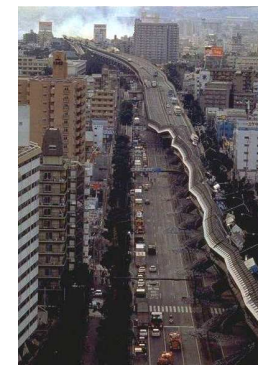


WHEN DISASTER STRIKES — CONSIDERATIONS FOR EFFECTIVE CLAIMS DEVELOPMENT

David M. Brenner, Riddell Williams, P.S.
August 2007





Essential Property Loss Determinants



- ◆ Trigger
 - ◆ Multiple causes? e.g.:
 - ◆ Earthquake
 - ◆ Failed utilities
 - ◆ Fire
 - ◆ Looting
 - ◆ Loss of access
 - ◆ What is the efficient proximate cause?
 - ◆ Is the efficient proximate cause an excluded peril?
- ◆ Number of Occurrences/Amount of Coverage
 - ◆ Definition of loss or occurrence
 - ◆ Look to nature of cause rather than number of injuries
- ◆ Preserving the Property
- ◆ Valuing the Loss



Key Steps in Any Property Loss



- ◆ Gather the policies
- ◆ Notify the carrier's agent in writing
- ◆ Acquire police/fire, other public reports
- ◆ Preserve key corporate records for potential business interruption, accounts receivable, other economic losses
- ◆ Visually document loss (photos, video)
- ◆ Prepare proof of loss as instructed
- ◆ Assist insurer's investigation
- ◆ Consider and toll policy-based suit limitations clause



Business Interruption Claims



- ◆ Essential Issues
 - ◆ Cause of Loss
 - ◆ Period of Restoration
 - ◆ Extra Expense
 - ◆ Civil Authority & Ingress/Egress coverage
 - ◆ Contingent Business Interruption



Business Interruption Claims (cont.)



- ◆ Triggering Business Interruption Coverage
 - ◆ Requires
 - ◆ Loss of business income
 - ◆ Due to necessary suspension of operations
 - ◆ Within period of restoration
 - ◆ Caused by direct physical loss or damage to covered party
 - ◆ By a covered cause of loss
 - ◆ Need trigger, time element, premises
- ◆ Period of restoration issues
 - ◆ Beginning —————> deductible
 - ◆ Ending —————> actual v. theoretical v. extended
 - ◆ Reopen where?



Business Interruption Claims (cont.)



- ◆ Civil Authority & Ingress/Egress Issues
 - ◆ Cause and degree of loss of access?
 - ◆ What physical damage?
 - ◆ Where is physical damage?
- ◆ Contingent Business Interruption
 - ◆ As result of direct physical loss to other property
 - ◆ Which wholly or partially prevents supply of goods or services



Business Interruption Claims (cont.)



- ◆ Extra Expense
 - ◆ Necessary additional expenses
 - ◆ To avoid or minimize interruption
 - ◆ To repair or replace property, systems, lost information, damaged valuable papers
 - ◆ Examples
 - ◆ Rent
 - ◆ Design/engineering
 - ◆ Utilities
 - ◆ Supplies
 - ◆ Advertising
 - ◆ Recruiting
 - ◆ Travel
 - ◆ Consulting and legal fees
 - ◆ Interest on loans



Business Interruption Claims (cont.)



- ◆ Other Considerations
 - ◆ Market effects
 - ◆ Did the disaster eliminate business?
 - ◆ Did the disaster create new opportunities?
 - ◆ Building ordinances
 - ◆ Idle periods
 - ◆ Loss of long-term contracts
 - ◆ Utility service interruption



Business Interruption Claims (cont.)



