

## [New York Federal Court Consolidates Pending Hurricane Sandy Cases](#)

### **UPdate 7/18/14**

At the request of insurers, three New York Magistrate Judges overseeing the Consolidated Case have asked plaintiffs to withdraw supplemental state law “bad faith” claims. The three-judge panel explained that plaintiffs have failed to address these claims in accordance with the Court’s discovery schedule.

[Read this article for more information.](#)

The EDNY has also launched a [mediation training program](#) as part of its efforts to resolve pending NFIP cases.

In related news, a New Jersey Judicial Committee has issued guidelines for resolving the more than 600 NFIP cases pending in Federal Court. New Jersey is taking cues from New York on streamlined depositions and discovery orders in an effort to consolidate these cases. [Read this article for more information.](#)

### **UPdate 6/16/14**

UP has received information from our friends at McCarthy Kelly LLP, a New York City policyholder firm, that there have been a few significant developments in the Superstorm Sandy Consolidated Case. The Court has appointed mediators to resolve certain cases, issued a “fast-track” discovery order, and blocked attempts by insurers to prolong the litigation process through the use of baseless or unnecessary motions and objections. Wind lawsuits continue to slowly work their way through state courts in New York and New Jersey.

March 19, 2014

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**San Francisco** – The U.S. District Court for the Eastern District of New York has issued a consolidation order for all insurance coverage cases arising out of Hurricane Sandy. In a January 10, 2014 order, the court entered an order opening a “Miscellaneous Civil Case” entitled In Re Hurricane Sandy Cases No. 1:14-mc-00041-CLP-GRB-RER. In a January 14 order, the court required all counsel for plaintiffs to submit, by January 17, all currently filed cases in Central Islip or Brooklyn and a notice of intent to file future cases. By January 27, counsel for plaintiffs must have filed a letter with the court outlining a proposal for logical grouping of pending cases for discovery and settlement purposes. Counsel for plaintiffs were also required to attend a Court conference on February 5th.

On February 21, the court entered Case Management Order No. 1, which required both counsel for plaintiffs and defendants to brief the Court on common questions of law and fact, including legal arguments and defenses that the parties anticipate litigating over the next few months. Issues raised thus far include: FEMA proof of loss requirements; statute of limitations; an insured’s burden of proof in both wind and flood cases; policy exclusions such as earth movement, weather conditions, wear and tear, and faulty workmanship; appraisal; overhead and profit; and the anti-concurrent causation clause. Counsel for plaintiffs and defendants must exchange their initial disclosures by April 22.

United Policyholders will monitor the case closely and report on its progress. Since many of the cases involve important factual distinctions, it will be significant how the Court decides to hear particular cases. For example, some cases have been brought against the NFIP and WYO flood carriers while others are against home/wind carriers.

For more information visit [Merlin Law Group’s Property Insurance Coverage Law Blog](#).

[Official case website](#)

[Report of Plaintiffs Liaison Counsel in Response to Defendant’s Report and List of Commonly Occuring Legal Issues:](#)

Note: UP has consistently referred to Sandy as “Superstorm Sandy” but the Court has chosen to use the label “Hurricane Sandy.”