

CAUSE NO. 09-CV-2012

JOE VARDELL AND JACQUELYN
VARDELL
Plaintiffs,

v.

TEXAS WINDSTORM
INSURANCE ASSOCIATION, PAUL
MIKKELSEN, BILL ASTIN, AND
REGGIE WARREN
Defendants.

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IN THE DISTRICT COURT OF

GALVESTON COUNTY, TEXAS

122nd JUDICIAL DISTRICT

10 SEP 27 PM 4:40

Leticia M. Miller

DISTRICT CLERK

**PLAINTIFFS' TEMPORARY RESTRAINING ORDER AND ORDER SETTING
HEARING FOR PRELIMINARY INJUNCTION**

After considering Plaintiffs Joe and Jacquelyn Vardell's ("Plaintiffs") application for temporary restraining order, the pleadings, the affidavits, and arguments of counsel, the Court finds there is evidence that harm is imminent to Plaintiffs, and if the Court does not issue the temporary restraining order and Protective Order, Plaintiffs will be irreparably injured because the evidence necessary to the prosecution of Plaintiffs' causes of action will not be preserved.

Plaintiffs would show that under the circumstances, immediate and irreparable injury, loss, or damage is possible, if not likely, to occur before notice can be served and a hearing held. Specifically, it appears that confidential and personal information of the Plaintiffs will be produced by Defendant TWIA pursuant to a letter request of Representative Taylor dated **September 17, 2010**, if TWIA is not enjoined. Once such information is produced, its confidentiality will forever be lost and irretrievable and irreparable injury will occur.

Therefore, by this Order, the Court does the following:

1. That TWIA and its agents, representatives, employees and/or attorneys, are restrained from copying and producing any of the requested information requested in Representative Taylor's letter request, a copy of which shall be attached to this Order.
2. Order the clerk to issue notice to Defendants that the hearing on Plaintiffs' Application for Temporary Injunction is set for the 11th day of October, 2010, at 1:30 p.m. The purpose of the hearing shall be to determine whether this temporary restraining order should be made a temporary injunction pending a full trial on the merits.
3. The parties agree that prior bond of \$2,500.00 is sufficient.

This Order expires on the 11 day of October 2010 at 5 p.m.

Signed on this the 27 day of Sept 2010, at 4:17 a.m./p.m.

JUDGE PRESIDING

*Hearing on this matter
is set for 1:30 pm on
Oct 11, 2010.*

10 SEP 27 2010 4:41
U.S. District Court
Eastern District of Texas
W. Lee

TEXAS HOUSE OF REPRESENTATIVES

CAPITOL OFFICE:
P.O. Box 2910
AUSTIN, TEXAS 78768-2910
512-463-0729
FAX: 512-474-2398



DISTRICT OFFICE:
174 CALDER ROAD, SUITE 116
LEAGUE CITY, TEXAS 77573
281-338-0924
FAX: 281-554-9240

September 17, 2010

LARRY TAYLOR

Mr. Lee Talbert, Public Information Coordinator
Texas Windstorm Insurance Association
5700 S. MoPac Expressway, Building E, Suite 530
Austin, Texas 78749

Dear Mr. Talbert:

Re: Request for Ike-TWIA Settlement Information.

Pursuant to the state open records law (Chapter 552, Government Code), I am writing to request copies of any and all of the information, contained in any medium, requested below related to the so-called Texas Windstorm Insurance Association (TWIA) settlements as reported in the press in July of 2010 (the "Ike-TWIA Settlements").

As you know, under Section 55.002, Government Code, the law applies to recorded information in practically any medium, including paper; film; a magnetic, optical, or solid state device that can store an electronic signal; tape; Mylar; linen; silk; and vellum. These mediums include, without limitation, information in a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

Please produce the following:

1. The total number of TWIA claims covered by all Ike-TWIA settlements;
2. If any lawsuit has been filed relating to an Ike-TWIA Settlement, the style and cause number of any such lawsuit and the court where filed;
3. The total aggregate value of all Ike-TWIA settlements;
4. For each claim covered by or included in any Ike-TWIA Settlement:
 - a. the applicable policy limits;
 - b. the total value of the proposed payment for the home, contents and additional living expenses;
 - c. any extra-contractual claims and penalties;



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- d. attorneys fees; and
 - e. the last TWIA offer to the policy holder before the Ike-TWIA settlements.
5. The number of depositions, sets of interrogatories, requests for production, requests for admission, and requests for disclosure issued in each settling case included in all Ike-TWIA settlements;
 6. The total number of attorneys who are scheduled to be paid by the Ike-TWIA settlements;
 7. The names of each attorney scheduled to be paid by the Ike-TWIA settlements;
 8. The total amount of money scheduled to be paid to each attorney;
 9. The Ike TWIA settlements; and
 10. The source of funding the claim payments and fees included in the Ike-TWIA settlements.

I agree to pay any reasonable copying and postage fees of not more than \$1000.00. If the cost will be greater than this amount, please notify my capitol office. In addition, provide a receipt indicating the charges for each document.

As provided by the open records law, I will expect your prompt production of the responsive documents, but in any event, not later than the tenth business day after today. If you choose to deny this request, please provide written explanation for the denial including a reference to the specific statutory exemptions(s) upon which you rely. Also, please promptly provide all responsive material that can be redacted or is otherwise segregable.

Because time is of the essence, please communicate with me via e-mail to to the address as indicated on the first page of this letter. Thank you for your prompt attention to and assistance with this important matter.

As a final matter, please be aware that, in making this request under the state open records law, I am not seeking any confidential information relating to any individual or corporate policyholder, such as names, personal addresses, social security numbers, or other such personally identifiable information. I only seek the important and fundamentally significant information relating to the handling and processing of the Ike-TWIA Settlements.

Regards,



Larry Taylor, *Legislative Oversight Board Co-Chairman*
State Representative
District 24

CC: All Joint Windstorm Insurance Legislative Oversight Board Members
Jim Oliver, *TWIA General Manager*
Mike Geeslin, *TDI Commissioner*

4:40 PM



MOSTYN LAW FIRM

OFFICES IN HOUSTON, BEAUMONT, AUSTIN AND SAN ANTONIO

September 27, 2010

Via Facsimile (409) 765-2610

Honorable Susan Criss
212 Judicial District Court
600 59th Street, Suite 4204
Galveston, TX 77551-4198

Re: Cause No. 09CV2012; Joe Vardell and Jacquelyn Vardell v. Texas Windstorm Insurance Association, Paul Mikkelsen, Bill Astin, and Reggie Warren; In the 122nd Judicial District Court of Galveston County, Texas
Our File No.: 008021

Dear Honorable Susan Criss:

Attached is Plaintiffs' Proposed Temporary Restraining Order and Order Setting Hearing for Preliminary Injunction pertaining to the Court's ruling at this morning's hearing. Texas Windstorm Insurance Association has also proposed the following language be inserted into the Order:

"Notwithstanding the provisions of this Order, TWIA may submit a representative sample of the requested information to the Office of the Attorney General of Texas for in camera review pursuant to and as required by Texas Government Code section 552.301.

Plaintiffs' counsel cannot agree to this language and did not agree to the submission of a "representative sample" to the Attorney General of Texas. Neither Plaintiffs' counsel nor any of the other counsel representing slab claimants have had the opportunity to review the "representative sample" and would need the opportunity to do so before agreeing to any such language.

If you should have any questions, please do not hesitate to contact this office.

Sincerely,

THE MOSTYN LAW FIRM


J. Steve Mostyn

10 SEP 27 PM 4:41


COURT CLERK