Haynes and Boone Lawyers Field Harvey-Related Questions

By Timothy E. Powers, Ernest Martin, Jr., Micah E. Skidmore, Matthew Thomas Deffebach | September 8, 2017

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The impact of Hurricane Harvey on tens of thousands of southeast Texas residents and a broad range of industries is raising a flurry of legal questions — about employment, insurance, health care, the environment and other areas — that Haynes Boone lawyers have been helping to answer through client alerts and media interviews.

Texas Lawbook covered the firm's establishment of a special fund to help employees in the Houston office, and the publication quoted Managing Partner Tim Powers on Sept. 1 about Haynes Boone's Rapid Response Task Force of partners writing and advising on areas most immediately affected by the storm, including insurance claims and recovery; force majeure; supply chain disruption; employee welfare, compensation and benefits; prevention of price gouging (for the retail and hospitality industries); and state and federal regulatory considerations.

Haynes Boone's Insurance Recovery and Labor and Employment Practice Groups were among those fielding media calls on some of the most immediate issues, such as the impact of a new Texas insurance law (effective Sept. 1 and known as HB 1774) on the rights of owners of businesses and homes damaged in the storm, and the safety hazards of cleanup.

In *Texas Lawbook* (Subscription required), Aug. 28:

“Businesses with commercial buildings — apartment complexes, hotels, hospitals, convenience stores — are all potentially impacted by this law and they have lost a hammer that they once could have used against the insurance companies,” Partner Ernest Martin Jr. said.

Martin and other lawyers agree that there are going to be many Texas businesses who will soon regret not standing up and opposing this law during the past legislative session.

In *Law360* (Subscription required), Aug. 29:

"Under the new statute, there is limited disadvantage for insurers delaying or not doing what they should have done," said Haynes Boone Partner Micah Skidmore, whose firm organized opposition to HB 1774 by Texas businesses. "There has to be a consequence for that, and that is why we have these statutes — to make sure carriers do the right thing."

In *Insurance Journal*, Aug. 30:

Ernest Martin, a Dallas-based attorney with Haynes Boone, said “the statute is a little confusing, because in one place it refers to actions that are filed before or after Sept. 1. But in another section, it talks about claims that are made before and after Sept. 1.” …

Because of the discrepancy within the statute, Martin said he thinks it's advisable “that companies and individuals that do have property losses that they do report their claim to their carrier before

Friday. Because like I said, the statute in one place refers to claims being made before the effective dates and after the effective dates."

In *Business Insurance*, Sept. 6:

Recovering from Tropical Storm Harvey will be a dangerous process and can present multiple safety hazards to workers, according to experts. … The most immediate workers compensation implication will be workers who are injured helping to fix damage caused by the storm, according to experts.

"There probably will be an uptick of injury-related claims that are part of employees doing things in relation to the hurricane," said Matthew Deffebach, Houston-based partner and head of the Labor and Employment Practice Group at law firm Haynes Boone.