of the many realized a boon to an already wealthy few—who were in large part responsible for the war's origins in the first place as they sought to protect their profits and dreams of expansion.[51] In the midst of a largely maritime conflict, the number of American insurers began to increase—just as it had during the previous war—and transformed many into "an institutional backstop of American privateering."[52] This included Price's Boston office which, despite

---

[48] *Id.* at 58. Rodney further noted the deep connections between trading profits and slavery throughout the 18th century:

> The connections between slavery and capitalism in the growth of England is adequately documented in . . . *Capitalism and Slavery*. . . . Outstanding examples are provided in the persons of David and Alexander Barclay, who were engaging in slave trade in 1756 and who later used the loot to set up Barclays Bank. There was a similar progression in the case of Lloyds—from being a small London coffee house to being one of the world's largest banking and insurance houses, after dipping into the profits from slave trade and slavery. [M]any of the entrepreneurs from the big European port town who turned to importing African agricultural produce into Europe were formerly carrying on the trade in slaves. The same can be said of many New England firms in the United States. Some of the biggest "names" in the colonial epoch were capitalist concerns whose original capital came from the trade in slaves or from slavery itself. Lloyds . . . falls into this category, having been nourished by profits from the slave territories of the West Indies in the seventeenth and eighteenth centuries . . . .

Walter Rodney, How Europe Underdeveloped Africa 99, 253 (2018).

[49] Farber, *supra* note 39, at 59, 63. This political tension was not found solely within the colonies. In London, "British brokers and underwriters were willing to stray from national priorities for a profit." *Id.* Lloyds even went so far as to coordinate naval convoys for the navy and its insured merchant vessels—at little additional cost to Lloyds but with the potential for a large increase in profits thanks to the presence of the navy reducing the merchants' risks. *See id.*

[50] *See id.* at 60.

[51] *See generally* Horne, *supra* note 46; *see generally* Grandin, *supra* note 38, at 22–24. *See generally* Howard Zinn, A People's History of the United States 49 (2015) (noting that "[b]y 1770, the top 1 percent of property owners owned 44 percent of the wealth" and the number of destitute had doubled to 29 percent means it should not be surprising that questions like the following would be asked by the populace). *See generally* Farber, *supra* note 39, at 60 ("Questions about insurers became deeper questions about the risks of independence more generally: Should those with the greatest resources reap the greatest rewards? Did nascent American financial institutions belong to the new polity as a whole, or only to their merchant shareholders?").

[52] Farber, *supra* note 39, at 62–66.

having fewer issued policies on its book, saw a sixfold increase of profits from 1767 to 1779—profits primarily distributed to only a handful of underwriters.[53] To obtain this increase in profits, Price's business model took on a much more political tint:

> Most of the new high-volume underwriters at Price's brokerage, including Samuel Broome, Stephen Higginson, and the merchant partnership Sears and Smith, were not only rebels but also sponsors and outfitters of patriot privateer ships in their own right. In short, Ezekiel Price's brokerage office was now operating as a very different kind of risk-assessment business, one bound up with the patriots' cause and the privateering economy.[54]

Seeing this increase in profits, and the overlap between those benefitting both from looting British merchants and those profiting from the increased prices market-wide, many colonists continued to question the structure of insurance in the slowly forming nation.[55] In 1778, an anonymous proposal was sent directly to president of the Continental Congress, Henry Laurens, outlining a never-implemented solution: establish public insurance offices to slow inflation, curb speculation, restrict "'Monied Men' from doing as they pleased," and spread wartime risks broadly, over the whole of the population, so that losses would be individually minimal and offset significantly by the shared benefits of cheaper goods and a prioritizing the population over private profit.[56]

---

[53] *See id.* at 66–67.
[54] *Id.* at 67.
[55] *See id.* at 68–72. Such questions even led to an anonymous "Mercator" publishing a defense of insurers' and merchants wartime profits in the *Pennsylvania Evening Post*, a defense riddled with questionable logic and even more interesting math—continuing the trend of insurers attempting to hide their role in the world behind "inscrutable" complexities that only they, as the disciples of *lex mercatoria*, could understand and wield. That later revelations would reveal that merchants had been selling salt at high prices despite low upfront costs showed the public that "[c]omplexity was, it seemed, serving as a smokescreen for profiteering." *Id.* at 72.
[56] *See id.* (stipulating that the Continental Congress had not approved it. It is perhaps unsurprising that this policy was not implemented given the considerable mercantile influence over the Congress); *see also* Robert F. Oaks, *Philadelphia Merchants and the First Continental Congress*, 40 PA. HIST. 1, 2 (1973) (discussing mercantile influence on the First Continental Congress); *see also* Zinn, *supra* note 51, at 81 (examining the distribution of wealth and influence in America post-Revolutionary war. Merchants held a considerable amount of wealth and imposed high prices on the lower class); *see also, e.g.,* Horne, *supra* note 46, at 152–53 (illustrating George Burrington's view of restricting rich planters from having a large number of slaves and how that conflicts with the "hegemonic views" of the rich, such as Henry Laurens. Laurens himself was one of the largest slave traders in the colonies and his revolutionary zeal and commitment to independence was in no small part attached to his conviction that the British Empire would force emancipation on the colonies—causing him to lose substantial wealth—no doubt also played a role in this decision).

Alas, the profits were not to be publicly shared the way that many believed they ought to be but even amongst the profiteers, not all benefitted equally. Towering among all those to profit during the war was one who was not merely interested in insuring individual vessels, goods, or other property—e.g. protecting the interests of the insured—but who was interested in insuring the colonies themselves against the risk of losing the war: merchant-underwriter Robert Morris of Philadelphia.[57] Morris, a prominent underwriter before the war and an insurer during the Seven Years' War, serves as a figurehead of just how closely the colonies' governments were tied to its merchants just like Britain before it, setting dangerous precedent for the emergence of a politically profit-motivated industry.[58] Both during and after the war Morris privately profited from publicly purchased goods through his private role as merchant-insurer-underwriter and public role as first chair of the Secret Committee of Commerce and later as superintendent of finance—spending public funds at his own discretion and often to his own benefit, even trading with foreign nations directly to avoid violating their neutrality in the conflict.[59] At the close of the war, he even personally fronted the money the United States needed to discharge the unpaid members of the continental army, who had shouldered physical risks for years with little to no benefit.[60] Morris's own actions during and immediately after the war, and the industry's role in it as well, makes it difficult to discern where exactly the line between private and public existed at the time; difficult to tell where exactly the insurance industry ended and where the new country's public-political institutions began.[61] The legacy

---

[57] *See* Farber, *supra* note 39, at 60, 74 (continuing an underlying motif, Philadelphia was not only home to many early colonial insurance endeavors but whose rise as a city of colonial prominence was dependent on wealth generated by slaves and its willingness to house pirates); *see also* Horne, *supra* note 46, at 140, 190; *see also* JOHN FERLING, ALMOST A MIRACLE: THE AMERICAN VICTORY IN THE WAR OR INDEPENDENCE 267, 272 (2007) (showing that Morris had a hand in orchestrating his side's naval maneuvers in wartime despite being a merchant—just like Lloyd's did for Britain).

[58] *See* Farber, *supra* note 39, at 47.

> It is of course logical to classify Lloyd's as a private marketplace, for its members congregated in a private setting, apart from the state, to exchange and accrue ever-greater sums of capital and to make the rules that best facilitated this process. But one might also on Jurgen Habermas to classify institutions like Lloyd's as part of Britain's *public sphere, even as incubators of its emerging civil society*. After all, members of Lloyd's were coffeehouse dwellers, with prime access to "traffic in commodities and news," who set themselves apart from the state with their self-given authority to debate, discuss, and opine on matters of public interest.

