



HIDALGO COUNTY HAILSTORM REPORT



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This memo presents an overview of data collected from the Hidalgo County District Clerk related to “Hail Storm 2012” cases filed in Hidalgo County from April 1, 2012 through May 31, 2014.

Summary of Findings

- Two devastating hail storms struck Hidalgo County on or about March 29, 2012 and April 20, 2012. As a result thousands of cases have been filed in Hidalgo County involving insurance disputes arising out of the hail storms.
 - The 93rd, 206th and 370th District Courts of Hidalgo County have been assigned to handle all pretrial matters for residential and commercial property insurance cases filed in the District Courts of Hidalgo County.
 - In general, most lawsuits over insurance claims following weather damage must be filed within two years; however it is unclear and there is differing evidence as to what starts this two year period – the date the insurance claim was filed or the date the damage occurred.
- Between April 1, 2012 and May 31, 2014 a total of 5,972 “Hail Storm 2012” cases were filed in Hidalgo County.
- A total of 2,513 cases were filed in March 2014 and April 2014 – meaning more than 42% of all “Hail Storm 2012” cases were filed during two of the final months of the period reviewed. The number of cases filed in May 2014 dropped significantly, to 232 cases filed.
- Searches show that there were no “Hail Storm 2012” cases filed from April 1, 2012 to April 30, 2012. The first cases related to the “Hail Storm 2012” in Hidalgo County were not filed until May 2012.
- Only 866 “Hail Storm 2012” cases were filed in Hidalgo County from May 1, 2012 through April 30, 2013, the first twelve months of the period reviewed when cases were filed.
- In general, the number of case filings consistently increased each month during the first year reviewed, peaking in May 2013. The number of filings began to decline again beginning in June 2013, until spiking dramatically in March 2014 and April 2014.
- J. Steve Mostyn has filed 719 “Hail Storm 2012 cases,” with the majority being filed in March 2014 and April 2014. In fact, Mostyn did not file a single “Hail Storm 2012” case until January 2013.

- Other attorneys in Mostyn’s law firm have filed an additional 893 “Hail Storm 2012” cases. This means that Mostyn and other attorneys in his law firm have filed a total of 1,612 “Hail Storm 2012 cases,” representing 27% of all the cases filed.
- Out of the 1,612 cases filed by Mostyn and the other attorneys in his law firm, 724 of these cases were filed during two of the final months of the period reviewed (March 2014 – April 2014), meaning nearly half of the “Hail Storm 2012” cases they filed occurred during this two-month period. Mostyn and the other attorneys in his law firm only filed an additional 42 cases in May 2014.
- Mostyn has filed more cases related to the “Hail Storm 2012” in Hidalgo County than any other attorney. In fact, three attorneys from Mostyn’s law firm, (including Mostyn) are among the top seven attorneys filing the most “Hail Storm 2012” cases.
- Including Mostyn and two other attorneys in his law firm, seven attorneys have each filed 200 or more “Hail Storm 2012” cases in Hidalgo County. These seven attorneys have filed a total of 2,353 cases – representing nearly 40% of all cases filed.

“Hidalgo County Hail Storms 2012” & Timeline for Filing a Lawsuit

Searches show that plaintiffs generally have two years to file a lawsuit related to an insurance claim. However, it is unclear what begins that two year period – the date the damage occurred, the date the original insurance claim was filed, or some other date as set by the insurance policy. These searches are discussed in more detail in a later part of this section.

This may also mean the deadline for filing a case related to the “Hail Storm 2012” will vary among plaintiffs and it is possible that individuals will continue to file cases over the next several months. To properly determine the deadline for plaintiffs to file “Hail Storm 2012” cases an attorney familiar with Texas insurance law should be consulted.

Hail Storms Hit Hidalgo County on March 29, 2012 & April 20, 2012

In spring of 2012 two hail storms devastated several parts of Hidalgo County, the first hit on March 29, 2012 and the second occurred less than a month later, on April 20, 2012. The storms damaged several homes and cars with many homeowners not realizing the extent of damage suffered until months later.

