

Client Alert

February 2025

Seeking Insurance Recoveries in the Aftermath of the Los Angeles Wildfires

The Los Angeles wildfires have caused unprecedented levels of damage to communities and businesses across the L.A. area. Portions of L.A. County were placed under mandatory evacuation orders. As the city recovers from its fight against the onslaught of fires and the damage is slowly assessed, business owners face the reality of substantial losses caused by this catastrophe. Getting businesses reopened will be the top priority, but accessing insurance assets that provide business income and other protection may be just as important. Businesses should vigorously pursue insurance coverage for damaged property, lost business income, and increased additional costs and expenses.

This alert provides an overview of common insurance issues that businesses impacted by the L.A. wildfires will face as they begin the process of reopening. It also provides guidance for businesses as they get ready to submit claims related to losses resulting from the fires. Olshan attorneys have experience assisting clients in presenting and maximizing their insurance claims when a casualty causes the business to shut down, including advising clients on recovery options related to the wildfires in L.A.

Understand Your Property Insurance

Losses to a business' property and lost business income generally fall within the terms of a company's property insurance policy. While the full scope of damages covered by your property insurance will depend on the specific language in your policy, fire and the damage it causes are the quintessential property damage claim. The physical damage caused by the L.A. wildfires is widespread. In the Eaton region alone, the fires damaged or destroyed more than 9,400 structures. Your insurance policy also may provide coverage for more than just physical damage to buildings and inventory destroyed in fire. Insurance policy language needs to be reviewed carefully to determine whether coverage is extended to loss caused by fires even when the property at issue did not burn. For example, losses from soot, smoke, and fire response efforts can fall within a

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property policy's coverage, as can other related causes of loss like utility interruptions. Further, particular consideration needs to be given to whether the policy must pay "replacement cost" or only the "actual cash value" of lost property. Clauses regarding the valuation of inventory should be scrutinized to determine whether fair market value will be received.

Pursue Business Income Claims

In addition to losses from direct property damage, your insurance may provide protection to the business income that would have been earned but for the shutdown of your business. Business interruption coverage is meant to protect the business' bottom line by covering lost revenue or lost business income that results from events covered by the insurance policy, like wildfires. Some policy forms further extend this coverage to ongoing operating costs, including payroll.

The business shutdown typically must be caused by direct physical damage or other covered casualty suffered by the business itself. The insurance provided also extends to extra expenses incurred by the business to recover from its loss, comprised of those additional costs incurred by the business that would not have been incurred but for the covered casualty.

Evaluate Contingent Business Interruption Losses

Even if your business did not suffer a direct physical loss, many policies also provide for "contingent business interruption" coverage to protect against business income losses caused by physical loss to the property of a third party. This coverage frequently applies when vendors, suppliers, distributors, or even "leader" locations on which the policyholder's business relies are damaged and unable to continue supporting the policyholder's business. Such coverage also can be triggered by evacuation orders from government civil authorities or the inability to access the policyholder's business location. Contingent business interruption coverage can provide a necessary lifeline to a business lucky enough to have avoided direct loss from the fire but still struggling to operate in the aftermath of these events.

Document and Pursue Your Claim

Quantifying business interruption insurance coverages can be complex. Typically, a policyholder must establish an interruption for a particular period of time as a deductible, often 48 or 72 hours. Following that, coverage should be pursued for business losses up to and including the time at which the business resumes operations at its pre-loss levels. Establishing compliance with these terms often requires rigorous analysis

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of the company's financial documentation. Proof should be provided as to expected business income as well as the extra expenses incurred during the "period of restoration." Due to the complexity of this analysis, many policies also provide coverage for hiring professionals to assist in claim preparation.

A business that has suffered physical or non-physical damage due to the L.A. wildfires should be mindful of the following considerations as they begin to gather evidence to supplement their claims. While these pointers are by no means exhaustive, they will ensure a business entity is as prepared as it can be to begin navigating its potential claims.

- (1) Gather all applicable insurance policies and review your coverage. Note that multiple insurance policies might apply to the same or similar loss. Make sure all insurance is reviewed thoroughly.
- (2) Notify your insurance company of any potential damages or losses your business suffered. In providing this notice, make clear that the loss is ongoing and the information provided will be supplemented as your investigation continues. Business interruption losses in particular are difficult to quantify, and your company should take adequate time to fully assess all damage and losses without being limited by early statements made without full understanding of the scope of the damage.
- (3) Take notes and/or document all communications or interactions with your insurer and follow-up on your claim regularly. Your insurance company has undoubtedly been receiving a flood of new claims from businesses swept up in the L.A. wildfires. Regularly following up with your insurance agent/broker will ensure your claim is not lost in the shuffle.
- (4) Document all losses and preserve all evidence. Take photographs of the condition of the property. If possible, locate construction plans and records for damaged buildings. Take stock of personal property, furniture, appliances, inventory, and other business property. Set up accounting procedures to track any expenses incurred while your business is interrupted and save your receipts. Establishing a system to record and preserve evidence at the outset greatly assists in the claims presentation process.
- (5) Do not be afraid to ask for an advance against the future claimed loss. Often insurers will advance available policy benefits in the wake of a catastrophe such as the L.A. wildfires. Advanced insurance proceeds can greatly assist a company trying to get back on its feet.

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- (6) Pay particular attention to whether your policies include any specific deadlines for submitting claims or any deadlines to sue. Insurance claims can take a significant amount of time to quantify and adjust. Insurers often are willing to extend deadlines when necessary if a policyholder has been diligent in pursuing its claim. By contrast, courts regularly enforce deadlines contained within insurance policies so care should be taken to remain in compliance.
- (7) Consult with counsel as needed. Experienced policyholder advice can be critical to maximizing the recovery for insurance losses.

Despite the complexity of the process, it is important to remain steadfast while pursuing property damage and business interruption claims. You are entitled to clear and plain English explanations of what your policy covers. If you are not getting clear answers, seek the advice of your broker or of an attorney.

The L.A. wildfires have caused devastating losses to homes and businesses implicating multiple types of potentially applicable insurance coverages. Good planning and claims management strategy can result in timely recoveries and substantial assistance with rebuilding what was lost. An informed, organized, and prepared policyholder stands the best chance of having his or her claim addressed promptly by an insurer that is inundated with thousands of claims and maximizing recovery on that claim.

Please contact the Olshan attorney with whom you regularly work or the attorney listed below if you would like to discuss further or have questions.

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