Id. (emphasis added).

[59] *See id.* at 75; *see, e.g.,* Grandin, *supra* note 38, at 28 – 29 (quoting Morris's cousin and assistant, Gouverneur Morris: "The Rich will strive to establish their dominion and enslave the rest. They always did, and they always will.").

[60] *See* Farber, *supra* note 39, at 98; *see also* Zinn, *supra* note 51, at 70 (describing how during the war, Morris had helped spark mutiny in New Jersey after proposing officers receive half-pay for life if they saw the war through to its conclusion while ignoring the needs of regular soldiers who were on the front lines, suffering without pay).

[61] *See* Farber, *supra* note 39, at 98–99, 112 (describing how Hamilton himself alluded to this

of this time laid the foundation for this country's political relationship with insurance and insurers in kind.

Once war concluded in 1789, American insurers found themselves in largely uncharted territory. Without a war on which to build a profitable enterprise, and no longer backed by experienced London financiers, they relied heavily on their role as informal commercial hubs—by now largely backed with state charters—to position themselves as leaders of the nation's merchants and commercial interests.[62] Together with banks insurers formed joint-stock companies, bought stock and public debt, and sought to form commercial monopolies, like earlier large corporations before them.[63] For their efforts, the industry began to profit handsomely, in no small part due to the outbreak of the French Revolution—another war to profit from—and anticipation that the whole of Europe may soon be at war, paying out stock dividends at rates averaging 8.6 percent annually from 1785 to 1800, and reaching as high as returns of 27-35 percent some years.[64] These astronomical profits, like profits in many industries of the time, were also realized through active participation in, and support of, the institution of slavery. Although the slave trade had been ostensibly outlawed by many northern states in the late 18th century, and by the nation in 1808, many loopholes existed and prominent merchants continued to underwrite and profit from the trade—loopholes the British elected not keep open when they too banned the trade in 1808—and so the industry, like the country, continued to profit and grow at the expense of human lives.[65] As Farber notes, despite the lack of specific legislation mentioning the allowance or banning of insurance in the trade, "political silence on slave trade insurance must be understood as a victory for the American marine insurance sector and as tacit permission for certain sorts of insurance on slaving voyages (or, at least, voyages with slaves) to continue."[66] It simply went underground.[67]

---

during debates surround the establishment of a national bank discussing "the . . . ways in which corporations functioned as political bodies and how they bound themselves to the states, federal republic, and citizens in ways that reduced their own risks.").

[62] *See id.* at 107–108, 120; *see also* GRIETJE BAARS, THE CORPORATION, LAW AND CAPITALISM: A RADICAL PERSPECTIVE ON THE ROLE OF LAW IN THE GLOBAL POLITICAL ECONOMY 58–64 (2019) (analyzing the rise of joint stock corporations and their role in forming commercial monopolies).

[63] *See* Farber, *supra* note 39; *see also* BAARS, *supra* note 62 (analyzing the rise of joint stock corporations and their role in forming commercial monopolies).

[64] *See* Farber, *supra* note 39, at 127–28.

[65] *See id.* at 141–43.

[66] *Id.* at 143.

[67] *See id.*

In addition to realizing profits from maritime ventures and yields on its newly acquired bonds, the industry created a new market: fire insurance.[68] Born in Philadelphia in 1752, fire insurance had been offered even before the war began, but profits in the maritime sector kept its prevalence relatively low—particularly since insurance companies at the time were not allowed to venture into more than one sector.[69] However, after the war, fire insurance companies, like their maritime brethren, formed joint-stock companies and saw profits begin to rise.[70] Given the more abstract nature of insuring against the mere chance that an event might occur, fire insurers were less concerned with a single policy's potential risk, than with risk in the aggregate, thus leading them to develop complex models and distance themselves from individuals and their policies.[71] Policy rates thus began to be set not by the risk one individual or their property represented to the company, but the risk a geographic area or type of building or some other subset represented to the company as relayed to it by its surveyors on the ground.[72] So, the industry did not merely put profits before people, it began to erase people from its calculations altogether. These methods of evaluating and classifying risk grew in complexity and responded constantly to the changing realities of construction, development, location and industry near a potential insured, and even began to adjust policy rates based on the insured's rate of property inspection, profession, susceptibility to non-fire related damage or theft, and the "moral character" of proposed policy holders.[73] These often extreme considerations all allowed insurers to find reasons to either raise an insured's premium, or to

---

[68] *See id.* at 130.
[69] *See* MARK TEBEAU, EATING SMOKE: FIRE IN URBAN AMERICA, 1800-1950, 57 (John Hopkins Univ. Press, 2003); *see also* Farber, *supra* note 39, at 103–107 (finding that from 1792–1816, "marine insurance premiums were commonly 5 percent to 15 percent and could climb as high as 50 percent or 75 percent under extreme circumstances. By contrast, fire insurance premiums typically ranged from 1/1,000 to 1/333 of the face values of policies, which typically covered the policyholder for multiple years" as opposed to a single venture).
[70] *See* Tebeau, *supra* note 69, at 58 (noting the scope of this article, the discussion of Tebeau that follows only focuses on the portion of his work concerning the fire insurance industry. While Tebeau's work is invaluable to contextualizing our focus on insurance and policy in the buildup to the Tulsa massacre, we do it a disservice by ignoring his meticulous survey of the role firefighters, volunteer and otherwise, played in the adoption of fire prevention policies nationwide); *see also id.* at 243 (recognizing that "well before progressive reformers dreamed a rational city or the insurance industry sold fire prevention, firefighters offered a vision of urban order. Firemen established the first systemic standard of fire safety in the United States when they made themselves into heroic icons").
[71] *See id.* at 55–57.
[72] *See id.* at 61.
[73] *See id.* at 60–63, 69 (listing several factors insurance companies considered in order to raise premiums); *see also* Bench Ansfield, *The Crisis of Insurance and the Insuring of the Crisis: Riot Reinsurance and Redlining in the Aftermath of the 1960s Uprisings*, 107 J. OF AM. HIST. 4, 902–906 (2021) (describing how these practices laid the groundwork for the racially-tiered policies and insurance redlining of the 20th century); *see also infra* Part III (explaining the effects of racially-tiered policies and insurance redlining).

encourage the insured to shoulder the cost of reducing the insurer's risk.[74] Although many insurers focused primarily on fine-tuning daily operations within their businesses at this time, these developments helped many large fire insurance companies scale operations from only insuring risks at a personal or more local level to insuring hundreds of thousands of policies all based on extensively conducted, scrutinizing surveys they bureaucratically codified in manuals.[75] At this scale, and with premiums being evaluated with such precision, promotion of fire safety became even less of a concern for the industry as a whole—often to its own detriment, but by 1850, the fire insurance industry was still "rapidly becoming an important factor in the nation's industrial growth—both as a protector of property value and as an engine of finance."[76]

In the years leading up to and immediately following the Civil War, with increasing risks of highly destructive fires as urban cities became more densely populated and developed, insurers not only continued to develop their methods of categorization but also began to take more proactive measures to control the spread of fire and reduce damages caused by it—though still not quite to prevent it.[77] Yet, despite pointing to the need for more formal means and methods of fighting fires and campaigning to establish professional firefighting forces these efforts only reduced its risk of massive payouts, but not of actually preventing fire, thus keeping premiums, and thereby profits, high.[78]

With its focus primarily on protecting capital and property, the insurance industry also began to see distinct and diverse communities as a singular urban network, mapping it as it changed and changing it as municipalities revised their own maps based upon the industry's evaluations.[79] Indeed, as the century drew nearer to a close "[t]he informal bonds between individuals and society were replaced with economic and contractual obligations—represented by wages or insurance policies."[80] However, before the end of the century, significant losses began to shake the industry but change came not in the adoption of fire safety practices but in industry consolidation.

