

IN RE	§	IN THE DISTRICT COURT OF
	§	
	§	
HURRICANE IKE RESIDENTIAL	§	HARRIS COUNTY, TEXAS
PROPERTY CLAIM LITIGATION	§	
	§	
	§	11 <sup>TH</sup> JUDICIAL DISTRICT

**MASTER DISCOVERY TO  
INSURER AND ADJUSTER DEFENDANTS**

**DEFINITIONS**

**(FOR ALL WRITTEN DISCOVERY IN HURRICANE IKE LITIGATION)**

1. “You” or “Your” means the party responding to these requests..
2. “The Policy” means the insurance policy that is the basis of claims made against Defendant in this lawsuit.
3. “Insured Location” means the real property at the location described in the Policy declarations.
4. “Dwelling” means the dwelling located at the Insured Location at the time of Hurricane Ike.
5. “Other Structures” means any structures located at the Insured Location during Hurricane Ike that are set apart from the Dwelling by a clear space, including those connected only by a fence, utility line, or similar connection.
6. “Other Damages” means debris removal, temporary repairs, tree and shrub removal, personal property removal and storage, loss of use and additional living expenses.
7. “Personal Property” means any or all of the personal property and business personal property that is the subject of the claims made against Defendant in this lawsuit.
8. “Your Counsel” means the attorney or attorneys who are representing or have represented you either with regard to the claim or in this lawsuit.

9. "The Claim" means the insurance claim made the basis of the breach of contract claim You have made against Defendant in this lawsuit.
10. "Written Communication" means the conveyance of information by a writing, whether by letters, e-mails, memoranda, handwritten notes and/or faxes.
11. "Document" means letters, words or numbers or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic or electronic impulse, mechanical or electronic recording, or other form of data compilation. *See* Texas Rule of Evidence 1001(a). "Document" specifically includes information that exists in electronic or magnetic form.
12. "Witness Statement" means the statement of any person with knowledge of relevant facts, regardless of when the statement was made, and is a (1) written statement signed or otherwise adopted or approved in writing by the person making it, or (2) a stenographic, mechanical, electrical, or other type of recording of a witness's oral statement, or any substantially verbatim transcript of such recording. *See* Texas Rule of Civil Procedure 192.3(h).
13. "Date" means the exact date, month and year, if ascertainable, or, if not, the best available approximation.

## **INSTRUCTIONS**

1. You are requested to produce photographs, video recordings and audio recordings that were created or stored electronically.
2. Pursuant to Rule 196.4, you are requested to produce electronic or magnetic data responsive to the Requests for Production below in tiff or pdf searchable format, including email, instant message and pdf forms of the documents.
3. These requests specifically exclude any report prepared pursuant to paragraph F of the Standing Pretrial Order Concerning Residential Ike Cases dated May 26, 2009

## INTERROGATORIES

1. Please identify any person you expect to call to testify at the time of trial.

ANSWER:

2. Identify the persons involved in the investigation and handling of Plaintiff's claim for insurance benefits arising from damage during Hurricane Ike, and include a brief description of the involvement of each person identified, their employer, and the date(s) of such involvement.

ANSWER:

3. If you performed any investigative steps in addition to what is reflected in the claims file, please generally describe those investigative steps conducted by you or any of your representatives with respect to the facts surrounding the circumstances of the subject loss. Identify the persons involved in each step.

ANSWER:

4. Identify by date, author, and result the estimates, appraisals, engineering, mold and other reports generated as a result of your investigation.

ANSWER:

5. State the following concerning notice of claim and timing of payment:
  - a. The date and manner in which you received notice of the claim
  - b. The date and manner in which you acknowledged receipt of the claim
  - c. The date and manner in which you commenced investigation of the claim
  - d. The date and manner in which you requested from the claimant all items, statements, and forms that you reasonably believed, at the time, would be required from the claimant
  - e. The date and manner in which you notified the claimant in writing of the acceptance or rejection of the claim

ANSWER:

6. Identify by date, amount and reason, the insurance proceed payments made by you to the Plaintiffs.

ANSWER:

7. Has Plaintiff's claim for insurance benefits been rejected or denied? If so, state the reasons for denying the claim.

ANSWER:

8. Please identify the written procedures or policies (including document(s) maintained in electronic form) you maintained for your internal or third party adjusters to use in connection with handling property and casualty claims arising out of Hurricane Ike.

ANSWER:

9. When was the date you anticipated litigation?

ANSWER:

10. From September 1, 2008 to the present, what documents (including those maintained electronically) relating to the investigation or handling of a claim for windstorm insurance benefits are routinely generated during the course of the investigation and handling of a claim by you (e.g. Investigation Reports; z-records; reserves sheet; electronic claims diary; a claims review report; team controversion report)?

ANSWER:

11. Have any documents (including those maintained electronically) relating to the investigation or handling of Plaintiff's claim for insurance benefits been destroyed or disposed of? If so, please identify what, when and why the document was destroyed, and describe your document retention policy.

ANSWER:

12. Do you contend that the insured premises was damaged by flood water, storm surge and/or any excluded peril? If so, state the general factual bases for this contention.

