

# Lawyer Insights

## It's hurricane season again, is your data-driven business prepared?

By Michael Levine and Rachel Hudgins  
Published in Digital Insurance | June 11, 2024



Although the Atlantic hurricane season does not begin until June 1st, if this year's spring tornado season is any indicator, [expert predictions of a strong hurricane season should be on target](#). Indeed, with climate change being blamed for some 400 confirmed tornadoes in April and some 300 already confirmed through mid-May, hopes for a "normal" hurricane season are largely forgotten.

Business owners in hurricane-prone states don't need a reminder about how devastating a hurricane can be on a business's physical assets in the hurricane zone. But what of the business's digital assets and data? Is that information protected? If so, where and how? Can it be retrieved in the case of a catastrophic physical loss? Can it be accessed and utilized from remote locations while storm damage is repaired? Now is the time to determine the answers to these questions and others, and to ensure your business is ready when disaster strikes. A well-executed disaster response plan can position your business to weather the storm, maximize insurance coverage and, potentially, stand as the difference between continuity and demise. Here are some essential tips to consider before and after a storm strikes:

### Before the storm

- 1. Establish a plan:** If your organization has a disaster recovery plan, now is a great time to review and update it. If you don't have one, now is the time to prepare one. Having a plan in place before a storm helps a company prepare for, mitigate and recover from a disaster so the business can continue or resume its usual operations with minimal downtime. Among other things, a plan should identify mission-critical stakeholders and employees and assign tasks based on subject matter expertise and operational knowledge. Team members should know their role in the wake of a disaster *before* the disaster occurs to allow immediate execution of responsibilities. Among all else, at least one team member should be charged with liaising with the business's insurers.
- 2. Protect your data:** Redundancy is key. So, too, is an accessible, off-site backup of mission-critical data. Traditional on-site backup systems, no matter how robust, are vulnerable to physical damage during hurricanes and other catastrophic loss events. Replacing servers and hardware can be done, often with delays following wide-spread damage. Replacing data, however, may be impossible. It is critically important, therefore, that businesses utilize off-site, cloud-based readily accessible data storage facilities to store business-critical data and files, including copies of insurance policies. However, even the most robust and accessible off-site storage is of no value without power and the ability to access that information. It is recommended, therefore, that the disaster response team have duplicate hard copies of mission-critical business information, including insurance policies, in case electronic files are not electronically retrievable because of

---

This article presents the views of the authors, which do not necessarily reflect those of Hunton Andrews Kurth LLP or its clients. The information presented is for general information and education purposes. No legal advice is intended to be conveyed; readers should consult with legal counsel with respect to any legal advice they require related to the subject matter of the article. Receipt of this article does not constitute an attorney-client relationship. Prior results do not guarantee a similar outcome. Attorney advertising.

## It's hurricane season again, is your data-driven business prepared?

By Michael Levine and Rachel Hudgins

Published in Digital Insurance | June 11, 2024

power outages. Having insurance information immediately accessible will also facilitate initial communications with the insurer response team, who may require proof of insurance before commencing their investigation and loss adjustment.

- 3. Document property contents:** Historically, documenting business personal property and inventory following a catastrophic loss has been a tedious and often inexact task. With the advent of electronic inventory control systems and asset management systems, detailing business assets on a real-time basis is now far easier and more accurate unless, of course, the data is lost or inaccessible. So, consistent with point #2 above, ensure that this data is among the data that is readily accessible following a loss event. Accessible information should include, at a minimum, content descriptions, asset numbers, values (preferably supported by purchase or appraisal documentation) and, where appropriate, photographs or video asset documentation.

### After the storm

- 4. Track mitigation and recovery costs:** Upon mobilization, the business continuity/disaster response (BCDR) team should document all costs and expenses undertaken to preserve undamaged property and continue or reestablish business operations. Examples of such costs and expenses include:
  - tarps, plywood and other materials necessary to secure the damaged property;
  - sandbags, pumps and other materials necessary to exclude or remove flood water and debris;
  - emergency or alternate power;
  - emergency or alternate premises;
  - substitute transportation;
  - meals and other employee expenses beyond those ordinarily supplied during normal business operations; and
  - any other costs or expenses over-and-above normal operating costs.

The key factors for all of these "extra expenses" are that they (1) are incurred to resume business operations as quickly as possible and (2) are above and beyond costs and expenses that the business would have incurred had the loss not occurred. For all such costs and expenses, collect receipts and, where feasible, track the expenses with an Excel file or similar platform with links to receipts and other relevant backup information, all of which will help to streamline the insurance claim submission. In addition, when feasible, consider engaging a forensic accountant who specializes in time element insurance claim preparation and submission to help track and quantify your loss; many commercial property policies cover this expense.

And, finally, if you sense resistance from your insurer, consider consultation with experienced policyholder coverage counsel. Insurers have lawyers on staff to continually evaluate coverage and assist with claim adjustments. Insurance premiums continue to rise and catastrophic losses are what businesses buy insurance to cover, among all else. When that loss occurs, businesses should act prudently to ensure they are getting all that they are entitled to receive.

## It's hurricane season again, is your data-driven business prepared?

By Michael Levine and Rachel Hudgins

Published in Digital Insurance | June 11, 2024

5. **Document operational impacts:** Your BDCR team should also record information that can help describe the claim to your insurer, like:
  - location closure and reopening dates;
  - power outage durations;
  - supply chain disruptions, even if your business does not sustain physical damage; and curfews and evacuation orders that affect business operations.
6. **Stay informed:** Monitor government authorities' orders or instructions that may impact your or the insurer's post-loss obligations. For example, many state insurance departments issue orders extending renewal or claims submission deadlines after major storms. Consult this [directory of state insurance departments](#) for contact information.

### In the future

7. **Predicting the storm:** Last year Google DeepMind launched an AI tool called [GraphCast](#) to provide earlier and more accurate weather forecasting. GraphCast is in its infancy, but in the future, we expect these and other predictive AI models will become important tools in disaster preparedness.

By acting proactively and following these steps, policyholders in hurricane-prone areas can ensure they receive the full benefits of their insurance coverage.

***Michael Levine** is a partner in the firm's Insurance Coverage group in the firm's Washington D.C. office. Mike is a Legal 500 and Chambers USA-ranked lawyer with more than 25 years of experience litigating insurance disputes and advising clients on insurance coverage matters. He can be reached at +1 (202) 955-1857 or [mlevine@HuntonAK.com](mailto:mlevine@HuntonAK.com).*

***Rachel Hudgins** is a counsel in the firm's Insurance Coverage group in the firm's Atlanta office. Rachel has litigated hundreds of insurance coverage and bad faith claims in state and federal courts across the country and U.S. territories brought under a spectrum of insurance policies issued to individuals, public and private corporations, and government entities. She can be reached at +1 (404) 888-4110 or [rhudgins@HuntonAK.com](mailto:rhudgins@HuntonAK.com).*

This article was published in Digital Insurance, June 2024, [https://www.dig-in.com/opinion/its-hurricane-season-is-your-data-driven-business-prepared?utm\\_term=engage](https://www.dig-in.com/opinion/its-hurricane-season-is-your-data-driven-business-prepared?utm_term=engage).