---

[74] *See* Tebeau, *supra* note 69. at 60–63, 69 (listing several factors insurance companies considered in order to raise premiums); *see also* Ansfield, *supra* note 73 (describing how these practices laid the groundwork for the racially-tiered policies and insurance redlining of the 20th century); *see also infra* Part III (explaining the effects of racially-tiered policies and insurance redlining).

[75] *See* Tebeau, *supra* note 69, at 66, 68–71.

[76] *Id.* at 76–77, 83 (showing how this certainly foreshadows the response of today's industry in light of rapidly increasing damage caused by climate change's intensification of so-called natural disasters).

[77] *See generally id.* at 90, 93, 97.

[78] *See id.* at 112–14.

[79] *See id.* at 123–24.

[80] *Id.* at 124.

Spurred in large part by the closure of over one hundred companies after the Chicago fire of 1871, fire insurance firms flocked to the recently created, but relatively small, National Board of Fire Underwriters which was soon comprised of 90% of the country's premiums and 95% of its fire insurance capital.[81] Despite this massive platform, the industry responded to these fires and their own losses not by aligning itself with the American Public Health Association and the American Water Works Association in promoting the modernization and expansion of city water systems which could help fight fires, but by continuing to push unenforced and ineffectual building codes on municipalities while continuing to tweak their mapping and risk codification techniques nationally, and individually competing with each other on rates—again prioritizing profit over the public good.[82] While ignoring efforts at water modernization, the industry instead engaged in what amounts to essentially modern-day mass surveillance, constantly observing, surveying, and mapping cities like never before, with an increased emphasis on the business districts of cities.[83] Despite its largely profit-centered actions throughout the 1800s, by the last decade of the century, the industry hesitantly took some steps towards fire *prevention* and standardizing its rating of risks[84] by establishing the Underwriters' Laboratories in 1894 to study and promote safety and prevention by evaluating products, materials, and practices.[85]

At the turn of the century, the industry continued to shift its focus to fire prevention by encouraging the adoption of a singular, industry-backed building code [86] and some underwriters even decided to form the National Fire Protection Agency although it—and the industry as a whole—continued to focus more on commercial structures than on residential dwellings by encouraging the urban environment to become more uniform so it could more efficiently classify losses.[87] This of course meant that many in the industry would maintain their earlier, profit-driven focus and not necessarily encourage prevention; in fact, some within the industry made less effort to encourage cities to actually implement even better building practices to more effectively prevent fires than it did to actively pressure them to create stronger firefighting

---

[81] *See* Tebeau, *supra* note 69, at 175.
[82] *See id.* at 182–83 (showing that the industry's bureaucratic focus was so intense that the number of people employed as insurance agents increased from 8,554 people in the 1890 census to 120,000 in 1900; by 1910, 88,000 individuals listed their occupation as *fire* insurance agent).
[83] *See id.* at 186–89 (noting that at this time, insurers would examine each building with a forensic touch, following up frequently to see if assessed risks of fire had been addressed or removed by their insured).
[84] *See id.* at 194–95.
[85] *See id.* at 199 (explaining how the UL continues this practice to this day and how their work is relied upon globally); *see also Discoveries in Safety*, UL RSCH. INST., 252, https://ul.org/about (last visited Jan. 14, 2023).
[86] Tebeau, *supra* note 69, at 251.
[87] *Id.* at 252.

infrastructure—and firefighters to rationalize their practices.[88] Despite these latent impulses, by the 1920s, the industry was seasoned in its methods and techniques and finally had its sights trained firmly on fire prevention as means to a stable bottom line, but the fires that it sought to prevent were primarily those caused by sparks from industry, gas, risky building techniques and unsafe consumer goods.[89]

Tulsa, like much of the United States in the early 20th century, was a powder keg.[90] As elsewhere, relations between white and black, rich and poor, powerful and oppressed were waiting for a spark and the Red Summer of 1919 seemed to confirm that it was only a matter of time before things would explode.[91] Despite this, daily life for those within the Greenwood District, namely Black Wall Street, was different from the lives of many other black people in the country at the time, particularly those in the Jim Crow south.[92] Certainly the threats of white supremacy and state violence loomed large, but the district itself thrived on the back of Oklahoma's oil boom and the investments of black entrepreneurs in the District.[93] Like most prudent property owners at the time, most of these entrepreneurs followed the insurance industry's aforementioned focus and took out insurance policies to protect their business investments from the threat of urban fire and other losses, and like most insurance policies of the time, those policies contained exclusions for losses "caused directly or indirectly by invasion, insurrection, *riot*, civil war or commotion, or military or usurped power."[94]

After white Oklahomans had finished killing countless of their black neighbors in Greenwood and leveling its thirty-five blocks, as described above—in part by bringing home the tactics of World War I by dropping

---

[88] *Id.* at 258, 260.
[89] *See id.* at 283-84.(explaining that the insurance companies' focused on containing fire losses especially based on the assumption that municipalities and their fire departments would respond *promptly* to a blaze in an effort to mitigate damages to its citizens—again shifting responsibility to the state and citizens and away from showing any active role in the realm the industry profited from
[90] *See generally*, cummings & Graham, *supra* note 14 at 43, (highlighting that Tulsa had a population of 10,000, and Greenwood's Black Wall Street developed a moniker: "Built for Black People, by Black People.")
[91] *See id.*
[92] *See* Scott Ellsworth, *Death in a Promised Land: The Tulsa Race Riot of 1921* 15 (1992).
[93] *See id.* at 17. (In 1921 alone, 59 black people were lynched in southern and border states); *see also id.* at 10. (Oklahoma in the early 20th century was simultaneously home to many successful Black entrepreneurs who had fled the Old South, and an active and violent white supremacy—enflamed by the successes of Black towns and the constant presence of Native Americans); *see also* Gerald Horne, *The Counter Revolution of 1836: Texas Slavery & Jim Crow and the Roots of U.S. Fascism* 564 (2022)("On a single day in 1909 the entire Negro population of Sapulpa, Okla., was expelled; near Muskogee, a Black neighborhood was obliterated and then buildings were burned down where it was thought the victimized were hiding.")
[94] Tebeau, *supra* note 69 (emphasis added); Council, *supra* note 18.

makeshift bombs on the district from planes circling above[95]—those survivors with insurance policies on their ruined properties filed claims with their insurers because they rightfully believed that their properties had been burned down and otherwise destroyed by the rampaging white mobs.[96] However, this was not the belief held by the then modern data-driven insurance companies who instead chose to believe what Tulsa told them: the destruction was the result of rioting *Black* residents. Stated another way, the residents of Greenwood could not find restitution because they had burned their own city district to the ground. Further, the longstanding categorization of the event as a "Race Riot"—a phrase at the time used primarily to describe anytime white citizens massacred black people[97]—rather than a massacre gave insurance companies a second excuse: losses from riots simply weren't covered by the insureds' policies.

