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Adjusters International Disaster Recovery Consulting

## FROM THE EDITOR

*Just having insurance coverage in place does not guarantee that a loss will be fully reimbursed. A final settlement can be affected by the actions the policyholder takes, starting from the moment the loss occurs. From securing the loss site and notifying the insurer, to agreeing on the final settlement, the policyholder needs to be prepared, organized and proactive.*

*In this issue of Adjusting Today veteran public adjuster William Rake offers his take on the "dos" and "don'ts" of responding to a property loss. His article offers sound advice — from the first steps to final settlement negotiations. This is important and interesting reading for all those who could be involved in a property insurance claim.*

*Space constraints permit us to provide only an overview of the process. A claims professional should be consulted to explore the process in full detail. Since some of this information may be basic to our more experienced readers, it may be helpful to pass this issue on to clients or associates.*

Sheila E. Salvatore  
Editor



## Property Insurance Claims: Negotiating Unfamiliar Terrain

By William Rake, SPPA

A major windstorm rips through your city, causing substantial damage to your business — including your building, equipment and inventory. The damage inhibits your ability to conduct normal operations for several weeks. You face the task of preparing and submitting a complicated claim to your insurance company, along with the challenge of rebuilding your business.

For most, the preparation of a property damage insurance claim is unfamiliar and rough terrain. Without prudent action on your part, the



claims process can be even more unnerving than the disaster itself. Knowing and understanding the key steps to take will save you time, trouble and money. This issue of *Adjusting Today* examines some of the “dos” and “don’ts” you should know to effectively file your insurance claim and eliminate the pitfalls that often hinder a fair and timely insurance recovery.

### **First Steps**

Your insurance policy is a contract between you and your carrier. As the insured, you have certain duties and responsibilities in the event of a loss. As outlined in your policy, in addition to notifying your insurer, one of your first “to dos” during the first crucial hours following a disaster is to take all reasonable steps to preserve and protect the insured property. There are two major concerns: 1) Preventing injury 2) Protecting your property from further damage.

What is *practical* and *reasonable* will vary from loss to loss, but you are required to take such actions as securing the property to prevent additional problems like looting, and to protect it against further damage from the elements. If reasonable post-loss actions that could have prevented further damage are not carried out, coverage on the resulting loss might be denied. For example, spraying oil on motors and other moving parts could prevent serious rusting that might destroy an otherwise repairable piece of equipment. Also, special attention to computer-controlled equipment and other electronics is imperative. Smoke residue can often corrode electronic components quickly.

Controlling access to the premises is also a must. It may be prudent to hire guards to protect the property and prevent curiosity seekers from becoming injured.

If the building is unsafe, you may need to demolish risky areas to avoid further damage and possible injuries. You might also consider moving property to another location to prevent exposure damage or theft. Special attention should be given to saving irreplaceable property such as books, manuscripts and the like.

A plan should also be developed to protect your operations and market, including notification of the loss to your customers, banks and suppliers. This plan should include a public relations program, with one spokesperson, to keep all stakeholders and the general public informed. It is important that you be the first source of information for your customers and the media.<sup>1</sup>

When notifying your insurance company of the loss, whether you call the carrier directly or report



***Your insurance policy is a contract between you and your carrier. As the insured, you have certain duties and responsibilities in the event of a loss.***

the loss to your agent/broker, you are likely to be asked, "How much is your loss?" Be very careful how you answer this question! Your response can set the tone for the rest of your claim adjustment. Avoid being forced to guess at a dollar amount you aren't sure of. You are not required to give a dollar estimate at this time. This is a very critical point! The insurance company will establish a reserve of funds for your claim. If you estimate a lower value than your actual loss, it becomes more difficult to settle at a sum higher than that reserve amount.

Shortly after you notify your insurance company an adjuster representing your carrier will visit you to gather facts about how the loss occurred, the magnitude of the loss and the possibility of subrogation. Once again, be careful how you answer these questions, especially if you are not well versed in property insurance and how your coverages are written. Be cooperative, but do not guess at the answers.

