

TEXAS INSURANCE LAW NEWSBRIEF

SEP 6, 2017

HURRICANE HARVEY & MDJW

With much of the Houston business community reopening on Tuesday following the devastation to the nation's 4th largest city following the 5-day flooding from Hurricane Harvey, our law firm's main office has already been dealing with a multitude of legal issues arising out of what is being described as the largest rain event in US history. Although several of our lawyers and staff in Houston experienced flooding to property they own, many of our Houston lawyers worked throughout the storm last week and our Dallas and Austin offices were unaffected in any way. Our Houston Office reopened on Thursday of last week. Since Harvey's landfall near Rockport, our lawyers have already been handling a multitude of legal issues related to Harvey including:

CAT team claims training;

CAT claims guidelines for Harvey;

Agent training;

Agent liability (with 80% of losses lacking flood coverage, agent blame has already started);

The new hail and wind statute, effective September 1st, and its impact on Harvey claims and future cases;

Wind vs water Texas style (in contrast to Louisiana in Katrina);

Insurance MDL's in Texas and the precedent for storm-wide MDLs for carriers in future cases;

Flood coverage issues;

Texas' Prompt Payment of Claims statute in CATs including unanswered questions;

Business Interruption coverage issues in Texas;

Anti-current causation case law and Texas' differences;

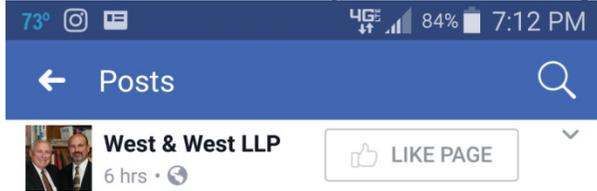
Bad faith litigation avoidance including lessons learned from Rita, Ike and recent wind/hail wars in Texas; and

Texas Public Adjuster statute and issues for hurricane claims and lawsuits.

Over the next few months, many more legal issues will arise in the claims and lawsuits following this epic storm event. In future issues of our firm's weekly publication, we will be looking at each of these issues in more detail and also addressing new issues of interest to those insurers impacted by Harvey claims and lawsuits. Our *Insurance Newsbrief* is in its 17th year of publication and will continue weekly as we keep those insurers doing business in Texas abreast of new claim issues, new case law, new trial results, new TDI announcements and other legal news of interest to our readers. For help or insight on *any* of the legal issues arising out of Hurricane Harvey, contact any of our lawyers.

HARVEY INSURANCE HYSTERIA

While Harvey made landfall, Texas policyholder attorneys inundated social media, online publications, and evacuees at shelters with dire warnings of changes to Texas insurance laws that would go into effect last Friday, September 1st. The policyholder attorneys' campaign showed a unified and aggressive position of great alarm while flooding and evacuations were still happening statewide. Our firm counted 27 different policyholder firms transmitting the same basic message across every digital platform available while the torrential rains were still falling across Texas, and we presume there were many more which we didn't see.



To those affected by Hurricane Harvey:

If you will remember, in the 2017 Legislative Session, a majority of your state lawmakers changed the laws which help property owners recover losses after a storm like Harvey and hampered your ability to hold your insurance company accountable if they slow pay, low pay, or no pay.

Well, the new law goes into effect SEPTEMBER 1!! This law will make it harder for you to get the insurance companies to pay what they are supposed to pay when they are supposed to pay it.

From an email I just received from State Bar President-Elect, Joe Longley (longtime insurance law guru and consumer advocate):

"To take advantage of current Texas Insurance Law protecting property owners' with regard to damage claims resulting from HURRICANE HARVEY, policyholders should send a written message or email directly to their insurance company that (1) specifically references their claim; AND (2) is dated BEFORE SEPTEMBER 1, 2017.

 Write a comment...  

We anticipated that this would mean insurance lawsuits being filed sooner than we typically see following a major storm, and that is exactly what happened. As reported this week by [Claims Journal](#), the first Harvey lawsuit was filed on Thursday, August 31st, less than one day after the rains of Harvey stopped in Houston and while city-wide evacuation efforts were still underway. [Article](#). In response to panicked policyholders and sensational claims by plaintiffs' lawyers statewide, both the Texas Department of Insurance and Governor Greg Abbot spoke on the issue by reassuring policyholders that *none* of the laws affecting their claims had changed. [TDI Statement](#) Governor Abbot called the policyholder attorneys' recent unified attack "bogus." [VIDEO](#) But, the damage may have already been done perceptually, and that was presumably the primary goal of the policyholder lawyers who sparked last week's panic over the new wind/hail legislation.