Today marks the two-year anniversary of the devastating April 20, 2012, hailstorm that struck central Hidalgo County, shattering windows, punching through rooftops and killing unlucky animals. Many homeowners had just started recovering from another major storm on March 29.

Following the twin hailstorms, insurance payouts to Hidalgo County homeowners totaled nearly \$556 million, according to the Texas Department of Insurance. People with damaged cars received another \$47 million, according to Department of Insurance data, which lumps Hidalgo County and Cameron County auto insurance payments together...

Damage varied widely during the two storms, Moore said, and some homeowners may not have realized they actually suffered significant roof damage until months later.

[*The Monitor, April 19, 2014*](#)

According to the *Monitor*, at the time of the first storm on March 29, 2012 a flash flood warning was issued for southern Hidalgo County, including the cities of McAllen, Edinburg, and Mission where the majority of the storm hit.

The National Weather Service has issued a flash flood warning for southern Hidalgo County, where severe thunderstorms are hitting.

Police and fire officials have responded to several fires and accidents throughout the county. A tornado might have touched down near the McAllen Miller International Airport.

Residents have reported power outages, wind damage and hail throughout McAllen, Edinburg, Mission and other cities.

Several car accidents, including a rollover of a tractor-trailer have been reported.

The NWS says four to five inches of rain had fallen since 8:3 p.m. from the slow moving storms.

Widespread flooding is occurring or will happen throughout the evening. Several roads have been closed.

Homes in low-lying areas may be flooded.

[*The Monitor, March 29, 2012*](#)

Three District Courts in Hidalgo County Assigned to Handle Hail Storm Lawsuits

According to the website for the Hidalgo County District Clerk, three District Courts in Hidalgo County have been assigned to handle pretrial matters related to property insurance cases that involve disputes over coverage for damage from the March 29, 2012 and April 20, 2012 hail storms that hit several parts of the county.

The 93rd, 206th and 370th District Courts of Hidalgo County have been assigned to handle all pretrial matters for residential and commercial property insurance cases filed in the District Courts of Hidalgo County that involve insurance disputes arising out of hail storms that struck Hidalgo County on or about March 29, 2012 and April 20, 2012.

[*Hidalgo County District Clerk*](#)

Additional details related to the time frame, or statute of limitations for filings these cases was not available from the Hidalgo County District Clerk's website or from the websites for the three District Courts assigned to handle these matters.

Deadline for Filing an Insurance Lawsuit Is Generally Two Years

According to the *Southeast Texas Record*, a legal journal covering Southeast Texas, the deadline for filing a lawsuit over an insurance claim following weather damage is two years after the initial insurance claim was filed, not two years from the day the damage occurred. Therefore, the time period for each property owner to file a lawsuit would depend on when they filed their insurance claim.

HEADLINE: Deadline nears for South Texas hail damage suits

Two years ago, south Texas was hit by two devastating hailstorms. Now the statute of limitations is almost up for residents to file lawsuits over their damage claims.

Hidalgo County was struck by a storm on March 29, 2012, and another hailstorm on April 20, 2012. The Texas Department of Insurance reports payouts to homeowners totaled almost \$556 million, according to an article in the Brownsville Herald.

People with damaged cars received another \$47 million, according to Department of Insurance data, which lumps Hidalgo County and Cameron County auto insurance payments together.

Many claims to insurers were resolved, but about 2,000 lawsuits stemming from under-paid or rejected insurance claims remain pending in Hidalgo County...

Homeowners may still have a chance to file a lawsuit, as most lawsuits over insurance claims following weather damage must be filed within two years of an initial insurance claim — not the day the damage occurred.

[Southeast Texas Record, April 22, 2014](#)

A review of the Texas Insurance Code provides the same two year time limit for bringing a lawsuit against an insurance company related to an unfair or deceptive practice in settling a claim.