Keep in mind that the company adjuster's interests do not always coincide with yours. There will be plenty of opportunity to respond to inquiries with greater specificity later, after you have had an opportunity to check your facts and evaluate your loss thoroughly.

### Obtain Expert Opinions

*A broken water pipe released thousands of gallons of water into a facility that produces sterilization equipment for major pharmaceutical companies. While much of the manufacturing equipment was spared, the entire operation was shut down due to damaged software that controls valves for a highly volatile gas used in the sterilization process.*

*Insurance company experts inspected the equipment and suggested its continued use. Uncomfortable with their findings and method of testing, the company retained its own experts, who discovered failures in 90 percent of the software's functions. When presented with these findings the insurance company authorized the replacement of all software, along with associated hardware that was also damaged. This also resulted in an extended business interruption claim because of the additional time required for restoration.*

**Once the preliminaries are over, you must assume the responsibility of measuring your own claim, using experts and consultants who work for you.**

### Concentrate on Maintaining Operations

*Fire struck an international mail order company specializing in sporting goods merchandise and memorabilia. The resulting damage to the main warehouse and call center was extensive, suspending the entire operation during the firm's busiest time of the year. The fire caused heavy smoke damage to the company's inventory, including items sold but not delivered.*

*The claims professionals hired to assist the company referred the insured to another firm that could handle their sales calls. Facing the possibility of losing their customer base, the insured also contacted all of their suppliers and arranged drop-shipment — to continue operations and keep clients satisfied during the recovery process.*

### Valuing Your Loss Properly

Once the preliminaries are over, you must assume the responsibility of measuring your own claim, using experts and consultants who work for *you*. Concentrate on maintaining your operations — *not* on preparing claim details. Leave that to the experts.

In these early stages of the claims process it is also important to establish a claim management team — *with one team leader* — to help organize and value the claim properly. This team should evaluate the policy and form a claim preparation strategy. All members should know their duties and responsibilities. This is the time to secure expert assistance for the team.

If your loss includes building damages, the insurance company will likely hire a contractor to measure the damage. Your choice is either to rely upon that contractor's opinion or to engage an expert to measure the loss on your behalf. Because there is a great deal of subjectivity in defining the scope of damages, there are often sizable discrepancies between contractors' estimates. Keep in mind that the measurement of your loss as provided by the policy terms may be very different from a contractor's.

For example, your policy might entitle you to collect for the cost to replace plaster, yet the insurer's contractor recommends the installation of drywall. Even if you replace the plaster with drywall, you might choose to collect for the value of the plaster and invest the savings elsewhere in the building. This is a good example of why you should have your own expert(s) measure the damages.

Detail is crucial when substantiating a building loss, so your claim should include an itemized building estimate.

You might also need to pay close attention to depreciation if you are collecting on an actual cash value. With actual cash value coverage, the estimate submitted might have to be segregated to allow for depreciation calculations.<sup>2</sup> In some states, only materials are subject to depreciation. In others, both labor and materials are subject to depreciation.

The same fundamentals apply to the damage to your furniture and equipment. This cannot be overstated: Do not rely solely on your historical records for values. Seek out current replacement estimates. Obtain all of your estimates in writing, because your claim will have to be verified as part of the negotiation process.

Once again, detail is imperative — from documenting large items to detailing the contents of a desk drawer.<sup>3</sup>

### Business Interruption

When measuring your business interruption or loss of income, you should have your own expert prepare the claim on your behalf. The insurance carrier will usually hire a forensic accounting firm to review all your records pertaining to sales, production, costs of goods sold, operating expenses, inventory levels, etc. You should be prepared to make detailed financial, sales and production information available.

On the basis of such a review, the forensic accountants will provide to the insurance company *their* opinion of your business interruption loss.