As a result, not a single claim has been honored by insured survivors of the Tulsa massacre to this day; yet two insurers who wrote some of the dishonored policies, Hartford Financial Services Group Inc. and Great American Insurance Group reported 2022 third quarter net earnings of $333 and $165 million, respectively.[98] Insurers', like Hartford Financial, Great American, CNA Financial Corp., and Chubb Ltd., denial of claims that were politically-based and profit-driven, led directly to a massive deprivation of generational wealth to the Greenwood residents and their heirs who had dutifully paid on their insurance policies and expected to have their policies honored.[99] As of this writing, not one insurance company has attempted to make right this historical

---

[95] *See* Howard Zinn, *A Power Governments Cannot Suppress*, 134 (2006).
[96] *See* Council, *supra* note 18.
[97] *See* Khara Coleman, *Remembering the Chicago Race Riots: 100 Years Later*, 107 Ill. B.J. 50 (2019); *see also* Thomas D. Holland, Michael R. Dolski, *"A Solemn Promise Kept": The 1919 Elaine Race Riot and the Broadening of Habeas Corpus 100 Years Later*, 57 TULSA L. REV. 65 (2021).
[98] *See The Hartford Announces Third Quarter 2022 Financial Results*, THE HARTFORD, (Oct. 27, 2022), https://newsroom.thehartford.com/newsroom-home/news-releases/news-releases-details/2022/The-Hartford-Announces-Third-Quarter-2022-Financial-Results/default.aspx; *see also American Financial Group, Inc. Announces Third Quarter Results and Declares Special Dividend*, AM. FIN. GRP., INC. (Nov. 2, 2022), https://www.afginc.com/news-releases/news-release-details/american-financial-group-inc-announces-third-quarter-results-6.
[99] *See* Jarred Council, *Insurance Exclusions Left Black Tulsans Footing the Bill for the Massacre*, WALL ST. J., (May 29, 2021, 9:00 AM), https://www.wsj.com/articles/insurance-exclusions-left-black-tulsans-footing-the-bill-for-the-massacre-11622293201(explaining that CNA Financial Corp. and Chubb Ltd. have been identified as successor companies to as many of 50% of the policies denied where lawsuits were filed and dismissed in attempts by Tulsa black victims to recover on claims filed after paying insurance policies for protection of their businesses and that the Hartford and Great American Insurance Group are reportedly directly responsible for denying claims on policies of Greenwood residents whose businesses and homes were burned to the ground).

wrong despite the annual earnings enumerated above that could easily assist in repairing the damage done by their progenitors just over 100 years ago.

III. DENIAL OF GENERATIONAL WEALTH TO BLACK AMERICANS

One enduring legacy of the destruction of Black Wall Street and the insurance industry's refusal to pay out legitimate claims is the brutal reality that generational wealth was literally stripped from black families and black entrepreneurs with no compensation, remuneration or apology.[100] O.W. Gurley, J.B. Stradford, and so many others had accumulated the equivalent of multiples of millions of dollars by the time that the white Tulsa mob razed Black Wall Street.[101] O.W. Gurley was a real estate magnate owning multiple businesses and owning the land upon which much of Black Wall Street was built.[102] J.B. Stradford was a flourishing hotelier owning the largest and most successful black owned hotel in the United States at the time it was burned to ashes.[103] Stradford was on his way to becoming a Marriott or a Pritzker (founder of the Hyatt Hotels). Gurley was on his way to becoming a Jerry Buss or Stephen Ross (real estate magnates). Generational wealth should have passed to the Stradford and Gurley families, rather than both men dying penniless in California (Gurley) and Chicago (Stradford). The first black American

---

[100] *See* Tami Luhby & Katie Lobosco, *US marks 100th anniversary of Tulsa Race Massacre: Here's what Biden will need Congress to do about the racial wealth gap*, CNN (June 1, 2021, 6:08 PM), https://www.cnn.com/us/live-news/tulsa-race-massacre-1921-anniversary/index.html ("The massive wealth divide between Black and White families is currently in the spotlight because of the 100th anniversary of the Tulsa Race Massacre, one of the worst acts of racial violence in U.S. cities. The typical non-Hispanic White family had a net worth of $188,200 in 2019, while the typical non-Hispanic Black family's wealth was $24,100 . . ."); *see also* Lynn, *supra* note 12 ("The massacre was estimated to have resulted in $200-million loss in assets . . . [M]edian household income for Black households in Tulsa is below $30,000; it is above $50,000 for white householding . . . unemployment is 2.37 times high for Black than for white Tulsans."); *see also* Perry, *supra* note 17 ("[W]hile Black people comprise 10% of the Tulsa metropolitan population, Black owned businesses comprise only 1.25% of the area's nearly 20,000 businesses."); *see also* Hale, *supra* note 17 ("Specifically, a 2020 Citigroup Bank study quantifies that the U.S. would have generated $16 trillion by closing racial gaps 20 years prior.").

[101] *See* cummings & Graham, *supra* note 14, at 45 ("At the pinnacle of their Black Wall Street success, O.W. Gurley was estimated to have been worth more than $150,000, equivalent to more than $5 million in 2021 and J.B. Stradford's majestic Stradford Hotel was valued at $75,000, equivalent to more than $2.5 million in 2021.").

[102] *See* Johnson, *supra* note 24, at 36 ("In the business entrepreneurial area, the Greenwood District debuted around 1905 with the construction of a grocery store . . . by businessman O.W. Gurley. That, coupled with Gurley's addition of a one-story rooming house, spawned the growth of other businesses in the area."); *see also* Gara, *supra* note 24 (discussing the path O.W. Gurley took to acquire and develop the land that would become Black Wall Street).

[103] *See* Johnson, *supra* note 24, at 120 (describing Stradford's businesses and burgeoning wealth); *see also* Nicole M. Burts, *Putting Tulsa In Context: The Journey of J.B. Stradford: A Life of Leadership, Loss, and Lasting Legacy*, 57 TULSA L. REV. 131–134 (2021) (documenting the wealth of J.B. Stradford).

billionaires should have come from Black Wall Street, not from Illinois (Oprah Winfrey) or Mississippi (Robert Johnson). At its apex, Black Wall Street boasted forty-one grocery stores and meat markets, thirty restaurants, five Hotels, eleven Boarding and rooming houses, nine Billiards Halls and dozens of doctors, lawyers, accountants and other service professionals.[104] The aftermath of the massacre found 1,115 black owned homes burned to the ground, 141 black owned businesses demolished, 314 black owned homes and businesses looted by white mobsters, and more than 300 black Tulsans murdered.[105]

The literal evisceration of black generational wealth and life and the role the insurance industry played in that evisceration may be the most unforgivable outcome of the Tulsa Race Massacre. At each moment in U.S. history when black Americans were succeeding in the capitalistic economy, white Americans either changed the rules or simply demolished the emerging successes. Race massacres were common in the early 1900s, including in Elaine, Arkansas,[106] Rosewood, Florida,[107] Chicago, Illinois,[108] and Greenwood, Oklahoma.

As we have written previously, John Rogers, the great grandson of J.B. Stradford, one of the founders of Greenwood, OK stated that what the initial

---

[104] *See* Deenen L. Brown, *Generations Lost*, NATIONAL GEOGRAPHIC at 70–71 (June 2021) (illustrating through numbers the scope of development on Black Wall Street before the massacre).

[105] *See id.* (providing statistics of the loss suffered by black Americans in Tulsa).

[106] *See* Bernice Bouie Donald, *When the Rule of Law Breaks Down: Implications of the 1866 Memphis Massacre for the Passage of the Fourteenth Amendment*, 98 B.U.L. REV. 1607, 1663–1664 (2018) ("African-American advancement was perceived as an obvious threat to whites, and whites reacted by stealing or threatening to steal crops and other possessions from African Americans. In an effort to combat this threat, some local African Americans hired an attorney—U.S. Bratton—while other began organizing . . . this . . . was met with racial violence that ultimately devolved into a full-scale massacre."); *see also* Holland & Dolski, *supra* note 97, at 67–68 (revisiting the race massacre of Elaine, Arkansas which claimed the lives of hundreds of Black Americans in the late summer of 1919).

