

Client Alert

August 2019

Plan, Prepare, Prevent: How to Smoothly Navigate this Year's Anticipated Active Hurricane Season (Part 2)

In this second alert of a series of three, we address how policyholders can prepare a claim after a loss in order to maximize the potential recovery. In the next and final alert, we will discuss how to prevent denials of pending claims based on suit limitations periods. Our goal with this series is to give you a comprehensive outline that will guide you before and after a loss. Part one of the series can be found [here](#).

With hurricane season here, it is important to have a plan in place to mitigate the extent of financial losses from a storm. This year, forecasters are concerned about unusually warm water near the East Coast of the United States and the Bahamas. Specifically, they are alarmed because warmer waters cause storms to increase in intensity rapidly—leaving individuals and businesses with less time to prepare for a severe storm. Below, we address how to prepare a claim designed to maximize insurance recovery in the aftermath of a storm.

Preparing an Insurance Claim to Maximize Recovery

1. Provide Prompt Notice

Promptly giving written notice to your insurance company of a loss is critical. Indeed, the volume of claims following a hurricane will quickly overwhelm an insurance company, but your prompt notice of a loss can put you ahead in the adjustment process. Your notice should contain a basic description of the loss, including where, when and how the loss occurred, as well as your contact information. Your broker or agent can assist you in reporting the claim. After successfully reporting the loss, the insurance company will assign an adjuster to handle your claim.

2. In Conjunction with Providing Notice, Begin Preparing a Proof of Loss

Your proof of loss should contain a description of the property damaged by the storm. In addition to any specific requirements by your insurance company, you should use photographs, receipts, videos, and any other available records in order to substantiate your claim. A pre-loss inventory of insured assets will provide your insurer with a roadmap for adjusting your covered loss, even if adjusters are unable to reach your property for an extended period of time after the storm, such as was the case in Puerto Rico following Hurricane Maria.

Specifically for policyholders with commercial operations, ensure that you have a team in place before a loss in order to minimize recovery time and avoid the frenzied competition for scarcely available expertise after the loss. Additionally, ensure that you define action plans for reopening or relocating and under what conditions; log evacuation orders or applicable curfews that impact your business after the storm to support any business interruption claim; continue checking and logging power outages post-storm; identify temporary measures needed to resume operations and any extra expenses that you will incur as a result of those efforts, such as the costs of generators or even the cost to rent additional property to run your business while repairs are made to your primary location; ensure that all property damage is photographed or recorded on video and that all repair costs, even if seemingly insignificant, are logged; appoint one

person to represent your company with the insurance adjuster, and make sure they keep track of all adjuster communications; and assign a special accounting code or establish a ledger to account for all losses related to the storm.

3. Keep a Record of the Insurance Adjustment Process

During the loss adjustment process, it is important to keep a record of all documents sent to and received from your insurance company, as well as a log of your phone calls or other communications with the insurer or your assigned adjuster. The insurance or unfair trade practices statutes of many states require your insurer to communicate with you in a timely manner after you report a loss, including issuing a prompt coverage determination and paying any undisputed amounts of the loss. Accordingly, it is crucial to keep a detailed record of communications with your insurer(s) in case you need to rely on them should your claim end up in litigation.

4. Understand the Insurer's Position and Pushback on Delays or Denials Where Appropriate

The precise terms of an insurance policy and applicable law govern the existence and extent of coverage. In addition, policies are often endorsed or contain exclusions that may expand or reduce coverage. Some applicable limitations on policies include sublimits on certain losses that limit the total available insurance for a particular type of damage, as well as flood or water damage exclusions, earth movement exclusions, and government action exclusions that may not permit recovery for interruptions in business where government authorities limit access, etc. The burden is always upon the carrier to prove the terms and applicability of any exclusion of coverage in a policy. Additionally, exclusions are read narrowly and, where found to be ambiguous or not sufficiently notorious in the policy, they will be disregarded or construed in the light most favorable to the insured and in favor of coverage.

Ultimately, policyholders are always best served by a careful analysis of the terms of their policies and the controlling law governing their insurer's obligations, as well as precise documentation and presentation of their loss during the claim adjustment process. Retaining experienced coverage counsel to help you analyze your policies is critical to understanding your rights and the obligations of the insurance company, as well as to guide you through the claims-adjustment process and hold the insurer accountable when needed in order to maximize recovery of the available insurance.

* * *

Hunton Andrews Kurth LLP's insurance recovery lawyers assist policyholders in securing the full benefits to which they are entitled in the event of any type of loss, including amounts spent to defend or settle large-scale litigation. For more information, please contact the members of the firm's insurance coverage practice group.

Authors

Walter J. Andrews
wandrews@HuntonAK.com

Andrea DeField
adefield@HuntonAK.com

Yaniel Abreu
yabreu@HuntonAK.com

Contacts

Lawrence J. Bracken II
lbracken@HuntonAK.com

Lorelie S. Masters
lmasters@HuntonAK.com

Syed S. Ahmad

sahmad@HuntonAK.com

Michael S. Levine

mlevine@HuntonAK.com

Sergio F. Oehninger

soehninger@HuntonAK.com

© 2019 **Hunton Andrews Kurth LLP**. Attorney advertising materials. These materials have been prepared for informational purposes only and are not legal advice. This information is not intended to create an attorney-client or similar relationship. Please do not send us confidential information. Past successes cannot be an assurance of future success. Whether you need legal services and which lawyer you select are important decisions that should not be based solely upon these materials.