

Lawyer Insights

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After Matthew, The Insurance Storm Begins

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Category 4 hurricanes like Hurricane Matthew can cause devastating damage to people and property. Luckily, some of the damage to property and businesses can be mitigated by insurance. Obtaining your full insurance rights is not always so simple.

Insurance policies, like people, come in all shapes and sizes. Your coverage likely is different from the policy covering the business next door. It is critical, therefore, that you both read your policy to fully understand the coverages that you are entitled to following a loss and consult a professional to make sure you are maximizing your insurance recovery. You also need to understand when and how to appropriately provide notice to your insurance company so you do not waive any potential coverage.

For instance, while Florida law requires residential property insurers to provide hurricane windstorm coverage (including your homeowner or commercial condominium association policy), commercial nonresidential property insurers are not required to do so. Thus windstorm damage may be excluded from your property policy. Hopefully, you've purchased additional coverage for windstorm and flood to cover property damage caused by a hurricane. Depending on the cause of the damage sustained, one or both may respond to the damage you've sustained by Hurricane Matthew.

In addition to covering damage to your building, most policies include at least some level of business personal property coverage for items like furniture, fixtures, and equipment. To establish your claim for personal property damage, you'll need to submit a detailed inventory of the damage to your insurer as promptly as possible after the storm. Taking photos of the property, before and after the storm, is also helpful for documenting the damage.

Has a tree or debris fallen on your building? Your policy likely covers debris removal up to a certain percentage of the policy limit. Be sure to review your policy coverage, however, as this coverage usually has a reporting deadline such as 180 days after the loss. Similarly, did a falling tree or blowing debris cause other damage to your property or business? Your policy likely covers that damage, too.

Your property policy also requires that you mitigate your loss by protecting your property from further damage. Likewise, your property policy requires that you take reasonable steps to continue your business as best you can while repairs to covered property are made. Be sure to keep records of these expenses as they are likely covered under your policy.

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When The Answer Is No ...

Even if you can reopen your business, you may still have a covered business interruption loss depending on the terms of your coverage. Business interruption insurance covers the income loss suffered because of the disaster and any required rebuild. Unlike dollar deductibles in other policies, business interruption coverage usually includes a time deductible called a waiting period. This means that the policy will not cover loss immediately following the storm damages, but rather begins after the waiting period is over, typically 24-72 hours.

Finally, your policy may extend business income coverage for loss sustained even where your property did not sustain physical damage from the storm. This contingent coverage applies where physical damage was sustained by a supplier, customer, transporter or some other business on which you rely for your normal business operations.

When reviewing your coverage, be sure to note the conditions section of your policy that details requirements after the loss. Paramount will be providing timely notice of a loss. Providing proper notice is important — both in terms of timeliness and content. And it may take weeks or months to fully understand the scope of your loss, so don't limit your claim prematurely.

You'll also be required to submit a sworn proof of loss form, typically within 60 days of your insurer's request. This form outlines the amount you're claiming as damage and is typically prepared on a form provided by the insurer. Note, however, that flood insurance policies issued under the National Flood Insurance Program require the proof of loss to be submitted within 60 days of the loss. Failure to do so could preclude your claim for coverage.

Hurricanes and other natural disasters bring out the best — and the worst — in us. Policyholders should be wary of claim adjustments that seem too good to be true ... they probably are. Again, policyholders are reminded to consult with a reputable adjuster or insurance coverage lawyer to help navigate the various coverages, deadlines and requirements that might apply to your claim. Most importantly, don't take "no" for an answer. There are many different types of insurance coverages that can apply to help you rebuild and recover your loss of business.

Hurricane losses can be substantial. If you have paid premiums for insurance coverage, make sure you get the full benefits of that coverage. Good luck.

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