However, it is unclear from the code whether the date the claim is filed starts the two year period. The code states that the two years begins on the date the "deceptive act" occurred. Note that for a proper interpretation of the Texas Insurance Code and how the statute of limitation applies to the "Hail Storm 2012" cases an attorney more familiar with Texas insurance law should be consulted.

TITLE 5. PROTECTION OF CONSUMER INTERESTS

SUBTITLE C. DECEPTIVE, UNFAIR, AND PROHIBITED PRACTICES

CHAPTER 541. UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES

[continued on next page...]

Sec. 541.162. LIMITATIONS PERIOD.

(a) A person must bring an action under this chapter before the second anniversary of the following:

- (1) the date the unfair method of competition or unfair or deceptive act or practice occurred; or**
- (2) the date the person discovered or, by the exercise of reasonable diligence, should have discovered that the unfair method of competition or unfair or deceptive act or practice occurred.**

(b) The limitations period provided by Subsection (a) may be extended for 180 days if the person bringing the action proves that the person's failure to bring the action within that period was caused by the defendant's engaging in conduct solely calculated to induce the person to refrain from or postpone bringing the action.

<http://www.statutes.legis.state.tx.us/Docs/IN/btm/IN.541.htm>

Finally, a Texas legal blog, the *Property Insurance Coverage Law Blog*, does interpret Texas Insurance Code sec. 541.162 in a similar manner, noting that usually it is a two year statute of limitation for unfair insurance related practices.

The blog also states that many insurance policies may include their own language about the statute of limitations and time period in which a lawsuit must be filed, often no later than two years and one day after the loss. Again, for additional confirmation of how the statute of limitation applies in Texas and the type of language included in insurance policies an attorney familiar with Texas insurance law should be consulted.

There are few things more worrisome than running out of time to sue. So, I've come up with a short form for determining if you still have time or if the clock has already run out on your rights. There are a few rules to think about when filing your claims before a Texas court.

Here's the long and short of what you need to know:

V.T.C.A., Insurance Code § 541.162...

The short of it is: many insurance policies include their own language providing a statute of limitations. It usually allows for suits to be brought no later than 2 years and one day after the date of loss.

Texas' two-year statute of limitations governing unfair insurance related practices, rather than the four-year statute of limitations for contract actions, is appropriate when dealing with insurance policy enforcement issues.

If you have questions about whether you still have time to file your suit, break out your calendar and say a prayer that you still have time to file. This information is imperative for policyholders and their representatives. Missing the suit limitations period is costly. In fact, a lawsuit filed after the lapse of the applicable statute of limitations period is an affirmative defense to an otherwise valid claim and may bar legitimate coverage.

[*Property Insurance Coverage Law Blog, September 24, 2013*](#)

Information Requested/Provided by Hidalgo County

A Public Information Act (PIA) Request was submitted to the Hidalgo County District Clerk to obtain a docket report/case index for “Hail Storm 2012” cases filed in Hidalgo County between April 1, 2012 and April 30, 2014. This time frame was supplied by the client team. Following an initial review of the information, a supplemental request was submitted to the Hidalgo County District Clerk to obtain the same information for May 2014.

The information requested to be included in the report was as follows:

- Case Number
- Case Name
- Case Type
- Case Subtype
- Filed Date
- Attorney’s Names
- Case Status

Per the PIA requests, the Case Subtype was to be limited to all “Hail Storm 2012” cases, regardless of status (i.e. open/closed/dismissed). A response was provided by Hidalgo County both in paper copy and electronically, with the information sorted by the Filed Date, as requested.

Methodology for Examining Information and Quality Control

Primarily the information in response to the PIA requests was provided electronically, as PDF files, as shown on the next page. The two PDF files are 1,445 pages in length with several cases listed on each page. The original file contained 1,394 pages and the supplemental file with cases from May 2014 was an additional 51 pages. These same PDF files were also provided in paper printed form, with two pages printed on each individual piece of paper.

