

IN RE:

HURRICANE IKE LITIGATION

**Filed in Cause No. B-0185521
for Docketing Purposes Only**

**This Document Relates to:
All Hurricane Ike Cases
Filed in Jefferson County, Texas
in which Texas Windstorm Insurance
Association is a Defendant**

§ IN THE DISTRICT COURT OF
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§ JEFFERSON COUNTY, TEXAS
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§ 136TH JUDICIAL DISTRICT

ORDER CONCERNING DEPOSITIONS

The Court, finding that there are depositions of certain individuals within Texas Windstorm Insurance Association (“TWIA”) who should not be required to be deposed on the same issues more than once, enters the following Order:

Scope of Order

This Order shall apply to all lawsuits filed in Jefferson County against TWIA concerning a claim arising from damage to residential or commercial property caused by Hurricane Ike and consolidated for discovery in this Court (hereafter “TWIA Cases”) and concerns depositions of corporate representatives, management-level employees of TWIA, certain former TWIA employees, any expert on general topics designated by TWIA in TWIA Cases and certain others (hereafter “TWIA Depositions”).

This Order applies to:

Gene Kounse

David Dicks

Terry Partlow
Don Turner
Keith Robbins
Maria Merida
Joe Rosentritt
Bill Hooper
Bill Knarr
Reggie Warren
Ray Roe
Kevin McFarlin
Jim Oliver
Bob Parrish
Susan Schiller
Tracy Todd
William Spelman
Doug Smith
John Schroeder

Any additional corporate representatives or management-level employees of TWIA shall be agreed upon by TWIA, Plaintiffs' Liaison Counsel Jason Byrd and Mike Ramsey, the discovery steering committee, or by order of the Court.

Any expert designated by TWIA on general topics shall be agreed upon by TWIA, Plaintiffs' Liaison Counsel Jason Byrd and Mike Ramsey, the discovery steering committee, or by order of the Court.

Unabatement of Discovery for TWIA depositions only

The abatement of discovery pursuant the Court's April 15, 2009 General Order No. 2 and June 8, 2009 General Order No. 3 is hereby lifted **only** to the extent necessary

to conduct the TWIA depositions under this Order. Discovery is unabated **only** for commercial cases in which TWIA is a defendant and **only** for purposes of conducting the TWIA depositions covered by this Order.

Class Actions

Class Actions filed in Jefferson County are subject to this Order. However, the duration, subject matter, and scope of depositions of deponents controlled by the Order, as they relate to topics particular to Class Actions, will be addressed by subsequent agreement of the parties or order of the Court.

Notice of Depositions

Deposition notices for a TWIA Deposition being taken pursuant to this Order must provide TWIA with at least thirty (30) days notice of the requested deposition and shall be served on Plaintiffs' Liaison Counsel Jason Byrd and Mike Ramsey at the same time it is served on TWIA.

It is contemplated that the management personnel will also be the persons designated as corporate representatives and that only one deposition of each individual will be taken. Corporate representative topics shall be reasonable in number and scope and additional topics will be permitted only on a showing that the topic could not have been anticipated. The Plaintiffs will provide the list of corporate representative topics 21 days before the deposition dates, and TWIA will designate the person for that issue 14 days before the deposition.

Examination

All depositions taken pursuant to this Order shall be taken by counsel designated by the Plaintiffs' Liaison Counsel Jason Byrd and Mike Ramsey. Only four lawyers per side may question an individual deponent. One hour shall be reserved at the end of the deposition of an individual deponent for any lawyer representing a Plaintiff to ask non-duplicative questions. Any attorney wishing to ask questions during this one-hour period must have attended the entirety of the deposition prior to this one-hour period. Any lawyer who attended the entirety of the deposition and was not afforded the opportunity to ask non-duplicative questions may file a motion with the court and submit the questions or areas of inquiry that would have been pursued and seek additional time.

For all other parties, an additional hour will be reserved at the end of each deposition. Only two lawyers for this group of parties may question an individual deponent. After these lawyers have completed questioning, the remainder of the hour may be used by any attorney representing these other parties who has attended the entirety of the deposition prior to this one-hour period.

All documents the Plaintiffs' Counsel intend to use during the depositions that purport to be attributable to either TWIA or any of the deponents (not including those produced by TWIA or a party in the litigation) will be provided to TWIA 10 days before the deposition.

Duration

The limitation on total time for oral depositions contained in TRCP 190.3(b)(2) shall not apply. Instead, each deposition is limited to a total of three consecutive days,

with 6 hours of questioning each day. The depositions of Jim Oliver, Reggie Warren, and Bill Knarr are limited to a total of 5 consecutive days. Any request for additional time for depositions must be done by agreement or court order before the deposition is taken. This limitation is subject to the right of any party to object or to seek specific limitations from the Court or by agreement by counsel for TWIA and Plaintiffs' Liaison Counsel Jason Byrd and Mike Ramsey if the party believes that the total time is becoming or has become unreasonable.

Re-Noticing Deposition on a Previously Covered Topic

The Plaintiffs in this coordinated proceeding shall not, without good cause, re-notice the deposition of a witness on a previously covered topic if that witness was identified and deposed under the terms of this Order. In the event that Plaintiff re-notices the deposition of an identified witness on a previously covered topic, the Plaintiff must obtain permission from the Court, showing good cause for the necessity of an additional deposition.

Location of Depositions

All individuals identified pursuant to this order shall be deposed in Galveston County or a place mutually agreed upon.

Attendees at Depositions

Attendees are limited to all parties, counsel, the witness, and court reporters/videographers. Experts may also attend on 7 days advance notice.

Use of Depositions

Depositions taken pursuant to this Order may be used by or against any parties currently before the court and any party who in the future files a TWIA Case or becomes a party to a TWIA Case after a deposition was taken and who, within 60 days of becoming a party to a TWIA case, fails to show just cause why such deposition should not be useable by, for, or against that party.

Case Specific Depositions Not Prohibited

Attorneys for individual Plaintiffs are not prohibited by this order from deposing any person deposed under this Order on case specific involvement by those individuals. However, the deponent may not be questioned on topics covered in the prior deposition. The parties will work together to ensure that this provision is enforced. The time limits of TRCP 190.3(b)(2) shall apply to case specific depositions.

Coordination With Other Counties

The deposition of each individual in this Order shall be coordinated with the Galveston County Order concerning these depositions. A copy of that Order is attached.

Notice of Order

Plaintiffs' Liaison Counsel and TWIA shall send a copy of this Order to all parties in TWIA cases as of the date of this order. Liaison Counsel and TWIA must also provide notice to all plaintiffs' counsel of any notice of deposition served under this order. All Plaintiffs are required to send notice to Liaison Counsel that they have a TWIA case. Immediately upon the filing of an Original Petition in any new TWIA case filed after the date of this Order, the District Clerk is Ordered to notify all parties that all parties are

responsible for reviewing all Orders posted on this court's website, and they are considered to have notice of those Orders. A copy of this Order shall be posted on the Court's website.

SIGNED this 22nd day of March, 2010.



Judge Milton G. Shuffield

FILED
at 2:11 o'clock P M
MAR 22 2010
BY KOLITA RAMOS DEPUTY
CLERK DISTRICT COURT OF JEFFERSON CO., TEXAS

LATONIA D. WILSON
CLERK DISTRICT COURT
FILED *9:30am*
JAN 25 2010
GALVESTON COUNTY, TEXAS
[Signature]
Deputy

CAUSE NO. 09-CV-0147

IN RE:

HURRICANE IKE LITIGATION

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IN THE DISTRICT COURT
GALVESTON COUNTY, TEXAS
212TH JUDICIAL DISTRICT

**AMENDED ORDER CONCERNING DEPOSITIONS
IN TWIA CASES**

The Court, finding that there are depositions of certain individuals within Texas Windstorm Insurance Association ("TWIA") who should not be required to be deposed on the same issues more than once, enters the following Order:

Scope of Order: This Order shall apply to all lawsuits filed in Galveston County against TWIA concerning a claim arising from damage to residential or commercial property caused by Hurricane Ike and consolidated for pretrial in this Court (hereafter "TWIA Cases") and concerns depositions of corporate representatives, management-level employees of TWIA, certain former TWIA employees, any expert on general topics designated by TWIA in TWIA Cases and certain others (hereafter "TWIA Depositions").

This Order applies to:

- Gene Kounse
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- Bill Hooper
- Bill Knarr
- Reggie Warren
- Ray Roe
- Kevin McFarlin
- Jim Oliver
- Bob Parrish

Global all cases

Susan Schiller
Tracy Todd
William Spelman
Doug Smith
John Schroeder

Any additional corporate representatives or management-level employees of TWIA shall be agreed upon by TWIA, liaison counsel for Plaintiffs, the discovery steering committee or by order of the Court.

Any expert designated by TWIA on general topics shall be agreed upon by TWIA, liaison counsel for Plaintiffs, the discovery steering committee or by order of the Court.

Class Actions: Class Actions filed in Galveston County are subject to this Order. However, the duration, subject matter, and scope of depositions of deponents controlled by the Order, as they related to topics particular to Class Actions, will be addressed by subsequent agreement of parties or order of the Court.

Notice of Depositions: Deposition notices for a TWIA Deposition being taken pursuant to this Order must provide TWIA with at least thirty (30) days notice of the requested deposition; and shall also be served on Liaison Counsel, at the same time it is served on TWIA.

It is contemplated that the management personnel will also be the persons designated as corporate representatives and that only one deposition of each individual will be taken. Corporate representative topics shall be reasonable in number and scope and additional topics will be permitted only on a showing that the topic could not have been anticipated. The Plaintiffs will provide the list of corporate representative topics 21 days before the deposition dates and TWIA will designate the person for that issue 14 days before the deposition.

Copies of all notices will be posted on the Court's website at www.co.galveston.tx.us/District_Clerk/ike_litigation. The Clerk is ordered to provide a notice to all parties that they are responsible for checking the website for deposition notices.

Examination: All depositions taken pursuant to this Order shall be taken by counsel designated by the Plaintiff Discovery Steering Committee. Only four lawyers per side may question an individual deponent. One hour shall be reserved at the end of the deposition of an individual deponent for any lawyer representing a Plaintiff to ask non-duplicative questions. Any attorney wishing to

ask questions during this one hour period must have attended the entirety of the deposition prior to this one hour period. Any lawyer who attended the entirety of the deposition and was not afforded the opportunity to ask non-duplicative questions may file a motion with the court and submit the questions or areas of inquiry that would have been pursued and seek additional time.

For all other parties, an additional hour will be reserved at the end of each deposition. Only two lawyers for this group of parties may question an individual deponent. After these lawyers have completed questioning, the remainder of the hour may be used by any attorney representing these other parties who has attended the entirety of the deposition prior to this one hour period.

All documents the Plaintiffs' Counsel intend to use during the depositions which purport to be attributable to either TWIA or any of the deponents (not including those produced by TWIA or a party in the litigation) will be provided to TWIA 10 days before the deposition.

Duration: The limitation on total time for oral depositions contained in TRCP 190.3(b)(2) shall not apply. Instead, each deposition is limited to a total of three consecutive days, with 6 hours of questioning each day. The depositions of Jim Oliver, Reggie Warren and Bill Knarr are limited to a total of 5 consecutive days. Any request for additional time for depositions must be done by agreement or court order before the deposition is taken. This limitation is subject to the right of any party to object or to seek specific limitations from the Court or by agreement by counsel for TWIA and the Plaintiffs' Discovery Steering Committee if the party believes that the total time is becoming or has become unreasonable.

Re-noticing Deposition on a Previously Covered Topic: The Plaintiffs in this coordinated proceeding shall not, without good cause, re-notice the deposition of a witness on a previously covered topic if that witness was identified and deposed under the terms of this Order. In the event that Plaintiff re-notices the deposition of an identified witness on a previously covered topic, the Plaintiff must obtain permission of the Court, showing good cause for the necessity of an additional deposition.

Location of Depositions: All individuals identified pursuant to this Order shall be deposed in Galveston County.

Attendees at Depositions: Attendees are limited to all parties, counsel, the witness and court reporters/videographers. Experts may also attend on 7 days advance notice.

Use of Depositions: Depositions taken pursuant to this Order may be used by or against any parties currently before the Court and any party who in the future files a TWIA Case or becomes a party to a TWIA Case after a deposition was taken and who, within 60 days of becoming a party to a TWIA Case, fails to show just cause why such deposition should not be useable by, for or against that party.

Case Specific Depositions Not Prohibited: Attorneys for individual plaintiffs are not prohibited by this Order from deposing any person deposed under this Order on case specific involvement by those individuals. However, the deponent may not be questioned on topics covered in the prior deposition. The parties will work together to ensure that this provision is enforced. The time limits of TRCP 190.3(b)(2) shall apply to case specific depositions.

Notice of Order: The District Clerk is hereby Ordered to send a copy of this Order to all parties in any TWIA Case pending in this County by posting a copy of this Order on the Court's website at www.co.galveston.tx.us/District_Clerk/ike_litigation. Immediately upon the filing of an Original Petition in any new TWIA Cases, the District Clerk is Ordered to notify all parties therein that they are responsible for reviewing all Orders posted on this website, and they are considered to have notice of those Orders.

SIGNED on Jan 25, 2010.



Judge Susan Criss