[107] *See* Katheryn Russell-Brown, *The Dog Walker, The Birdwatcher and Racial Voice: The Manifest Need to Punish Racial Hoaxes*, 31 U. Fla. J.L. & Pub. Pol'y. 1, 3 (2020) ("A false claim that a Black man had assaulted a White woman ignited the Rosewood, Florida massacre. In 1923, Whites . . . used the allegations to justify burning down property and also to justify killing Blacks . . . It is estimated that as many as 150 Blacks were killed."). *See generally* Richard A. Ryles, *The Rosewood Massacre: Reparations for Racial Injustice*, 9 APR NBA Nat'l B.A. Mag 15 (1995). *See generally* Rosewood (Warner Bros. 1997) (detailing the Rosewood massacre and the impact it had).

[108] *See generally* Coleman, *supra* note 97 ("It wasn't only in Chicago that post-WWI racial tensions sparked race riots. April through late September 1919 has been dubbed the "Red Summer" because of riots in more than two dozen American locales, including Jenkins County, Georgia; Elaine, Arkansas; Washington, D.C.; Omaha, Nebraska; and Longview, Texas. But Chicago has the distinction of having hosted the worst of the Red Summer riots."); *see also* Robert J. Cottrol & Raymond T. Diamond, *Helpless by Law: Enduring Lessons from a Century-Old Tragedy*, 54 CONN. L. REV. ONLINE 1, 19-20 (2022) (describing the massacre in Chicago, Illinois).

success of Black Wall Street proves is that when black Americans are left to their own devices, without a knee to the neck, that amazing accomplishments follow.[109] "Tulsa proves that African Americans can build great businesses and be extraordinarily successful."[110] John Rogers continues "[o]n the other hand, it shows you that unfortunately so many times in our history, when Black folks get a few steps ahead, we get pulled back down . . . . It's why the wealth gap in this country is so dramatically worse than it was 25 or 40 years ago."[111] Rogers describes the point we make above which is when a nation whose "wealth was built on slavery and oppression, that when the formerly enslaved engage in capitalism by the same rules under which they were oppressed, that those successes have been resented, hated, and ruined."[112]

One consequence of black Americans getting "pulled down" is the insidious racial wealth gap that continues to persist today, as referenced by John Rogers above. The racial wealth gap represents a direct consequence of the destruction of Black Wall Street.

> Pew Research reports in 2021 that the median wealth for white families in the United States is $189,000 while the median wealth for Black families is $24,000, demonstrating a gaping disparity of $165,000. While centuries-long discrimination in housing, education, and employment against Black Americans is behind this extreme racial wealth gap, equally responsible is the literal destruction of Black wealth and prosperity rained down upon successful Black entrepreneurs by white Americans throughout the entire history of the United States up through today. For example, just as Black wealth was destroyed in Greenwood in 2021 . . . bankers and mortgage lenders similarly eviscerated Black wealth through predatory mortgage lending in the run up to the financial market crisis of 2008. Nearly a century after Black Wall Street was burned to ashes . . . mortgage lenders and bankers stripped Black homeowners of potential wealth growth by bamboozling so many into mortgages that left them foreclosed upon and penniless.[113] Greenwood [is] not [a] relic[] of a distant past, but simply represent[s] the timeworn

---

[109] *See* Antoine Gara, *The Baron of Black Wall Street*, FORBES, https://www.forbes.com/sites/antoinegara/2020/06/18/the-bezos-of-black-wall-street-tulsa-race-riots-1921/?sh=714cfe3bf321 (last visited Aug. 12, 2023) (detailing the success of Black Americans if they were treated more fairly).
[110] *See id*.
[111] *See id*.
[112] *See* cummings & Graham, *supra* note 14, at 59.
[113] *See id.* at 60–61, 61 n.183 ("The FCIC documented many unethical and illegal practices in the period leading up to 2008. There was collusion among financial institutions, brokers, and disreputable home improvement contractors or other vendors targeting vulnerable groups, including racial minorities, immigrants, and the elderly.").

> American tradition of demolishing Black wealth even when African American citizens play by the capitalistic rules of white America.[114]

As an example of this white destruction of nascent black American wealth, one of the major media outlets that published important and penetrating stories on the 100-year commemoration of the Tulsa Race Massacre, painstakingly reviewed the lost wealth of many of the Greenwood families whose businesses, residences and neighborhoods were burned to the ground.[115] As all insurance policy claims were denied for all black residents of Greenwood, this national media outlet estimates that more than $610 million dollars of real world 2021 wealth was lost when Greenwood burned.[116] This generational wealth in the form of demolished houses and businesses that were never rebuilt and thus could not be passed down from parent to child—this business wealth that was destroyed and impossible to hand over to children or heirs, represents hundreds of millions of dollars that would have changed the trajectory of the black families in Greenwood who watched their flourishing fortunes destroyed.

Of course, the Greenwood families expected that they would rebuild with the insurance proceeds that were surely forthcoming, based on premiums being paid for years before the massacre.[117] Not so. A sampling of Greenwood residents whose claims were denied include black police deputy Barney Cleaver whose 2021 net worth was estimated at $20,785,306, based on 6% growth over 100 years since his home was burned down.[118] Pharmacist A.L. Ferguson, whose pharmacy was destroyed, was estimated to have lost $6,446,740 in 2021 dollars.[119] Property owner Caroline Lollis, who lost her home and other property when it was leveled during the massacre, was estimated to have lost $3,325,839.[120] Plumber Will Roberson, who lost his home and twelve rental houses during the massacre was estimated to have lost

---

[114] *See id.* at 61; *see also* Richard Fry et al., *Racial and Ethnic Gaps in the U.S. Persist on Key Demographic Indicators*, PEW RSCH. CTR. (Jan. 12, 2021), https://www.pewresearch.org/interactives/racial-and-ethnic-gaps-in-the-u-s-persist-on-key-demographic-indicators/ (internal citations omitted).

[115] *See* Tucker C. Toole, *Thousands Lost Everything in the Tulsa Race Massacre—Including My Family*, NAT'L GEOGRAPHIC (May 28, 2021), https://www.nationalgeographic.com/history/article/thousands-lost-everything-tulsa-race-massacre-including-my-family.

[116] *See A Lasting Destruction*, NAT'L GEOGRAPHIC, June 2021, at 70, 70–71.

[117] *See supra* notes 16, 20, 36 and accompanying text.

[118] *See id.* ("When the white mob burned 1,115 homes, numerous businesses, and other property in 1921, 'the savings of a lifetime were reduced to ashes.'").

[119] *See id.* (detailing the generational loss in wealth of Pharmacist A.L. Ferguson that would have accumulated through 2021).

[120] *See id.* (detailing the generational loss in wealth of property owner Caroline Lollis that would have accumulated through 2021).

$6,200,746.[121] Each of these Greenwood residents represent typical citizens of Tulsa, not the founders like O.W. Gurley and J.B. Stradford. This generational wealth was literally ripped from the hands of the families of these hardworking entrepreneurs and business owners with no remuneration, compensation, or repair. All insurance claims to rebuild were denied.

As of 2023, in a positive turn, the racial wage gap has been narrowing based on President Joe Biden administration policies and economic growth.[122] While the racial wage gap is narrowing, it continues to persist, as does the racial wealth gap, despite Corporate America's recognition that it must become significantly more involved in removing the gaps and creating economic equality.[123] The generational wealth that was destroyed in the Black Wall Street Massacre and by the insurance companies that denied all black business owner claims leaving Greenwood in ashes, never fully rebuilt and families never repaired, still reverberates today.

