



What You Don't Know Might Hurt Your Client

The Complex and Challenging World
of Property Insurance Claims

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Good client service professionals aspire to be more to their clients than providers of a project or service. They aim to cultivate long-term relationships in which their clients view them as partners, defenders, protectors and advocates. As a result, their services are more than a professional transaction. Clients may rely on you as their trusted advisor in times of need — whether the issue falls within your area of expertise or not.



“Having insurance” and “using insurance” — the process of what happens when a claim is made — are two completely different things.

When your client suffers major property damage or their business is interrupted:

- ✔ Their financial recovery depends on the outcome of their insurance claim.
- ✔ Professional representation by a licensed public adjuster will be the best way to ensure a fair and just settlement.
- ✔ Already having a relationship with trusted public adjusters to help your client can deepen your bond with your client as their “go-to” resource.

This eBook provides a basic understanding of the structure of a property insurance policy and the types of situations your client may face when making a property damage insurance claim. It also highlights the critical issues that can arise, and provides guidance for “best practices” in the filing, processing and recovery of an insurance claim.

For nearly a century, our public adjusters have been exclusively representing the insured, your client, during the insurance claim process.

 We dissect and navigate policies.

 Investigate and document damages.

 Negotiate for a full payout.



With decades of experience handling thousands of property and business interruption claims, our team has the unmatched resources to maximize efficiency — getting your client back to life and business sooner.

If, after reading this eBook, you have additional questions or comments, we would welcome the opportunity to speak with you.

Where to Look for Information



Often, clients don't read their own insurance policies cover to cover, so they may not be aware of all the affirmative obligations they agreed to in their policy. Fewer still may have asked you to review their policy before signing it. As you can appreciate, an insured's claim is bound by the coverage language that exists within their policy.

It's important to remember that at its core, an insured's relationship with their insurance carrier is contractual in nature — which means it's a business transaction. But for insureds, this isn't simply an agreement — it is an adhesion contract. This means that, when it comes to the policy offered, the insurance customer must either "take it" or "leave it." Since few people have the option of foregoing insurance, many enter into these insurance contracts somewhat blindly.

Many insureds may assume their policy provides them with full coverage, especially since most never bother with a thorough review of the policy's language. However, this is usually not the case.

Many policies contain provisions that provide coverage in one section, take it away in another, and give it back in yet another part of the policy. The reality of "full coverage" is practically a myth; it's likely no policy exists that covers every aspect of someone's property loss.

On top of the "language and knowledge barrier" that insurance policies present, the general principles of common and case law regarding liability and damages, as well as standard contractual issues, often don't apply when it comes to an insurance claim. Strange, but true!

So, what does apply?

Simply put, the
language of the
insurance policy!

Here is an overview of the different components of an insurance policy.



1. The Declaration Sheet



Think of the Declaration Page, also known as a “Dec Sheet,” of your client’s insurance policy as the “outline” or “**60,000-foot view**” of their coverage.

Many believe this to be the entire policy;
it is not!

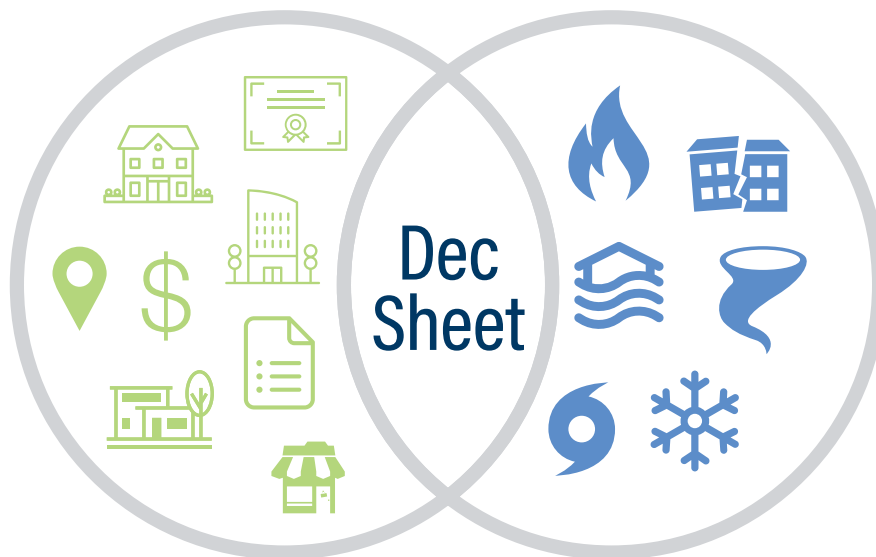
What the Dec Sheet *does* do is identify certain coverages, including but not limited to:

1

Types of property and locations being insured, coverage limits and deductible amounts

2

Additional types of coverage that may not appear in the body of the policy, but that are offered through endorsements



Within the Dec Sheet you will see the policy divides coverages into three primary categories:



Building

Time Element

Contents

This category covers the physical structure, including items permanently affixed to the structure

This component provides coverage for additional expenses to maintain operations and/or loss of income suffered by an insured

This area covers all items that are not attached to the Building/ Dwelling (as the saying goes, "If you take the building, flip it over and shake it, everything that falls out is 'contents'")

RESIDENTIAL POLICIES

Building coverage is often listed as "**Coverage A – Dwelling**"

Time Element coverage is referred to as "**Coverage D – Loss of Use**" or "**Additional Living Expenses**" (which covers additional costs incurred if a homeowner is forced to live in a temporary accommodation following a covered loss)

Contents coverage is referred to as "**Coverage C – Personal Property**"

COMMERCIAL POLICIES

Building coverage is typically referred to simply as "**Building**"

Time Element coverage is referred to as "**Loss of Income**" and "**Extra Expense**" (in general, these categories cover lost profits as well as other expenses incurred to attempt to maintain operations or to minimize lost profits after a covered loss has occurred)

Contents coverage is referred to as "**Business Personal Property**"

Please note: The Dec Sheet does not provide the details of coverage; rather, those are contained in the body of the policy and all related forms and/or endorsements.

2. The Body of the Policy



True to the adage, “the devil is in the details,” **the fine print is especially important when it comes to reviewing your client’s policy** and preparing the insurance claim and ensuing negotiation. It’s easy to get confused by these details — and that’s a big reason why it is so important to read the policy in its entirety. That’s what provides the precise provisions that impact coverage.

Because interpreting policy provisions can be complicated and tricky, you and your client may want to obtain the help of an expert to be “in their corner” throughout the claims process and settlement negotiation.

Many insureds settle claims for substantially less than what they were entitled to recover without realizing it — and this is where a public adjuster can be a godsend. Public adjusters work exclusively for policyholders, not insurance companies. They are advocates and allies to the insureds throughout the process, experts who have settled thousands of claims. They and their staff know the ins and outs of policy language and coverage — as well as the duties and obligations your client has based on the terms of the policy.



There are numerous provisions in insurance policies, and all are important. In this eBook, we address a few key provisions as follows:

1 Definitions

Words and phrases in bold are terms that will be defined in the “definitions” section. It is critical to see how the policy defines these words and phrases because the definitions impact the coverage.

2 Covered Causes of Loss

This section identifies the types of risks that are covered. Most policies are either “**Open Perils**” (aka “All Risk”) or “**Named Perils.**” An “**Open Perils**” policy covers everything that causes physical damage to covered property (that is to say, everything except the numerous items that are excluded or are limited elsewhere in the policy). A “**Named Perils**” policy only covers damage caused by the specific perils listed in the policy, such as fire, lightning, wind, and so on.

3 Covered Property/Property Not Covered

This section identifies what physical property is covered by the policy and what is not. Please note, many policies have additional coverages via endorsements that are not subject to the policy limit, but rather have their own sub-limit.

4 Exclusions and Limitations

Where the insurance policy grants coverage in one section, it “taketh away” in another. The exclusion and limitations sections of the policy show where coverage is minimized/limited. These areas must be examined closely because exceptions are often built into an exclusion or limitation that may allow for coverage in certain circumstances. There is a method to how these provisions are scripted.

