

Hurricane Katrina and U.S. Supreme Court Named Top Legal Issues of 2005

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EAGAN, Minn., Dec. 12 /PRNewswire-FirstCall/ -- There was sweeping change across the United States in 2005 -- from the Supreme Court to the Gulf Coast. Hurricane Katrina, the shuffling of the U.S. Supreme Court and the battle over the new bankruptcy law topped the charts as the key legal issues of the year, according to a survey of Thomson West authors, all top lawyers and legal scholars in their fields. The survey was conducted by Thomson West, the foremost provider of integrated information solutions to the U.S. legal market and a business within The Thomson Corporation (NYSE: TOC; Toronto).

Hurricane Katrina

While the events surrounding Hurricane Katrina are just beginning to make their way into the courts, the disaster and its lasting effect on the Gulf Coast made headlines this year, and the expected legal fallout makes Katrina one of the top legal issues for 2005.

"Although technically not a legal event, I think Hurricane Katrina and the other natural disasters of 2005 will have continuing legal fallout. Contracts were broken, employment was lost, leases were abandoned, and all these issues may result in significant litigation for some time," said Dee Pridgen, author of *Consumer Credit and the Law*, 2006 ed. and *Consumer Protection and the Law*, 2005 ed. "Also, in the rebuilding, there may be issues regarding home repair scams, foreclosure scams and other overreaching of consumers."

Katrina's influence also extends into the already-taxed government contracting and purchasing system, according to Karen Manos, author of *Government Contracts Costs & Pricing*. Too few people are charged with buying an ever-increasing amount of goods and services for the continuing war in Iraq and hurricane recovery. Workers are criticized either for wasting funds by purchasing without competitive bidding or for being slow to react when they issue requests for bids. "The system cannot continue the way it's going," Manos said. "Instead of criticizing, we must hire more people and train them properly and realize that humans make mistakes."

The United States Supreme Court

The legal shift of the U.S. Supreme Court will have an impact for decades to come. Although the court's shuffling with a new chief justice and the retirement announcement of Sandra Day O'Connor made the headlines in 2005, experts cited the *Kelo v. City of New London* decision, which ruled that municipalities can use eminent domain to seize private property in order to turn it over to a private developer, as the most important Supreme Court case of 2005.

James Kushner, author of *Subdivision Law & Growth Management*, commented that Congress and individual states are free to enact legislation to restrict use of eminent domain to seize property for private development. Many states had done so even before the *Kelo* decision, and other states are now considering such a move.

"Many people mistakenly believed the ruling would lead to wholesale condemnation of people's homes to benefit private developers," said Kushner. "But the court ruled any such taking of private property has to be part of a comprehensive development plan that provides appreciable economic benefits to the community." He worries that states and Congress may be overreacting to the ruling, restricting eminent domain uses to the point where it hinders cities' economic development efforts.

Bankruptcy Abuse Prevention and Consumer Protection Act

Experts both for and against the new law say it is one of the most important pieces of legislation enacted in 2005. "The Bankruptcy Abuse Prevention and Consumer Protection Act, which took effect Oct. 17, 2005, works a sea of change in bankruptcy law by restricting access of individual debtors to Chapter 7 bankruptcy relief. The law heavily favors secured creditors and taxing entities to the detriment of unsecured creditors," said Judge Joe Lee, author of *Bankruptcy: A Practice Systems Library Manual*.

At the same time, many experts say that negative reactions to the law are overstated. Hugh Ray, author of *Creditor's Rights (Texas Practice Guide)*, was one of the attorneys invited to the White House for the bill's signing. Ray said, "The positive aspects of the new bankruptcy law are shorter and less expensive bankruptcies, as well as fewer bankruptcies. People can't file over and over. It's something that's different and requires education on the part of lawyers and the public. The overall impact of the new law will create a more stable bankruptcy system that's more understandable."

Respondents also highlighted class action reform legislation, *U.S. v. Booker*, which struck down federal sentencing guidelines, and court decisions relating to the Guantanamo Bay detainees as top issues in 2005.

Those polled are Thomson West authors who are leading experts in areas ranging from constitutional law and litigation to employment law and civil rights. For the full survey results or to interview one of Thomson West's authors, contact Angelique Schaffer at (651) 848-8860 or angelique.schaffer@thomson.com. Visit the Thomson West Expert Directory at <http://west.thomson.com/news/experts/> for knowledgeable sources on today's legal issues.

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