

## Texas Appellate Court Rules That Insurer Need Not Produce Engineering Reports From Other Claims

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A Texas appellate court ruled that an insurer was not obligated to produce engineering reports used in evaluating other property damage claims, notwithstanding that the coverage dispute before the court involved a report issued by the same engineering firm. *In re Hanover Lloyds Ins. Co.*, 2018 WL 1127436 (Tex. Ct. App. Mar. 2, 2018).

Indoor Sports made a claim for property damage to Markel Insurance, who retained HAAG Engineering to investigate the claim. HAAG concluded that a hail storm during the policy period was not large enough to have caused the damage but that a storm during a previous policy period (covered by Hanover) produced hail large enough to have caused the damage. Indoor Sports then filed a claim with Hanover, which also denied the claim on the basis that a date of damage could not be determined.

In ensuing litigation, Indoor Sports alleged that Hanover's denial was in bad faith because Hanover routinely relies on HAAG Engineering reports in evaluating claims. Indoor Sports sought production of 50 previous storm damage-related HAAG Engineering reports filed with Hanover. Hanover refused to produce the documents. A Texas trial court granted Indoor Sports' motion to compel and denied Hanover's motion to reconsider. A Texas appellate court granted Hanover's writ of mandamus.

The appellate court ruled that the trial court abused its discretion by compelling production of the HAAG Engineering reports used by Hanover in deciding other claims. The court concluded that the reports were not reasonably calculated to lead to the discovery of relevant evidence, stating that "we fail to see how Hanover's use of HAAG Engineering reports on claims of unrelated third parties is probative of Hanover's conduct with respect to its handling of this claim." The court rejected Indoor Sports' assertion that the reports established Hanover's previous reliance on HAAG Engineering in approving claims and was thus probative as to the alleged unreasonableness of the investigation and denial in the present case.

## Authors and Contacts

[Bryce Friedman](#)

Partner

[bfriedman@stblaw.com](mailto:bfriedman@stblaw.com)

+1-212-455-2235