5 Loss Conditions/Additional Conditions

These areas address miscellaneous conditions and requirements of the insured, covering everything from the insured’s duties to the rights of others.

3. Preparing and Presenting the Claim

Most insureds mistakenly believe all that is required of them in order to get compensated for a property damage loss is to pay the insurance policy premium. Nothing could be further from the truth.

Paying an insurance premium is the first step — but certainly not the only step — that your client must take to receive a full and just settlement. Remember, your client already agreed to a number of obligations when they purchased their insurance; some of these obligations only “spring to life” once an insurance claim is made. These duties are usually found in the **Loss Conditions subsection titled “**Duties in the Event of Loss or Damage.**”**

Your client’s failure to comply with any or all of these duties may result in a denial of the claim. These duties include, among other things:



Providing prompt notice of the loss



Protecting the property from further damage



The “duty to cooperate” by providing all financial, tax, utility or other documents requested by the insurance company in a timely fashion

Certainly, the most cumbersome and difficult of all the obligations placed on your client is their **duty to prepare and present their claim to the insurance company.**



It is important for your client to know this is NOT the only offer.

Your client has a voice in this process!

It's true that the insurance company will analyze the damage to the property and/or business and prepare a written offer of the damage — but that estimate is from the insurance company's perspective.

Almost all insurance policies place the task of evaluating and quantifying the size of the loss on the insured, regardless of the insurance company's internal estimates.

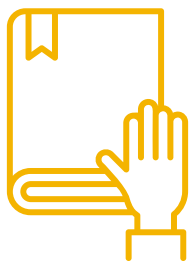
This task can be the most complex part of processing a claim as it requires multiple areas of expertise and a familiarity with a niche process that the majority of clients would never otherwise discover — let alone master!



4. Timely Filings

Insurance policies are full of specific timeframes and deadlines. One of the earliest deadlines your client will be presented with is to submit a **“Sworn Statement in Proof of Loss”** (sometimes referred to as a “Proof of Loss”).

This critical document must include certain information, including the amount proposed as the total of the claim. A Proof of Loss must be properly completed, signed by the insured, and notarized. (Some states specify a timeframe for this to be submitted unless the time period is extended in writing.) Many policies provide that the Proof of Loss is due upon request, which extends the time for filing until requested.



5. Practice Alert



In some states, courts have upheld claim denials for merely failing to file the Proof of Loss on time. While this is an extremely harsh outcome, it is one you and your client need to be aware of and understand.

While the policy tells your client what they need to do, neither the policy nor the insurance company tells them just how to comply with these obligations.

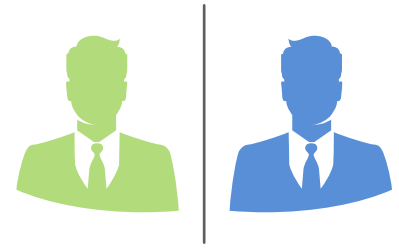
For example, in the world of property insurance, damages are documented using means and methods unique to the insurance industry. These tactics are very different from what clients might consider common sense. A failure to be aware of how to work within these standard industry practices can be devastating to an insured's recovery.

In determining loss of income, for instance, the insurance policy sets forth a very specific formula for how a loss of income claim needs to be calculated.

Someone unfamiliar with the formula and related rules may prepare a calculation that seems logical, but when reviewed based on the terms of the policy, that calculation may in fact be too high or too low — and thus could end up being rejected by the insurance carrier.

$X + y = Z$

The same concepts hold true for building and contents claims. There are customary means and methods used to identify the amount of loss and damage to repair or rebuild a building following fire or other damage event. A repair estimate that does not follow these tactics is less likely to be accepted. Similarly, contents claims that are not identified according to industry practices may also be rejected, creating more work, longer delay and a lower recovery for insureds.



6. Methods of Dispute Resolution

Like most disputes, property insurance claim disputes can arise. These can often be resolved through good-faith negotiations. When an amicable settlement cannot be reached, then a claim resolution can become anything but typical.

Dispute resolution processes in property insurance claims are governed by the insurance policy itself and by your state's specific insurance code. That code has numerous provisions that may impact the litigation and the resolution. A few of those provisions are detailed next.