IV. REVERBERATING ECHOES

We have written elsewhere of the echoes of the early twentieth century massacres in Tulsa and many other cities and their continued reverberations in policing, protesting, and politics in the twenty-first century.[124] Here we tune our ears to other, lower frequencies; those which are less audibly noticeable but physically felt all the same. Institutionally, insurance in the United States has undoubtedly changed substantially in form and function since its early colonialist origins. The changes themselves are most obvious at a simple anecdotal level: no longer is the primary role of insurance—or the relationship between insurer and insured—one between and among local merchants; but what of the industry's historic prioritization of profits over public well-being and the benefits promised to its insured? Now, nearly every citizen engages with, pays premiums on, receives notices from, is required to obtain, offered

---

[121] *See id.* (detailing the generational loss in wealth of Plumber Will Roberson that would have accumulated through 2021).
[122] *See* David Leonhardt, *The Racial Wage Gap is Shrinking*, N.Y. TIMES (Jun. 19, 2023), https://www.nytimes.com/2023/06/19/briefing/juneteenth-racial-wage-gap.html.
[123] *See id*. ("At Fortune 500 companies, for example, Black board members occupied less than 9 percent of all board seats in 2020, according to Deloitte. By last year, the number had risen to 12 percent (compared with 14 percent of the U.S. population). It remains unclear how widespread the changes in corporate America have been; corporate boards obviously make up a tiny share of jobs. But the recent emphasis on diversity has probably played at least a modest role in narrowing racial gaps."). *See also supra* notes 1-7 and accompanying text; *see generally* Seth Matlins & Forbes Staff, *Forbes' 2023 Progress Report: Where 11 Of America's Top Companies Stand On Diversity And Equity Goals*, FORBES(Jun. 19, 2023), https://www.msn.com/en-us/money/companies/forbes-2023-progress-report-where-11-of-america-s-top-companies-stand-on-diversity-and-equity-goals/ar-AA1cK0AQ (describing the self-reported progress that some of the United States' largest corporations are making in terms of employee and leadership diversity, pay equity, and vendor and supplier diversity).
[124] *See generally* cummings & Graham, *supra* note 14.

by their employer, or hears news of health, life, automobile, home, flood, business, malpractice, unemployment, liability, and myriad other insurances intent on bringing peace of mind to the insured, one monthly payment to an oft publicly-traded multinational corporation at a time. Truly, present society revolves around insurance.[125] More specifically, and certainly more relevant to the issues raised above, the response of insurance companies to protests and racial violence has changed in many ways,[126] while simultaneously continuing to reflect and refract lower frequencies without questioning what first set them in motion.

Two of these frequencies, already in motion and visible in the aftermath of the massacre in Tulsa, can still be felt and tuned in to at present and each provides interesting—albeit unsettling—points of analyses for the relationship between the insurer and insured—particularly the marginalized-insured—as we move into the second quarter of the twenty-first century. The first of these is the issue of whether claims are paid at times of what is commonly described as racial violence or protest[127]—and if claims are paid, then to whom are they paid.[128] The second is the issue of the displacement and losses of people when claims are not paid, or insurance is otherwise denied, and the long-term implications of a society which accepts—legally and judicially if not morally and willingly—this status quo as reasonable and just at a time of increasingly deadly pandemics and disasters worsened by global warming.[129]

Tuning first to the issue of the payment of claims, more recent historical moments (or, perhaps more accurately, a singular long event)[130] provide

---

[125] *See* ALAIN SUPIOT, HOMO JURIDICUS: ON THE ANTHROPOLIGICAL FUNCTION OF THE LAW 140 (2d ed. 2017).

[126] *See* Jennifer A. Kingson, *Exclusive: $1 billion-plus riot damage is most expensive in insurance history*, AXIOS (Sept. 16, 2020), https://www.axios.com/2020/09/16/riots-cost-property-damage?stream=top ("While U.S. companies have learned the hard way that their insurance doesn't cover business interruption related to the coronavirus, most policies emphatically do cover riot-related losses."); *see also* Andrea DeField et al., *Riot-Related Damage and Income Losses are Covered under Most Business Owners' Policies*, THE NAT'L L. REV. (June 16, 2020), https://www.natlawreview.com/article/riot-related-damage-and-income-losses-are-covered-under-most-business-owners.

[127] *See* Kingson, *supra* note 126.

[128] *See* Rebecca Heilweil, *Target's history of working with police is not a good look right now*, VOX (June 5, 2020), https://www.vox.com/recode/2020/6/1/21277192/target-looting-police-george-floyd-protests.

[129] *See* Jim Zarroli, *Homeowners Fight Insurance Companies over Katrina*, NPR (May 11, 2006), https://www.npr.org/2006/05/11/5398057/homeowners-fight-insurance-companies-over-katrina (explaining how and why insurance companies were denying natural disaster, hurricane Katrina, homeowners' coverage).

[130] *See* GIOVANNI ARRIGHI, THE LONG TWENTIETH CENTURY: MONEY, POWER AND THE ORIGINS OF OUR TIMES 4, 219–220 (2d ed. 2010) (detailing the notion of a "long event" refers generally to the idea that historical events are perhaps better understood and analyzed on a longer timeline—the "lifetime of the event," as opposed to treated as singular, historic events.); *see also* Oxford Reference, *longue durée*, OXFORD UNIVERSITY PRESS,

angles from which we can compare and contrast the aftermath of the Tulsa Massacre, and understand how appalling the lack of a payout—over a century later!—truly is.[131] The first of these long events is the so-called "hot summers" of the 1960s.[132] Beginning as early as 1963, these summers proved costly to the insurance industry—though in hindsight, these losses often proved to be greatly exaggerated— but paled in comparison to losses from other disasters and more nefarious actions.[133] Although the most costly year of 1960s uprising, 1967, amounted to over $75 million in insurance claims, this was easily dwarfed by the $715 million in losses from Hurricane Betsy in 1965 and the subsequent $15 billion per year caused by the arson-for-profit actions taken by landlords and property owners in the 1970s—to say nothing of the hundreds killed annually in these intentionally or suspiciously started fires.[134] Similarly, regardless of the insurance industry's position during the 1960s that these uprisings would continue indefinitely and therefore certain areas would become uninsurable,[135] the losses throughout the entirety of the 1960s further fail to compare in scale to the $775 million in losses ($1.42 billion in 2020 dollars) seen in Los Angeles in 1992 following the police beating of Rodney King,[136] or the estimated $1-$2 billion damages seen across the United States following the police killing of George Floyd in Minnesota in 2020.[137]

What makes these moments worth considering is the way in which their cries against injustice rhyme with the same cry of black Tulsans in 1921, who sought to prevent a lynching in order to preserve due process.[138] On the other hand, reportedly, the property damage seen throughout the 1960s and during the 2020 uprisings was primarily due to actions taken on the fringe of protests

https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100114325;jsessionid=599157E3D8334111EBB5EEA5975F7FC4 (last visited Feb. 10, 2023) (defining the term longue durée).

[131] *See* Reynolds, *supra* note 27, at 10 (noting how Tulsans still face racially disparate treatments as well as city-created barriers barriers to jobs, financial security, education, housing, justice and health from the Tulsa Massacre).

[132] *See* Ansfield, *supra* note 73, at 899 (describing these hot summers as fire-ravaged skylines engulfing U.S. cities because of Black and Puerto Rican outrage over the persistence of institutionalized white supremacy).

[133] *See id.* (explaining that this era of uprisings which started in Birmingham in 1963 led to a high amount of insurable losses, but that these losses paled in comparison to the wave of arson-for-profit in the 1970s).

