

Client Alert

Insurance Coverage & Recovery Practice Group

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Maximize Your Insurance Recovery for Losses from Tornadoes, Floods and Other Natural Disasters

Tornadoes recently ravaged much of the southeastern United States, leaving unprecedented destruction in their wake. Early estimates indicate that in addition to the tragic loss of life, the recent tornadoes may have caused over \$5 billion in insured losses. Additionally, serious flooding from the Mississippi River is resulting in massive losses to corporations and individuals.

If your company has sustained property damage or business interruption due to a natural disaster, in the majority of cases your insurer should be reimbursing your company for those losses. Most commercial insurance programs provide the following types of coverages that can provide valuable assistance when rebuilding after a natural disaster:

- *First Party Property Insurance* – generally covers the cost to repair or replace the policyholder's damaged or destroyed property;
- *Business Interruption Insurance* – generally covers lost profits arising from the complete or partial interruption or cessation of the policyholder's business arising from damage to property; and
- *Contingent Business Interruption Insurance* – generally covers lost profits arising from damage to property owned by your company's customer or supplier – for example, lost profits due to supply chain interruptions caused by tornado damage.

To maximize the size and timeliness of coverage, companies should promptly locate their insurance policies, assess the types of coverage available, and promptly notify their insurers. Insurance companies often work hard on the front end of a policyholder's loss to *minimize* their ultimate pay-out. It is therefore critical for policyholders to work at the outset of a loss to evaluate and assemble their insurance claims to *maximize* all the benefits provided under their policies.

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If your company has suffered losses arising from property damage or business interruption losses, keep the following points in mind to maximize your insurance recovery:

- Locate all applicable policies as soon as possible and review your coverages with an insurance coverage lawyer. Notify your insurers about the losses immediately, even though the scope of the loss may be unknown at this time. Failure to give prompt notice can defeat coverage in some cases.
- Calculation of losses, including loss of inventory and business interruption losses, is not always straightforward, and a proof of loss will need to be prepared. It is prudent to consider retaining an insurance coverage lawyer to evaluate reports prepared by insurers and adjusters.
- The costs of retaining professional assistance to prepare an insurance claim are frequently covered, at least in part, by the insurer under the terms of insurance policies.
- Insurance policies often cover some types of losses, while excluding others. Be extremely careful in discussions with insurers when the causes of the loss or the scope of damage may be unclear. Insurance policies often contain hidden exclusions and conditions to coverage that insurers may rely upon to avoid paying all or part of your company's claim. Insurance counsel can assist you in your communications with insurers concerning these issues.
- Keeping track of lost sales and lost revenue is critical. A system can easily be implemented to track this data for you.

Finally, even if your business was not impacted by the recent tornadoes, given other recent natural disasters such as the earthquake in Japan, the record-setting floods on the Mississippi River, as well as the approach of the Atlantic hurricane season, now may be a prudent time to review your company's insurance program to ensure your company's coverage is adequate.

We work closely with our clients and their risk managers to ensure their insurance affords adequate protection in the event of catastrophic claims. We also have helped many businesses collect from their insurers for losses arising from these types of property damage and business interruption claims.

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