Business interruption losses can involve a number of issues requiring interpretation, which could have a major impact on the recovery. Consider the following scenario:

A restaurant is destroyed by fire. For each of the last three years sales have increased by 8 percent. Would sales have

#### Mitigate Your Business Interruption Loss

*A fire severely damaged a unique machine that was the heart of an industrial manufacturer's operation. On an expert's advice, the insured made an arrangement with a competitor to produce his product for him in order to give him time to repair the machine. The company was saved and the insurance policy's extra expense coverage paid for the added cost to the company.*

## Post-Loss Checklist

- Mitigate your loss and protect the property from further damage.
- Move quickly to save special property such as books, manuscripts, etc.
- Notify your insurance company.
- Control access to the premises.
- Retrieve any computer data from backup or hard drives; data is often retrievable if you act quickly.
- Photograph and/or videotape the premises.
- Establish a claim management team, with one spokesperson.
- Evaluate the insurance policy and prepare a claim strategy to protect your operations and market. Make sure all team members know their responsibilities.
- Channel all communication through the designated team leader.
- Notify your customers, banks and suppliers.
- Prepare a public relations program to inform all stakeholders and the general public.
- Document your activities in a log and maintain detailed records.
- Set up a special general ledger account to track all loss-related costs.
- Integrate the claim management program with the post-loss operations.
- Know the players; know who the insurer's representatives are.
- Understand your duties and requirements.
- Take a proactive position; you must make the claim.
- Hire your own experts.
- Be aware of the impact that your preliminary estimates might have on the insurance company's reserves for your claim.
- Do not rely solely on your historical records; secure current replacement estimates.
- Understand that your claim needs to be verified; understand the negotiation process.
- Coordinate and integrate the property, business interruption and extra expense claims.
- Concentrate on maintaining your operations and not on preparing claim details – leave that to the experts.
- Apply for a property tax reduction while the building is not usable. (May not be possible in all locations.)
- Refrain from quick, spur-of-the-moment settlement deals. Take time to evaluate the settlement offer thoroughly, on your own.
- Be careful if asked to sign a general release as part of your settlement. You are entitled to collect your loss payment just by filing an agreed proof of loss.

continued to increase at the same rate had the fire not occurred? Will the market bear an 8 percent price increase, assuming no more people eat at the restaurant? Is the capacity and turn rate of the restaurant such that 8 percent more meals can be served? Is there new competition? It is likely that the insurance company will raise these or similar issues.

Remember that business interruption calculations are built upon a foundation of subjectivity. Some common issues often raised include:

- How long is your loss period?
- What would your sales have been if your loss never happened?
- What would your expenses have been if your loss never happened?
- Did you incur any extra expenses or expediting expenses that are recoverable under your policy?

Issues like these, which could also be subject to policy interpretation, should not be determined by the insurer alone.

Remember that the insurer's accountants are not independent in the true sense of the word. Their responsibility is to represent the insurance company's interests.

They might work for an "independent" adjusting firm hired by the insurance company, but they still represent the insurer's interests and not yours.

### Evaluate Your Settlement

When it is time to meet with the insurance company adjuster to settle your loss, if he or she does not have full authority to negotiate it, you can choose not to commit to a final settlement amount at that time. An adjuster who does not have the full authority to settle will have to report to a superior before committing to pay a certain sum.

This limited authority protects the insurance company from having its adjuster make an agreement before the company has fully evaluated it. You should protect your interests in the same way. Study any offer or proposal carefully and insist on the option of holding a follow-up meeting where the settlement can be discussed again.

Be careful if asked to sign a general release as part of your settlement. You are entitled to collect your loss payment under your policy just by filing an agreed proof of loss. By signing a proof of loss you do not

give up your right to reopen the claim if additional damages are later discovered. A general release, however, will forfeit your right to reopen the claim.

It is also important to be aware of the time limits in your policy. Some policies require that you file the claim, together with a proof of loss, within a specified period of time. Additional time constraints might also apply to the filing of any lawsuits.