Case Index					TXHIDALGOPROD
Version: Internal Filed Date: 04/01/2012 to 04/30/2014 Sorted By: File Date					
District Clerk	92nd District Court	93rd District Court	139th District Court	206th District Court	275th District Court 332nd District Court 370th ...
File Date	Style	Case Type Case Subtype	Case Number	Case Status Date Current Case Status	
5/11/2012	DORA MALDONADO AND HUMBERTO MALDONADO VS. GERMANIA FARM MUTUAL INSURANCE ASSOCIATION	Contract - Consumer/Commerical/Debt (OCA) Hail Storm 2012 - 370th	C-1280-12-H	07/31/2013 Disposed	
	Attorney: PLA: MENDEZ, JUAN "TREY" DEF: ALLISON, DANA R.				
5/14/2012	EUTEMIA G. CASAS VS. FIRE INSURANCE EXCHANGE AND LIBERTY MUTUAL INSURANCE COMPANY	Contract - Consumer/Commerical/Debt (OCA) Hail Storm 2012 - 93rd	C-1300-12-J	04/23/2013 Disposed	
	Attorney: PLA: Scott, Danny Ray DEF: Scheihing, Robert F.				

Sample Page of Records Received from Hidalgo County District Clerk

In addition to the information requested, the Hidalgo County District Clerk provided which District Court the case was filed in, which was noted as part of the case subtype. Finally, Hidalgo County also provided the information as a Text file which was then converted to an Excel file. Following the conversion the Excel file was reviewed and multiple sorts were performed to confirm the information consistently populated the Excel file during the conversion process.

Additionally, the first 50 lines of the Excel file were compared to the printed file received from the Hidalgo County District Court to confirm the information converted correctly and that there was no missing data in the Excel file.

As an extra measure of quality control, every 100th entry on the Excel file was compared to the printed file received from the Hidalgo County District Court and several entries were also compared at random.

Next, the Excel file was reviewed and sorted to capture the information provided in the tables in the next section of this memo. The total number of rows/cases listed on the original Excel file is 5,740 and the May 2014 Excel file contains an additional 232 rows/cases. As previously mentioned, the PDF files include a combined 1,445 pages with several cases on each page.

When the number of pages is divided into the number of cases listed in the Excel files this equals about 4.13 cases per page. This is consistent with the number of cases listed on the PDFs and printed files following a visual inspection.

To obtain the information in the next section, first cases were sorted by Filed Date and the sum of all cases filed in each month of each year was entered in the "Total" column.

This number was obtained by selecting the row for each case filed in that month; Excel then calculates the number of rows/cells selected. Next cases were sorted first by the name of the Plaintiff's Attorney and then by date. This number was then entered into the corresponding column below for each month of each year.

According to a review of the Excel file there were 105 cases where no Plaintiff's Attorney is listed. A review of the PDF file confirmed that a Plaintiff's Attorney was not listed for these cases. These cases have been noted in the chart below.

Finally, the difference between the "Total," the number of cases filed by each Plaintiff's Attorney examined, and the number of cases where no Plaintiff's Attorney is listed was entered as the "Number of Cases Filed by All Others" for each month of each year.

"Hail Storm 2012" Cases Filed Each Month by the Mostyn Law Firm

In addition to examining the number of "Hail Storm 2012" cases filed in each month, the number of cases filed each month by several attorneys was also reviewed. Per the request of the client team, "Hail Storm 2012" cases filed by J. Steve Mostyn were reviewed.

According to the Mostyn Law Firm [website](#), there are several attorneys that work for the firm. Therefore, the list of attorneys that work for the Mostyn Law Firm was compared to the names of Plaintiff's Attorneys provided in the documents from the Hidalgo County District Clerk.

The number of "Hail Storm 2012" cases filed by these attorneys each month was also reviewed. A review of the Mostyn Law Firm website could not confirm whether all of these attorneys have worked for the firm since April 2012, when the "Hail Storm 2012" cases first started being filed.

