

THOUGHT LEADERSHIP

News

HOUSTON COURT OF APPEALS DECLINES TO COMPEL TRIAL JUDGE TO ABATE DISCOVERY IN HURRICANE CASE PENDING APPRAISAL

Newsbrief

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Last Tuesday, in *In re Cypress Texas Lloyds*, No. 14-11-00726-CV, 2011 WL 4367140, the Houston 14th Court of Appeals declined to grant Cypress Texas Lloyds' writ of mandamus which requested the Court compel the trial court judge — the Honorable Mike Miller (presiding judge over all Hurricane Ike pre-trial matters) — to abate the litigation pending appraisal. This case arises from a dispute over the amount of covered losses under a homeowner's insurance policy. The trial court granted Cypress Texas Lloyds' motion to compel appraisal, but denied its motion to abate litigation pending appraisal. The carrier then filed a mandamus. The Court of Appeals relied on the Texas Supreme Court's recent opinion in *In re Universal Underwriters of Texas Ins. Co.*, No. 10-0238, 2011 WL 1713278, (Tex. May 6, 2011), in which it determined that "[t]he trial court's failure to grant the motion to abate is not subject to mandamus, and the proceedings need not be abated while the appraisal goes forward." The Court of Appeals found, therefore, that Cypress Texas Lloyds had not established entitlement to the extraordinary relief of a writ of mandamus.