\* \* \* \* \*

As this article suggests, numerous issues will confront you as the claims process proceeds. Some will be obvious and others will be much more subtle. Think long and hard before you enter into the process on your own. Insurance company adjusters and their experts are extremely knowledgeable about insurance policies and the claims process. It is never wise to enter into the process unprepared if you are not as knowledgeable or experienced as the other side. This may be a prescription for disappointment in your recovery. Like many businesses, you could need help in leveling the playing field.

As a final thought, never lose sight of the fact that an insurance claim is a *cooperative* and *adversarial* process at the same time. The more you appreciate this reality, the better your chances will be of achieving a full and timely adjustment of your claim.

“  
... never lose sight of the fact that an insurance claim is a cooperative and adversarial process at the same time.  
”



These samples are for illustrative purposes. Actual equipment, materials and costs change over time. The method of calculating losses, however, remains applicable.

**Sample Building Estimate**  
Building estimates should encompass every detail in building reconstruction.

| Room: Exterior & Interior<br>Subroom 1: OCTAGON SEC. |                        | LxWxH 110'0" x 70'0" x 12'0"<br>Formula Trapezoid 70'6" x 26'0" x 24'0" |  |
|--|------------------------|---|--|
| 8,432.00 SF Walls                                    | 9,147.50 SF Ceiling    | 17,579.50 SF Walls & Ceiling  |  |
| 9,147.50 SF Floor                                    | 1,016.39 SY Flooring   | 531.33 LF Floor Perimeter   |  |
| 3,012.00 SF Long Wall                                | 1,454.00 SF Short Wall | 531.33 FL Ceiling Perimeter   |  |

  

| DESCRIPTION                               | UNIT         | UNIT COST | TOTAL                |
|---|--------------|-----------|----------------------|
| Stud wall – 2" x 6" OC                    | 10,904.00 SF | \$2.75    | \$ 29,986.00         |
| Sheathing – plywood – ½" CDX              | 8,376.00 SF  | \$1.47    | \$ 12,312.72         |
| Rafters – 2" x 12" – 16" OC               | 9,147.50 SF  | \$3.44    | \$ 31,467.40         |
| Batt insulation – 6" – R19                | 8,432.00 SF  | \$1.14    | \$ 9,612.48          |
| Batt insulation – 12" – R38               | 9,147.50 SF  | \$2.03    | \$ 18,569.43         |
| Siding – board & batten                   | 8,432.00 SF  | \$4.30    | \$ 36,257.60         |
| Seal then paint/finish wood siding        | 8,432.00 SF  | \$1.34    | \$ 11,298.88         |
| Sheathing – plywood – 5/8" CDX            | 18,115.00 SF | \$1.80    | \$ 32,607.00         |
| Concrete slab on grade – 6"               | 9,147.50 SF  | \$9.98    | \$ 91,292.05         |
| Footings – 24" x 10"                      | 529.00 LF    | \$10.40   | \$ 5,501.60          |
| Soffit & fascia – wood                    | 1,058.00 LF  | \$9.37    | \$ 9,913.46          |
| Commercial electrical (SF of bldg)        | 9,147.50 SF  | \$10.92   | \$ 99,890.70         |
| Heat, vent, air conditioning repair       | 10,000.00 SF | \$19.20   | \$ 192,000.00        |
| Joist – ceiling – 2" x 10" – w/blocking   | 9,147.50 SF  | \$2.29    | \$ 20,947.78         |
| Sheathing – plywood – ¾" CDX              | 4,000.00 SF  | \$1.99    | \$ 7,960.00          |
| 2" x 6" lumber – treated sill             | 531.33 LF    | \$2.40    | \$ 1,275.20          |
| Glue down carpet – commercial grade       | 884.73 SY    | \$44.55   | \$ 39,414.73         |
| 5/8" drywall – hung, taped, heavy texture | 26,727.00 SF | \$1.75    | \$ 46,772.25         |
| Seal then paint walls & ceiling (3 coats) | 26,727.00 SF | \$0.90    | \$ 24,054.30         |
| <b>Total</b>                              |              |           | <b>\$ 721,133.58</b> |



**Sample Business Personal Property Inventory**

Detail is imperative in documenting everything from large items to the contents of a desk drawer.