[134] *See id.* (noting that 1967 was the most violent year of the uprisings and resulted in insurable losses totaling $75 million, but paled in comparison to the $15 billion annual toll resulting from the wave of arson-for-profit in the 1970s, which killed about 500 people a year).

[135] *See Id.* at 912–13 (stating that the insurance industry was aware that social unrest would not subside but would instead continue).

[136] *See* Kingson, *supra* note 128.

[137] *See Id.*

[138] *See* Ellsworth, *supra* note 92, at 50.

for peace, justice, police accountability, and an end to state-sanctioned white supremacy[139]—a far cry from the methodical destruction wrought by white Oklahomans in support of and in the name of state-sanctioned white supremacy in 1921.[140] Notably, throughout the 1960s and, as far as we can currently tell, in the aftermath of 2020, insurance claims are being paid out.[141] This is likely due in part to the fact that riot exclusions are no longer construed as they were prior to the beginning of Federal regulation in 1945,[142] but it is certainly worth pondering the fact that property damage sustained during actions for peace and justice is rectified, claims paid out, while property damage sustained at the hands of an apartheid mob is not. Especially so when considering the aftermath of the 1960s uprisings and the nearly wholesale withdrawal of the insurance industry from the United States' urban cores.[143]

Prompted by the uprisings of the 1960s and the insurance industry's increasing hesitancy—in part overblown by the familiar, and above-discussed London rewriter, Lloyds[144]—to insure property in "riot-prone" or "riot-affected" areas,[145] the industry fell back on its familiar 18th century playbook: let the federal government step in where the industry chose to protect its profits and step out.[146] In exchange for the state's acceptance of the industry's responsibility, the insurance industry promised to cease its effective practice of redlining buildings and areas out of its policies.[147] However, this great compromise quickly backfired and the industry accelerated its withdrawal from urban centers since it knew the government had to step in to satisfy the risk-filled void it left behind.[148] The practical effect of this shift in responsibility did little but encourage building owners to realize their property's values by watching them, letting them, or encouraging them to burn so an insurance

---

[139] *See* Horne, *supra* note 35, at 565 (describing movements in the early twentieth century (and likely at present), are perhaps best understood as a "dialectic of repression generating resistance, and vice versa"). *See also generally* Horne, *supra* note 35, at 545–67.
[140] *See* cummings & Graham, *supra* note 14, at 110.
[141] *See generally* DeField et al., *supra* note 126 (indicating that insurance companies can cover riot-related damage and income losses businesses are experiencing upon proof of such losses).
[142] *See* Ansfield, *supra* note 73, at 907–08; *see also* Victor Luckerson, *The Story of Black Wall Street #023: Trust in the Law*, RUN IT BACK (Feb. 11, 2021), https://runitback.substack.com/p/023-trust-in-the-law.
[143] *See* Ansfield, *supra* note 73, at 903.
[144] *See id.* at 909.
[145] *See id.* at 918.
[146] *See* FARBER, *supra* note 39, at 65; *see also* Ansfield, *supra* note 73, at 914 (providing an example of an insurance company cancelling a liquor store's insurance due to its location in a high-prone rioting area).
[147] *See* Ansfield, *supra* note 73, at 915 (stating that insurance companies were willing to "cease redlining" and instead transfer liability of damages caused by uprisings to the federal government).
[148] *See id.* at 916 (identifying that the FAIR plan which was enacted into federal law to end redlining instead "enabled insurers to hasten their departure" from high-risk U.S. cities).

payout could be received in place of costly premiums and maintenance fees.[149] Reflecting on this reality, Alberto Toscano pointedly remarks that in the post-World War II era:

> . . . urban dereliction has become the moral and natural historical equivalent of war. In 1940-41, the Heinkel and Junkers bombers of the Luftwaffe destroyed 350,000 dwelling units and unhoused a million Londoners. In the 1970s, an equally savage "blitz" of landlord disinvestment, bank redlining and federal "benign neglect" led to the destruction of 294,000 housing units in New York City alone.[150]

This bureaucratic-insurer, state-influenced destruction set the stage for the profit driven gentrification of the late twentieth and early twenty-first centuries.[151] The fact that payments were made both to many businesses and individuals who experienced losses so similar to those of black Tulsans in 1921 *and* that payments were made to careless and uncaring landlords during the arson epidemic of the 1970s, makes it all the more incomprehensible that not a single payment has been made to any business, individual, estate, or descendant affected by the Tulsa Race Massacre.[152]

In light of this, the issue of displacement is especially worth our consideration. Not only were the losses suffered by black Tulsans immense emotionally, socially, and financially, but many were displaced from their homes for a significant period of time,[153] and the fact that Black Wall Street remains a shell

[149] *See id.* at 920 (noting that 30,000 buildings had been destroyed by 1977 in the Bronx and that some neighborhoods had lost up to 80% of their homes, it goes on to say that "[i]n Massachusetts, 65-70 percent of FAIR losses were attributed to suspicious fires, while in Michigan, 35 percent of arsons in 1974 occurred in buildings insured through the state's FAIR plan.").

[150] Alberto Toscano & Jeff Kinkle, Cartographies of the Absolute 111 (2015) (quoting Mike Davis, Dead Cities: And Other Tales 386 (2002)).

[151] *See* Alanna Schubach, *Stop blaming the hipsters: Here's how gentrification really happens (and what you can do about it)*, Brick Underground (Feb. 15, 2018, 1:00 PM), https://www.brickunderground.com/rent/what-causes-gentrification-nyc (attributing the decline in urban development to gentrification); *see also* Valeria Ricciulli, *In the 1970s, the Bronx was burning, but some residents were rebuilding*, Curbed New York (May 3, 2019, 9:45 AM), https://ny.curbed.com/2019/5/3/18525908/south-bronx-fires-decade-of-fire-vivian-vazquez-documentary (discussing the threat of displacement following fires in the Bronx in the 1970s).

[152] *See* April Ryan, *100 years after Tulsa Massacre, fight remains for insurance companies to pay up*, the grio (May 30, 2021), https://thegrio.com/2021/05/30/tulsa-massacre-families-insurance-companies/; *see also* Council, *supra* note 18 ("Court records don't paint a complete picture of how insurers responded to the massacre, researchers say. Some business owners may have had their claims honored, while others may have been unable or unwilling to pursue litigation for denied claims.").

[153] *See* Lauri Scherer, *Estimating Long-Term Effects of the 1921 Tulsa Race Massacre*, NBER (Sept. 9, 2021), https://www.nber.org/digest/202109/estimating-long-term-effects-1921-tulsa-race-massacre (finding consistent evidence associating the massacre with a sizeable decline in

of itself to this day is testament to how many lives left, on top of how many lives were lost.[154] This too is in part a consequence of the lack of insurance payouts to claims, but also a consequence of the failure of government to step in to fill a void prompted and called for not by the insurance industry—as in the case of the above discussions—but by victims and their families. This brings to mind not just the reported failures of the insurance industry to take many Black and Brown claims seriously in the wake of the 1960s uprisings[155] or the tiered insurance which marginalized people have historically been offered by the industry,[156] but also the mass displacement of people spurred by Hurricane Katrina in 2005.[157] Not only did this storm alone cause property damage which exceeds all other events discussed so far by several orders of magnitude (over $125 billion),[158] it also caused an exodus of over 250,000 people and led to a 2020 population level in New Orleans which was only 80% of its pre-Katrina numbers.[159]

This displacement, like Tulsa's, was similarly in part a result of the antics of the insurance industry. Rather than payout claims for storm damage to the insured in and around New Orleans, the industry chose to fight against paying out the claims on the grounds that it was unclear whether the damage was caused by storms or by flooding—the latter of which is outside of their purview and requires a separate, federal insurance policy.[160] Perhaps unsurprising given its historical favoritism, the industry's arguments were eventually successful and, like the arson of the 1970s before it, paved the way for the

home ownership and a drop in average occupational status among blacks); *see also* Yulia Parshina-Kottas et al., *What the Tulsa Race Massacre Destroyed*, New York Times (May 24, 2021), https://www.nytimes.com/interactive/2021/05/24/us/tulsa-race-massacre.html ("They also faced another kind of white resistance: a fire ordinance intended to prevent Black property owners from rebuilding on their own and insurance companies that refused to pay damage claims.").

