

## Hurricane Ike

Hurricane Ike was by far the costliest hurricane in Texas history. When it made landfall on the Texas coast, Zelle was prepared to represent its insurance clients in the onslaught of complex claims that ensued. Zelle attorneys represented numerous clients in claims involving a variety of business sectors, including chemical, petrochemical, refining, retail, retirement homes, commercial housing, manufacturing and other commercial property. The firm also developed particular expertise in insurance coverage disputes involving risk purchasing groups.

The issues presented by these claims were numerous:

- Application of Named Storm Limits and Deductibles
- Priority of Payments, Drop Down and Attachment of Excess Coverage
- Utility Service Interruption
- Code Compliance and Increased Cost of Construction
- Business Interruption
- Choice of Law
- Pre-Existing Damage Evaluation
- Coverage for Unscheduled Locations
- Enforcement of Appraisal
- E-discovery

With unmatched property insurance experience and a timely response, Zelle helped numerous clients navigate, evaluate and sometimes completely eliminate their hurricane exposures. While Zelle attorneys were able to assist their clients in resolving many of these claims pre-suit, either through consultation in the adjustment phase, appraisal, or alternative dispute resolution, other claims were litigated in numerous state and federal courts.

Three of the more notable Hurricane Ike cases handled by Zelle include:

***Brelian Inc. v. Liberty Mutual Fire Ins. Co.***, in the U.S. District Court for the

Southern District of Texas, Civil Action No. H-09-1383. Zelle defended Liberty Mutual Insurance Company in this claim for property damage and alleged bad faith arising from Hurricane Ike. The policyholder demanded Liberty Mutual pay additional insurance proceeds, attorneys fees and other penalties at the conclusion of an appraisal. Finding that Liberty Mutual appropriately tendered amounts due under the commercial property policy pursuant to the appraisal award, a Texas federal judge granted summary judgment to Liberty Mutual on the policyholder's claims for breach of contract, bad faith, attorneys fees and other alleged violations of the Texas Insurance Code.

***In Re Continental Casualty Company***, in the Texas Court of Appeals, 14th District, Cause No. 14-10-709-CV. Continental Casualty Company insured multiple commercial buildings in and around the Houston metropolitan area, which were reportedly damaged during Hurricane Ike. At the conclusion of the adjustment, a dispute arose regarding the amount of loss and Continental demanded appraisal pursuant to the policy. The trial court denied Continentals right to appraisal. Zelle filed a Writ of Mandamus on behalf of Continental asking the Court of Appeals to enforce the appraisal clause in the policy. The Court of Appeals conditionally granted the Writ requiring the policyholder to participate in appraisal as the policy required.

***Hurricane Ike Suit In Federal Court In Galveston, Texas.*** A client's insured (a steel mill) filed a lawsuit in the fall of 2010 claiming it suffered approximately \$116 million in business interruption losses as a result of property damage from Hurricane Ike and seeking \$150 million in extra-contractual damages for alleged bad faith conduct. The case settled in January 2012 after five days of trial.

These are just a few examples of numerous matters in which the firm has represented its insurance clients as they responded to claims in the aftermath of Hurricane Ike.