| QUANTITY | DESCRIPTION                                    | EACH         | REPLACEMENT COST    | AGE         | DEPRECIATION | DEPRECIATED AMOUNT | ACV                 |
|----------|--|--------------|---------------------|-------------|--------------|--------------------|---------------------|
| 1        | Lacasse 400E workstation, U-shaped             | \$ 3,720.00  | \$ 3,720.00         | 1 Yr. 6 Mo. | 10%          | \$ 372.00          | \$ 3,348.00         |
| 1        | Lacasse 400E 2-drawer mobile pedestal          | \$ 682.50    | \$ 682.50           | 1 Yr. 6 Mo. | 10%          | \$ 68.25           | \$ 614.25           |
| 2        | HON oak laminate pedestal desk 36"x72"         | \$ 1,281.50  | \$ 2,563.00         | 1 Yr. 6 Mo. | 10%          | \$ 256.30          | \$ 2,306.70         |
| 1        | HON 4-drawer vertical file cabinet             | \$ 1,303.50  | \$ 1,303.50         | 1 Yr. 6 Mo. | 10%          | \$ 130.35          | \$ 1,173.15         |
| 1        | HON 5-drawer vertical file cabinet             | \$ 1,124.75  | \$ 1,124.75         | 1 Yr. 6 Mo. | 10%          | \$ 112.48          | \$ 1,012.28         |
| 1        | Norson oak veneer bookcase 36"x72"             | \$ 1,782.00  | \$ 1,782.00         | 1 Yr. 6 Mo. | 10%          | \$ 178.20          | \$ 1,603.80         |
| 1        | Norson oak bookcase                            | \$ 673.75    | \$ 673.75           | 1 Yr. 6 Mo. | 10%          | \$ 67.38           | \$ 606.38           |
| 1        | Lasro 48" oak octagonal table                  | \$ 823.62    | \$ 823.62           | 1 Yr. 6 Mo. | 10%          | \$ 82.36           | \$ 741.26           |
| 1        | Miller oak laminate desk 30"x60"               | \$ 812.62    | \$ 812.62           | 1 Yr. 6 Mo. | 10%          | \$ 81.26           | \$ 731.36           |
| 1        | Plan Hold 5-drawer blue print flat file holder | \$ 2,700.50  | \$ 2,700.50         | 1 Yr. 6 Mo. | 10%          | \$ 270.05          | \$ 2,430.45         |
| 1        | HP 900 fax machine                             | \$ 2,118.75  | \$ 2,118.75         | 2 Yr. 6 Mo. | 15%          | \$ 317.81          | \$ 1,800.94         |
| 1        | Canon NP 4835S copier                          | \$ 11,806.25 | \$ 11,806.25        | 2 Yr. 6 Mo. | 15%          | \$ 1,770.94        | \$ 10,035.31        |
| 1        | Coach briefcase — Metropolitan                 | \$ 482.50    | \$ 482.50           | 1 Yr. 6 Mo. | 15%          | \$ 72.38           | \$ 410.13           |
| 2        | Framed pictures — mushrooms                    | \$ 100.00    | \$ 200.00           | 1 Yr. 6 Mo. | 5%           | \$ 10.00           | \$ 190.00           |
| 1        | Kenmore upright vacuum cleaner                 | \$ 375.00    | \$ 375.00           | 1 Yr. 7 Mo. | 20%          | \$ 75.00           | \$ 300.00           |
| 1        | Sharp calculator                               | \$ 52.98     | \$ 52.98            | 3 Mo.       | 5%           | \$ 2.65            | \$ 50.33            |
|          | <b>Subtotal</b>                                |              | <b>\$ 31,221.72</b> |             |              | <b>\$3,867.40</b>  | <b>\$ 27,354.32</b> |
|          | <b>Debris Removal 5%</b>                       |              | <b>\$ 1,561.09</b>  |             |              | <b>\$ 193.37</b>   | <b>\$ 1,367.72</b>  |
|          | <b>Sales Tax 6%</b>                            |              | <b>\$ 1,873.30</b>  |             |              | <b>\$ 232.04</b>   | <b>\$ 1,641.26</b>  |
|          | <b>Total</b>                                   |              | <b>\$ 34,656.11</b> |             |              | <b>\$4,292.81</b>  | <b>\$ 30,363.30</b> |