Month/Year	Number of Cases Filed by J. Steve Mostyn	Number of Cases Filed by Other Attorneys in Mostyn's Law Firm	Number of Cases Filed by All Others	Number of Cases Filed where No Plaintiffs Attorney Listed	TOTAL
April 2012	0	0	0	0	0
May 2012	0	0	21	0	21
June 2012	0	0	16	0	16
July 2012	0	0	19	0	19
August 2012	0	0	30	0	30
September 2012	0	0	15	0	15
October 2012	0	0	57	0	57
November 2012	0	0	33	0	33
December 2012	0	0	72	0	72
January 2013	22	3	64	1	90
February 2013	5	2	80	2	89
March 2013	17	43	109	2	171
April 2013	7	95	142	9	253
May 2013	14	70	218	2	304
June 2013	19	53	195	0	267
July 2013	36	54	184	0	274
August 2013	12	89	194	0	295
September 2013	23	22	122	2	169
October 2013	8	13	137	4	162
November 2013	38	10	102	6	156
December 2013	26	18	163	5	212
January 2014	23	28	140	1	192
February 2014	7	89	233	1	330
March 2014	117	199	962	53	1,331
April 2014	326	82	758	16	1,182
May 2014	19	23	189	1	232
TOTAL	719	893	4,255	105	5,972

The chart on the following page shows a breakdown of the other attorney's in the Mostyn Law Firm that have filed "Hail Storm 2012" cases in Hidalgo County. The total from this chart for each month was included in the chart on the prior page.

Month/Year	Amber L. Anderson	Gregory F. Cox	Rene M. Sigman	Courtney Wadas	TOTAL
April 2012	0	0	0	0	0
May 2012	0	0	0	0	0
June 2012	0	0	0	0	0
July 2012	0	0	0	0	0
August 2012	0	0	0	0	0
September 2012	0	0	0	0	0
October 2012	0	0	0	0	0
November 2012	0	0	0	0	0
December 2012	0	0	0	0	0
January 2013	0	1	2	0	3
February 2013	0	2	0	0	2
March 2013	6	6	31	0	43
April 2013	7	24	59	5	95
May 2013	1	11	37	21	70
June 2013	2	7	39	5	53
July 2013	7	9	26	12	54
August 2013	5	5	49	30	89
September 2013	2	8	6	6	22
October 2013	5	0	8	0	13
November 2013	3	3	4	0	10
December 2013	5	12	1	0	18
January 2014	4	6	18	0	28
February 2014	33	49	7	0	89
March 2014	64	38	20	77	199
April 2014	18	35	22	7	82
May 2014	10	7	4	2	23
TOTAL	172	223	333	165	893

Seven Attorneys Have Each Filed over 200 “Hail Storm 2012” Cases in Hidalgo County

The Excel file was also sorted and examined to calculate the total number of cases filed by each attorney. This showed that there are seven attorneys that have filed 200 or more lawsuits, representing a total of 2,419 lawsuits.

The table on the next page shows these seven Plaintiff’s Attorneys that have filed 200 or more lawsuits, the number of lawsuits each have filed, and the law firm they work for. Note that three of these attorneys work for the Mostyn Law Firm, with J. Steve Mostyn having filed the most “Hail Storm 2012” cases in Hidalgo County out of all Plaintiffs’ Attorneys.

The lawyers that work for the Mostyn Law Firm were confirmed by a review of the firm’s website and a search of the Texas State Bar attorney database. The law firm the other attorneys work for was determined through a search of the Texas State Bar Attorney database.

Also included is a link to each attorney’s biography from their law firm’s website.

Rank	Attorney’s Name	Law Firm	Number of Cases Filed
1	J. Steve Mostyn	Mostyn Law Firm	719
2	Kevin S. Baker	Ketterman, Rowland and Westlund	456
3	Rene M. Sigman	Mostyn Law Firm	333
4	Richard Kent Livesay/R. Kent Livesay	Law Office of R Kent Livesay	242
5	Carolos E. Solis	Solis & Smith, P.C.	232
6	Gregory F. Cox	Mostyn Law Firm	223
7	Paul A. Smith Jr.	Solis & Smith, P.C.	214
	TOTAL		2,419