



Mealey's® Litigation Report: Catastrophic Loss

Mealey's Litigation Report: Catastrophic Loss tracks coverage liability arising from Superstorm Sandy, the Gulf Oil Spill, Hurricanes Katrina, Irene, Rita, Wilma, Ivan, Ike and Gustav; the September 11 terrorist attacks; tropical storms; tornados; earthquakes; rainstorms; hailstorms; power outages; Nor'easters, and much more.

Litigation Snapshot

Superstorm Sandy coverage cases continue to mount as New Jersey and New York insureds are challenging how their insurers have handled their claims. Sinkhole coverage disputes are dominating the Florida court system. The Amtrak derailment in Philadelphia in May 2015 has also sparked much personal injury litigation. Lawsuits stemming from Hurricane Katrina and the Sept. 11, 2001, terrorist attacks continue to linger on. In addition to specific catastrophic events, business interruption loss and insurance business practices are two key topics that are explored in this publication.

Areas of Coverage

- » Catastrophic losses
- » Business interruption loss
- » Insurance business practices
- » Flood damage
- » Terrorist acts
- » Construction failure
- » Policy exclusion
- » Number of occurrences

Who Needs to Know

- » Attorneys who focus on toxic torts
- » Corporate counsel for chemical companies
- » Attorneys representing manufacturers of allegedly toxic substances
- » Counsel for insurance companies defending manufacturers
- » Corporate risk managers
- » Judges and court staff

How Lexis Legal News Can Help

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Sample Newsletter and Section News

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To: Jane.Doo@Firm.com
Subject: Mealey's Litigation Report: Catastrophic Loss, January 2016, Volume 11, Issue 04

SECTION HEADER

Links to the topical section of Lexis Legal News.

Lexis® Legal News

MEALEY'S CATASTROPHIC LOSS

Hurricane Isaac

Insured Not Entitled To Full Payment Of Hurricane Isaac Claim, 5th Circuit Affirms

NEW ORLEANS — The Fifth Circuit U.S. Court of Appeals on Jan. 8 affirmed a lower federal court's finding that an insured has failed to demonstrate that it submitted a properly documented proof of loss as required under its Standard Flood Insurance Policy (SFIP) in a coverage dispute arising from Hurricane Isaac damage (Construction Funding, LLC v. Fidelity National Indemnity Insurance Co., No. 15-30040, 5th Cir., 2016 U.S. App. LEXIS 297).

Louisiana High Court Majority Denies Insureds' Appeal In Hurricane Isaac Dispute

NEW ORLEANS — A majority of the Louisiana Supreme Court refused to disturb an appeals court's ruling that sustained a federal flood insurer's exception of lack of subject matter jurisdiction in a Hurricane Isaac coverage dispute, according to a Jan. 8 news release (Louis Rodriguez-Roble And Marisol Soto-Ayala v. American National Property and Casualty Co., No. 2015-C-1953, La. Sup.).

Wind/Hailstorm

Texas High Court Grants Stay Of Electronic Discovery In Wind / Hailstorm Dispute

AUSTIN, Texas — The Texas Supreme Court granted an insurer's motion to stay discovery of electronically stored information (ESI) pending resolution of its petition for writ of mandamus in a bad faith lawsuit arising from alleged hail and wind damage, according to its Jan. 8 pronouncement (In Re State Farm Lloyds, No. 15-0905, Texas Sup.).

ARTICLE HEADLINE

Links to the full article, related stories, related documents and comments section.

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Mealey's Catastrophic Loss

January 19, 2016
Panel Reverses \$25,000 Award For Insured's Contents Loss In Hurricane Isaac Suit
NEW ORLEANS — The Fifth Circuit U.S. Court of Appeals on Jan. 15 reversed a lower federal court's \$25,000 award plus interest in favor of an insured in a dispute over contents loss coverage, finding that the insured failed to submit the required signed proof of loss for the claimed damages stemming from Hurricane Isaac (Elvin Cummings v. Fidelity National Indemnity Insurance Co., No. 14-31125, 5th Cir., 2016 U.S. App. LEXIS 723).