## Sample Excerpt from a 600-page Business Income Claim

### Loss of Income

Sales (Schedule A)

|                           |                  | September | October  | November  | December  | January   | February  | March     | April     | May       |
|---------------------------|------------------|-----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Lost Sales                | See Schedule A   | \$58,704  | \$94,800 | \$106,571 | \$131,542 | \$89,727  | \$77,333  | \$92,175  | \$836,382 | \$93,187  |
| Net Profit Loss           | See Schedule B   | 12,974    | 20,951   | 23,540    | 29,071    | 19,830    | 17,091    | 20,371    | 19,090    | 20,549    |
| Plus: Continuing Expenses |                  |           |          |           |           |           |           |           |           |           |
| Administration            | See Schedule C-1 | 3,027     | 2,884    | 507       | 626       | 427       | 368       | 439       | 411       | 444       |
| Occupancy                 | See Schedule C-2 | 6,546     | 6,546    | 6,546     | 6,546     | 6,546     | 6,546     | 6,546     | 6,546     | 6,546     |
| Advertising               | See Schedule C-3 | 1,514     | 2,445    | 2,747     | 3,393     | 2,314     | 1,994     | 2,377     | 2,228     | 2,403     |
| Selling                   | See Schedule C-4 | 5,168     | 5,168    | 5,168     | 5,168     | 5,168     | 5,168     | 5,168     | 5,168     | 5,168     |
| Total Continuing Expenses |                  | 16,255    | 17,043   | 14,968    | 15,733    | 14,455    | 14,076    | 14,530    | 14,353    | 14,561    |
| Other Income              |                  |           |          |           |           |           |           |           |           |           |
| Delivery                  | See Schedule D-1 | 647       | 1,530    | 1,719     | 2,123     | 1,448     | 1,248     | 1,487     | 1,394     | 1,504     |
| Fabric Protection         | See Schedule D-2 | 1,086     | 1,754    | 1,970     | 2,433     | 1,660     | 1,413     | 1,705     | 1,598     | 1,724     |
| Appliance Warranties      | See Schedule D-3 | 4         | 7        | 8         | 9         | 6         | 5         | 7         | 6         | 7         |
| Misc. Inc. (Short Over)   | See Schedule D-4 | -         | -        | -         | -         | -         | -         | -         | -         | -         |
| Total Other Income        |                  | 1,737     | 3,291    | 3,697     | 4,565     | 3,114     | 2,666     | 3,199     | 2,998     | 3,235     |
| Business Income Loss      |                  | \$30,966  | \$41,285 | \$42,205  | \$49,369  | \$37,399  | \$33,833  | \$38,100  | \$36,441  | \$38,345  |
| Cumulative Loss           |                  | \$30,966  | \$72,251 | \$114,456 | \$163,825 | \$201,224 | \$235,057 | \$273,157 | \$309,598 | \$347,943 |

### Footnotes

- <sup>1</sup> Additional recommendations are listed on the "Post-Loss Checklist" on page 5.  
<sup>2</sup> A sample building estimate is included on page 7.  
<sup>3</sup> A sample business personal property inventory is included on page 7.



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### Adjusting Today® Basis for Institutes CE Courses

The Institutes, the leader in providing knowledge solutions for risk management and the property/casualty insurance industry, offers continuing education courses based on technical information compiled from issues of *Adjusting Today*. The courses — "Valuing a Property Insurance Claim" and "Natural Disasters: Coverage Issues" — include seven modules each and are approved for credit by insurance departments in most states. They are offered to property insurance producers, adjusters or both, depending on the state, for up to three continuing education credit hours per course. More information is available at CEU.com.



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