ANSWER:

13. Do you contend that any act or omission by the Plaintiffs voided, nullified, waived or breached the insurance policy in any way? If so, state the general factual bases for this contention.

ANSWER:

14. Do you contend that the Plaintiffs failed to satisfy any condition precedent or covenant of the policy in any way? If so, state the general factual bases for this contention.

ANSWER:

15. How is the performance of the adjusters involved in handling Plaintiff's claim evaluated? State the following:
- a. what performance measures are used
  - b. describe your bonus system for adjusters
  - c. describe your incentive plan for adjusters

ANSWER:

**REQUEST FOR PRODUCTION OF DOCUMENTS**

1. The claim files from the home, regional, local offices, and third party adjusters/adjusting firms regarding the claim that is the subject of this matter, including copies of the file jackets, "field" files and notes, and drafts of documents contained in the file.

RESPONSE:

2. The underwriting files referring or relating in any way to the policy at issue in this action, including the file folders in which the underwriting documents are kept and drafts of all documents in the file.

RESPONSE:

3. A certified copy of the insurance policy pertaining to the claims involved in this suit.

RESPONSE:

4. The electronic diary, including the electronic and paper notes made by Defendant's claims personnel, contractors, and third party adjusters/adjusting firms relating to the Plaintiff's claims.

RESPONSE:

5. Your written procedures or policies (including document(s) maintained in electronic form) that pertain to the handling of windstorm claims in Texas from 2007 to today.

RESPONSE:

6. Your written procedures or policies (including document(s) maintained in electronic form) in place from 2007 to August 31, 2009 that pertain to the handling of complaints made by windstorm policyholders.

RESPONSE:

7. The Operation Guides which relate to the handling of Hurricane Ike claims in Texas in effect from September 1, 2008 to August 31, 2009.

RESPONSE:

8. The adjusting reports, estimates and appraisals prepared concerning Plaintiff's underlying claim

RESPONSE:

9. The engineering and mold reports prepared concerning Plaintiff's underlying claim

RESPONSE:

10. The engineering reports in your possession regarding Hurricane Ike damage to property within a one-mile radius of the Plaintiff's insured property.

RESPONSE:

11. The plumbing reports prepared concerning the Insured Location

RESPONSE:

12. The roofing repair reports prepared concerning the Insured Location

RESPONSE:

13. The field notes, measurements and file maintained by the adjuster(s) and engineers who physically inspected the subject property.

RESPONSE:

14. The emails, instant messages and internal correspondence pertaining to Plaintiff's underlying claim.

RESPONSE:

15. The videotapes, photographs and recordings of Plaintiff or Plaintiff's home, regardless of whether you intend to offer these items into evidence at trial.

RESPONSE:

16. Defendant's internal newsletters, bulletins, publications and memoranda relating to policies and procedures for handling Hurricane claims that were issued from September 2005 through August 31, 2009 including, but

not limited to, memoranda issued to claims adjusters.

RESPONSE:

17. The price guidelines that pertain to the handling of claims arising out of Hurricane Ike.

RESPONSE:

18. The Plaintiff's file from the office of their insurance agent.

RESPONSE:

19. The information regarding weather and storm surge conditions on which you relied in making decisions on the Plaintiff's claims.

RESPONSE:

20. The documents, manuals, and training materials, including audio and/or video tapes used in training, overseeing, or supervising your personnel employed in adjusting property and casualty claims.

RESPONSE:

21. "Pay sheet," "Payment Log," or list of payments made on Plaintiff's claim. This includes all indemnity, claim expenses and third party payments.

RESPONSE:

22. The billing statements, including billing detail, of the independent adjusters and engineers retained to evaluate the subject property.

RESPONSE:

23. The documents reflecting reserves applied to the subject claim.

RESPONSE:

24. For the past five years, the portions of the personnel file of the adjuster(s) or claims handlers involved in handling Plaintiff's claim that pertain to



disciplinary actions associated with claims handling, or performance under a bonus/incentive plan.

RESPONSE:

25. The managerial bonus incentive plan for managers responsible for windstorm claims in effect for the time period January 1, 2008 through August 31, 2009.

RESPONSE:

26. The bonus incentive plan for adjusters and claims handlers in effect for the time period January 1, 2008 through August 31, 2009.

RESPONSE:

27. The documents reflecting your criteria and procedures for the selection and retention of independent adjusters and engineers handling windstorm claims on the Texas Gulf Coast from September 1, 2008 through August 31, 2009.

RESPONSE:

28. If a third party engineer evaluated the subject property, provide the documents that show the number of other matters in which the same engineers were retained by you to evaluate other properties over the past five years.

RESPONSE:

29. The Complaint Log required to be kept by you for windstorm complaints filed over the past three years.

RESPONSE:

30. Your approved or preferred vendor list for engineers, third party adjusters/adjusting companies, roofers and contractors, for windstorm claims on the Texas Gulf Coast from September 1, 2008 through August 31, 2009.

RESPONSE:

31. The contract between the Defendant insurer and the Defendant third party adjusting company.

RESPONSE:

32. The correspondence between the Defendant insurer and the third party adjusters/adjusting firms, engineers and other estimators who worked on the claim that pertain to the Claim at issue.

RESPONSE: