

Hurricanes likely to create domino effect of claims, litigation

Matthew Lerner

NEW YORK — Hurricanes Harvey and Irma will likely cause a litany of claims and litigation beyond the obvious flooding and wind damage, according to panel of attorneys meeting in Thursday in New York.

“Obviously, business interruption is a big component of what we’re looking at in addition to the flood loss claims,” said Kent Adams, regional managing partner of Wilson Elser Moskowitz Edelman & Dicker L.L.P.’s Houston and Beaumont, Texas, offices.

“There are also supply chain issues,” said Wendy Hopkins, partner and head of the global practice group at DAC Beachcroft L.L.P. in London. “Anyone with a supply chain link in the footprint of the storms could face issues, which could present insurers with contingent business interruption exposures.”

“It is foreseeable that this will have a chain reaction, and it won’t be limited to property damage and business interruption claims,” Ms. Hopkins said. “We’ve got global supply chains where you will see some impact.”

The storms’ damages and resulting claims and litigation activity could go even further than that.

“Besides business interruption and flood, there’s all sorts of consequential liabilities that have arisen out of the storm,” said Mr. Adams.



For example, the U.S. Army Corps of Engineers has been sued in connection with reservoirs that were constructed in Houston, Mr. Adams said.

Homes downstream of the reservoirs were flooded after water was released by the Corps, he said. Two lawsuits have already been filed with respect to these homes under the theory of condemnation: that the U.S. government, by opening those floodgates, has taken the property of those homeowners downstream of the dam. They may become class action suits.

There is still much to be discovered, and aggregations could become an issue.

“In terms of the ripple effect and in terms of the printed statistics and values coming out of Harvey and Irma, I fear that it’s just the tip of the iceberg, because you’re not just talking about property damage and business interruption, but also denial-of-access claims,” said Ms. Hopkins. “The law of unforeseen consequences then gives rise to aggregation issues for reinsurers, who are concerned about their maxi-

mum foreseeable exposures.”

Litigation could also result from injuries and on other fronts.

“People have been electrocuted by downed power lines, and we anticipate there will be lawsuits with respect to those,” Mr. Adams said.

“There are also going to be endless disputes over the 500,000 or so cars that were destroyed in Houston,” he added.

Harvey’s flooding may have environmental implications as well, according to Mr. Adams. “Flooding also caused overruns of Superfund sites in Houston and the release of reportedly tremendous amounts of toxic waste,” he said.

The sheer volume of claims will be an issue in the combined effects of the storms, according to Andrés Amunátegui, partner and head of the Latin America practice at DAC Beachcroft in Chile, who noted that some 400,000 notifications of claims were filed after the 2010 earthquake that rocked Chile.

The attorneys were in New York for a meeting of the Legalign Global Ltd. network, comprising founding member firms BLD Bach Langheid Dallmayr Rechtsanwälte Partnerschaftsgesellschaft mbB of Germany, DAC Beachcroft in the United Kingdom, Wilson Elser in the United States and Wotton + Kearney in Australia, which announced their alliance Jan. 23.