- ◆ Valuing the Loss
 - ◆ Agreed value
 - ◆ Appraisal – amount, not coverage
 - ◆ Considerations
 - ◆ Type of operation
 - ◆ Interdependent with other operations
 - ◆ Partial or complete disruption
 - ◆ Alternatives for returning to business
 - ◆ Impact on sales
 - ◆ Maintenance of work force
 - ◆ Availability of suppliers/markets



Model X7 Survivaball Unit Z5-11 Version 11.7

Compatible with Halliburton power units 10x+ and 11x with MP45 adaptor and TICC conversion software



- 1. GPS antenna with supplementary LP antenna
- 2. Receiver and data processor
- 3. Protective hull/gore with air
- 4. Cooling attic
- 5. Fuel tank (optional)
- 6. Defense Enhancement Unit (1 of 2, optional)
- 7. Fuel Reservoir (1/2 tank) (connects to fuel line)
- 8. Multi-Use Refraction Center (1/2)
- 9. Manual Input (for interaction with people, machinery, and for enrichment)
- 10. Nutrition (20% Tandy) (connects to nutrition from Fuel Reservoir, 12)
- 11. Electrical Lighting (connects to power line)
- 12. Dynamic
- 13. Motors (powered by dynamic and manual fuel (fuel interface))
- 14. Electromagnetic sensor (generates electricity for heating and also operates (heats))
- 15. Dynamic PAT (optional as total (optional as 1/2))
- 16. Defense Enhancement Unit (1 of 2, non-optional)
- 17. Defense Enhancement Unit (1 of 2, fuel)
- 18. Power control unit (1/2) (power converter and dynamic)
- 19. Medical Analysis Unit (1/2) (connects to health and energy)
- 20. Personal Treatment Unit (1/2) (connects to fuel line)
- 21. Multi-Use Refraction Center (1/2) (optional)
- 22. Personal Nutrition Unit (1/2) (connects to nutrition from fuel)
- 23. Temperature Unit (1/2) (connects to cabin system)
- 24. Hypoxic Elasticity Unit (1/2) (optional)
- 25. Medical Stability & Emergency Unit
- 26. Communications and Infrastructure (Medical) Assembly





Impact on the Legal Community

- ◆ 8,979 = number of active attorneys in parishes most severely impacted by Katrina and Rita
- ◆ 17,047 = total number of “active” lawyers in Louisiana
- ◆ 52% of all Louisiana lawyers had offices in areas significantly impacted by Hurricanes.



Top Ten Professional Responsibility Issues for Lawyers Post-KatRita*

- ◆ No backup for client files
- ◆ Inadequate backup for computers
- ◆ **No current list of clients with open matters**
- ◆ Untimely filing due to storm related issues
- ◆ **Accounting records regarding fees paid and earned have been lost leaving the lawyer and client with nothing to establish the reasonableness of fees**

* Compiled by Louisiana State Bar Association



Top Ten Professional Responsibility Issues for Lawyers Post-KatRita (cont.)

- ◆ **Unrecorded contingency fee contracts have been lost. The Disciplinary Rules require written contracts.**
- ◆ **Conflict of interest avoidance systems maintained by lawyers have been lost.**
- ◆ **A smaller “legal pie” in Louisiana requiring lawyers to relocate, leave the profession or fight harder for remaining business.**



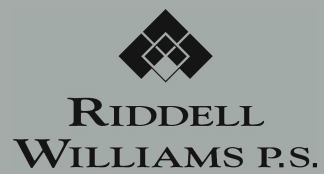
Top Ten Professional Responsibility Issues for Lawyers Post-KatRita (cont.)

- ◆ Increased alcoholism, drug addiction and depression.
- ◆ “Marginal” practitioners may be tempted to borrow from clients’ funds to make ends meet.



Suggestions for Law Firm Claim Preparedness

- ◆ Review business interruption coverage
- ◆ Maintain duplicate copies of policies offsite
- ◆ Up-to-date video of building and office contents
- ◆ Maintain offsite hard copy and electronic backup of at least two years of detailed revenue and expense records
- ◆ Pre-assigned partner to deal with insurer
- ◆ Maintain offsite electronic file backup and identify and option alternative work site
- ◆ Check out Louisiana State Bar web site Disaster Recovery Manuals at http://www.lsba.org/CLE-1/cle-rebuilding_your_practice_a.html



Questions?

Please contact us any time with additional questions.

David M. Brenner
206.389.1773
dbrenner@riddellwilliams.com