

Question:

“Post-Hurricane Harvey, what claims and litigation issues do you foresee occurring?”



“Harvey raises many coverage issues ranging from occurrence limits to application of sub-limits and deductibles, to business interruption claims where there is no physical damage to insured property. This catastrophe is a grim reminder of the power of hurricanes and an opportunity to mitigate the risks of wind and flood and improve resilience.”

Robert Fisher,
Partner, Clyde & Co.
CLM Member since 2017.



“Much of Houston’s flooded areas may not have flood insurance. Katrina-like fights over wind versus water and which came first are likely to occur in an effort to trigger coverage under a homeowner’s policy. Insurers should be ready to investigate and defend.”

James R. Nieset, Jr.,
Partner, Porteous,
Hainkel & Johnson.
CLM Member since 2011.



“There will undoubtedly be a slew of coverage issues that emerge, including whether anti-concurrent provisions bar coverage when property damage was caused by a covered and non-covered peril; interpreting and applying back up of sewer and drain exclusions and endorsements; and whether policies provide for contingent, civil authority, and ingress and egress business income coverage.”

Nicole Gallagher,
Associate, BatesCarey
LLP. CLM Member since 2017.



“While Harvey will likely spawn numerous coverage issues and disputes, the applicability and scope of any mandated mediation/ arbitration programs or some other form of alternative dispute resolution as a mechanism to resolve disputed claims will likely be an issue in an attempt to avoid mass litigation.”

Seth Weinstein,
Partner, Lewis
Brisbois. CLM
Member since 2013



“Floods create an abundance of contamination-related losses. Not even just homes and commercial buildings with mold/ bacteria exposures, but also chemicals in storage being released. There will be coverage disputes between the various fungi, bacteria, and pollution exclusions on property and liability policies.”

Kari Dybdahl,
EVP and Director of
Operations, American
Risk Management
Resources Network
LLC. CLM Fellow since 2017.

11

Number of hurricane seasons that have passed since a major hurricane (Category 3 or higher) made U.S. landfall (Wilma in October 2005).
Source: NASA

\$23 billion

Amount of money the National Flood Insurance Program (NFIP) owed the Treasury as of March 2016. Hurricane Katrina and Superstorm Sandy are responsible for the vast majority of the debt.
Source: GAO

20%

Percent (estimated) of homeowners with flood damage in Texas who have flood insurance.
Source: Consumer Federation of America