January 15, 2016
Texas High Court Dismisses Hotel Tax Liability Coverage Suit After Parties Settle
AUSTIN, Texas — The Texas Supreme Court dismissed an insurer's appeal in a dispute over excess coverage for defense costs incurred in an underlying lawsuit alleging that the insured failed to fully remit hotel taxes, according to its Jan. 15 pronouncement (Illinois Union Insurance Co. v. Sabre Holdings Corporation, et al., No. 15-0716, Texas Sup.).

January 13, 2016
Louisiana High Court Majority Denies Insureds' Appeal In Hurricane Isaac Dispute
NEW ORLEANS — A majority of the Louisiana Supreme Court refused to disturb an appeals court's ruling that sustained a federal flood insurer's exception of lack of subject matter jurisdiction in a Hurricane Isaac coverage dispute, according to a Jan. 8 news release (Louis Rodriguez-Roble And Marisol Soto-Ayala v. American National Property and Casualty Co., No. 2015-C-1953, La. Sup.).

January 11, 2016
Insured Not Entitled To Full Payment Of Hurricane Isaac Claim, 5th Circuit Affirms
NEW ORLEANS — The Fifth Circuit U.S. Court of Appeals on Jan. 8 affirmed a lower federal court's finding that an insured has failed to demonstrate that it submitted a properly documented proof of loss as required under its Standard Flood Insurance Policy (SFIP) in a coverage dispute arising from Hurricane Isaac damage (Construction Funding, LLC v. Fidelity National Indemnity Insurance Co., No. 15-30040, 5th Cir., 2016 U.S. App. LEXIS 297).

January 11, 2016
Texas High Court Grants Stay Of Electronic Discovery In Wind / Hailstorm Dispute
AUSTIN, Texas — The Texas Supreme Court granted an insurer's motion to stay discovery of electronically stored information (ESI) pending resolution of its petition for writ of mandamus in a bad faith lawsuit arising from alleged hail and wind damage, according to its Jan. 8 pronouncement (In Re State Farm Lloyds, No. 15-0905, Texas Sup.).

January 11, 2016
Mississippi Majority Affirms No Coverage Ruling In Hurricane Katrina Barge Dispute
A majority of the Mississippi Supreme Court on Jan. 7 affirmed an appeals court's rejection of a negligence lawsuit arising from a casino barge that collided with the same Katrina (Cherri R. Porter v. Grand Casino of Mississippi Inc., et al., No. 2010-CT-00307-Miss. LEXIS 3).

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Texas High Court Grants Stay Of Electronic Discovery In Wind / Hailstorm Dispute

Mealey's (January 11, 2016, 1:26 PM ET) — AUSTIN, Texas — The Texas Supreme Court granted an insurer's motion to stay discovery of electronically stored information (ESI) pending resolution of its petition for writ of mandamus in a bad faith lawsuit arising from alleged hail and wind damage, according to its Jan. 8 pronouncement (In Re State Farm Lloyds, No. 15-0905, Texas Sup.).

Lawsuits were brought against State Farm Lloyds in the 200th Judicial District Court of Hidalgo County, Texas, alleging breach of contract, violations of the Texas Deceptive Trade Practices Act and Chapters 541 and 542 of the Texas Insurance Code, breach of the duty of good faith and fair dealing, fraud and conspiracy to commit fraud.

The insureds alleged that State Farm acted in bad faith by underpaying their property damages resulting from hail and wind storms.

Discovery Motion

On June 26, 2014, the plaintiffs moved for entry of an ESI protocol, arguing that Texas Rule 199.4 of Civil Procedure provided them with a unilateral right to receive their chosen form of production.

The next month, Judge Rose Guerra Reyna appointed Roberto Ramirez as special discovery master. On Oct. 1, 2014, Ramirez issued a recommendation that accepted the plaintiffs' proposed ESI protocol without explanation. Judge Reyna adopted the recommendation and on Oct. 17, 2014, entered entry of the ESI protocol.

On Nov. 15, 2014, State Farm filed a petition for writ of mandamus and motion for stay in the 13th Court of Appeals. Three days later, the stay was granted.

The appeals court denied State Farm's mandamus petition on Oct. 23 and filed the stay.

Table with sections: Pending Version, Documents (Relators petition for writ of mandamus, Relators motion to stay pending mandamus, Relators petition for writ of mandamus (Ramirez plaintiffs), Relators motion to stay pending mandamus (Ramirez plaintiffs)), Related (Mealey's Catastrophic Loss, Mealey's Discovery, Mealey's Insurance Bad Faith)