[154] *See generally* Kirstin Butler, *Black Wall Street: Then and Now*, PBS (Feb. 1, 2021), https://www.pbs.org/wgbh/americanexperience/features/t-town-black-wall-street-then-now/ (producing photographs of Tulsa's historic Black Greenwood neighborhood 100 years after the Tulsa Race Massacre).

[155] *See generally* Ansfield, *supra* note 73 (describing the fires that began as a result of Black and Puerto Rican outrage because institutionalized racism).

[156] *See id.* at 902–03.

[157] *See* Katy Osborn, *How Hurricane Katrina Changed Your Finances Forever*, Money (Aug. 27, 2015), https://money.com/homeowners-insurance-katrina/; *see also* The Editors of Encyclopaedia Britannica, *Hurricane Katrina*, Britannica (Jan. 5, 2023), https://www.britannica.com/event/Hurricane-Katrina.

[158] *See* Richard D. Knabb et al., *Tropical Cyclone Report*, Nat'l Hurricane Ctr. (Jan. 4, 2023), https://www.nhc.noaa.gov/data/tcr/AL122005_Katrina.pdf.

[159] *See* Britannica, *supra* note 157; *see also* Sarah Pruitt, *Hurricane Katrina: 10 Facts About the Deadly Storm and Its Legacy*, History (Aug. 19, 2020), https://www.history.com/news/hurricane-katrina-facts-legacy.

[160] *See Katrina Victims Lose Insurance Fight*, CBS News (Aug. 2, 2007, 2:25 PM), https://www.cbsnews.com/news/katrina-victims-lose-insurance-fight/.

industry and new, outside businesses to scoop up residents' property at bargain values; properties ripe for development and gentrification.[161]

From these examples then, it is apparent that although the industry has certainly begun to cover more people and more types of damages than it may have in 1921, it has really only changed its language and its face. Profit, as in the 18th century and before, remains the industries overwhelming motive and no excuse will be left unused, or political stone unturned, on the quest to avoid payouts it deems unnecessary.[162] As we move into a period of increasingly frequent and severe climate catastrophes[163]—catastrophes which continue to dwarf social unrest in terms of property damages—it remains unclear why the industry should keep its gaze upon the past and its fist around dollars unjustly retained rather than righting historical wrongs and turning its focus to a Green New Deal, increased development of the renewable energy sector, decreased extraction and production of fossil fuels, protecting vulnerable and oppressed populations from the effects of global warming and its accelerating industries, and other measures to mitigate its exponentially increasing payouts related to such climate-driven catastrophes.[164] In addition, the insurance industry could focus its gaze upon joining the Corporate Reparations movement and account for its past wrongdoing and harm inflicted upon marginalized communities. The industry should step in where the courts and legislatures have thus far failed and, barring such just actions on their part, perhaps it is yet again time to consider the proposals of the 18th century that public insurance companies be established for the benefit of the public weal.[165]

CONCLUSION

In conducting this research and drafting our findings, it appears manifest to us that The Hartford, Great American Insurance, CNA Financial, Chubb and many other similarly situated insurance corporations should join the

---

[161] *See* Naomi Klein, The Shock Doctrine: The Rise of Disaster Capitalism 6, 519, 532 (2007) (following the cleanup, publicly owned housing projects were replaced with bigger homes and condos, locally controlled public schools were replaced with private charter schools, and private security agencies were brought in to guard the gated communities of the city).

[162] *See* Council, *supra* note 18; *see also* Ryan, *supra* note 152; *see also* Zarroli, *supra* note 129.

[163] *See* Eric McDaniel, *Weather Disasters Have Become 5 Times As Common, Thanks In Part To Climate Change*, NPR (Sept. 7, 2021, 2:10 PM), https://www.npr.org/2021/09/07/1034607602/weather-disasters-have-become-five-times-as-common-thanks-in-part-to-climate-cha; *see also* Jim Bendell, Deep Adaptation: A Map for Navigating Climate Tragedy 1, (July 27, 2018) (unpublished paper) (on file with Stanford University).

[164] *See* Claire Hao, *Is There a War Between California and Home Insurers? State Insurance Commissioner Responds*, S.F. Chron. (Jun. 24, 2023), https://www.sfchronicle.com/california/article/home-auto-insurance-coverage-18162066.php (showing that as of June 2023, the insurance industry seems to once again be responding to this need by refusing to write new and forward-looking policies thereby forcing those insured populations to look to state agencies for assistance).

[165] *See* Farber, *supra* note 39, at 60, 72–73.

chorus of corporate leadership that acknowledge the wrongs they have historically committed and promise to provide reparative funding to those communities harmed.[166] Myriad options exist for The Hartford, Great American, Chubb, and CNA Financial to fund reparative initiatives, by committing some of its massive current earnings to restore the communities devastated by the insurance industry's refusal to pay out claims it should have.[167]

At first blush, insurance companies could provide low cost or no cost insurance, including life, medical, and automobile insurance, to the heirs of those black Americans in Tulsa and around the nation whose policy claims were wrongly denied and where considerable generational wealth was stolen. Insurance companies could make direct reparative payments to descendants of those business and home owners whose insurance policies were denied based on the dubious "riot" exclusion that so many insurance companies relied on to further devastate black Tulsans and other black and brown Americans around the nation. Insurance companies could establish education funds and scholarships for black residents of Tulsa (and other impacted cities) providing avenues of enrichment and uplift. Insurance companies could establish hiring programs and training opportunities for black Tulsans and African Americans nationally to work within their companies to earn sterling wages once appropriately hired and trained. Again, the options that exist to make right the wrongs that were inflicted upon black Americans following the Tulsa Race Massacre are myriad.

Will the corporate leaders of these historically oppressive and discriminatory insurance organizations take ownership for the ways that they have destroyed black wealth and contributed to the devastation of black communities by joining the refrain of Fortune 1000 companies around the world in committing to Corporate Reparations and being part of the solution to ending systemic

---

[166] *See Diversity, Equity and Inclusion*, THE HARTFORD, https://www.thehartford.com/about-us/corporate-diversity (last visited Aug. 1, 2023) (showing The Hartford has adopted DEI or Corporate Social Responsibility statements that they promote on their company website and promotes their efforts to give back to their communities, establish affinity groups, promote educational opportunities and support their employees. No mention is made at the website or in any material that we could locate after significant searching, of any efforts to reconcile with their past claim denials or culpability in the Tulsa Race Massacre); *see Corporate Social Responsibility*, AM. FIN. GROUP, https://www.afginc.com/about-us/corporate-social-responsibility (last visited Aug. 1, 2023) (showing and the Great American Insurance Group (through its parent American Financial Group, Inc.) has adopted DEI or Corporate Social Responsibility statements that they promote on their company website and promotes their efforts to give back to their communities, establish affinity groups, promote educational opportunities and support their employees. No mention is made at the website or in any material that we could locate after significant searching, of any efforts to reconcile with their past claim denials or culpability in the Tulsa Race Massacre).

racism in the United States? Our hope is that this piece will serve as an invitation to these companies to choose to do the right thing.