The two main types of disputes are:

Coverage Disputes

May involve drastic matters, such as a carrier denying a claim due to alleged arson by the insured

May only involve portions of a claim (for example, an insurance company may agree that a claim is covered, but there is still a dispute over how a particular coverage is applied)

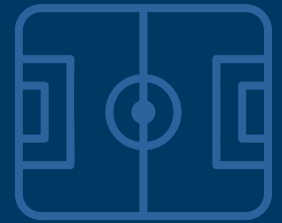
Irreconcilable coverage disputes, which must be resolved in litigation

Valuation Disputes

These typically relate to the cost of repair or replacement, the depreciated value of repairs or replacement, and the value of the property prior to the damage, and all of these factors may have implications regarding possible amounts payable

Litigation is not an available method of valuation dispute resolution; instead, there is a process called "Appraisal" (addressed in the Statutory Appraisal Section of this eBook)

Helping Your Client Level the Playing Field



Helping Your Client Level the Playing Field



In large losses, an insurance carrier will often hire a team of their own experts to review and/or calculate the claim. This team includes forensic accountants, building consultants, inventory specialists and other consultants as needed.

The key thing to remember here is that all those specialists work directly for the insurance company — and **they are working to support the insurance company's side of the settlement.**

This can present an imbalance and an unfair advantage in favor of the insurance company when your client negotiates the claim. Most residential and business property owners are not experts in any of these fields. They may not know how to obtain the required knowledge to complete specific tasks. This situation certainly creates what you might imagine as a "David and Goliath" scenario.

Keep in mind, your client has the right to hire their own experts to help them negotiate and resolve the claim. That's where you, as a trusted advisor, may be of the utmost help — if you're aware of the expertise that a licensed public adjuster can bring to the insured's side of the equation.



Public adjusters typically have decades of expertise in the preparation of property damage claims and the process of filing them. They've probably adjusted many thousands of insurance claims. They know how to be sure your client leverages every nook and cranny of the insurance policy to obtain the maximum possible financial recovery under the policy contract. And, they, like you, are oriented to serve the client's interests and only the client's interests. They offer your client a team of experts and allies to walk them through the claims process to ensure they receive the fair and just settlement their policy provides.

A public adjuster provides expertise for your client that balances what the insurance company has at its disposal. They know precisely how to document the damage, discover the full value of property, prepare the claims paperwork, follow the proper timeframe and policy requirements, and even, if desired, work with you and your client to negotiate with the insurance company.

Be Aware of These Potential Legal Issues



Be Aware of These Potential Legal Issues

Property insurance claims are very complicated, and the terms and details of the insurance policy can create a minefield of issues that, if not properly navigated, can destroy the claim.

In a large commercial claim, a bevy of experts is usually involved on both sides to identify the damages and negotiate the complex terms of the policy. **Add a coverage dispute and the complexity increases exponentially.**

If the claim seems to be heading in a bad direction, you may want to advise your client to consider consulting with attorneys that specialize in first-party property claims.

Meanwhile, some of the basic legal issues you'll want to be aware of include:

1 Statutory Appraisal

When there is a dispute regarding the actual cash value of the property or the amount of the loss under a property insurance policy, the only remedy is Statutory Appraisal. While technically a form of alternate dispute resolution, Statutory Appraisal is not voluntary. The parties cannot unilaterally opt out of the appraisal process and resolve these non-coverage-related disputes in litigation. Once either party demands to submit their differences to appraisal, the appraisal action is required.

Statutory Appraisal is very similar to arbitration. The details of the appraisal process are set forth in the insurance policy, but in a nutshell, the insured and insurer each select an appraiser. The two appraisers then choose a neutral umpire. This creates the appraisal panel. Once any two of the three members on the appraisal panel agree on the amounts, they sign an appraisal award, which becomes binding.





2 Appraisal

This process is a substitute for judicial determination when it comes to determining value. It is an informal process, so the rules of evidence do not apply, and the format of each appraisal can vary substantially. Once entered, the appraisal award is binding on the parties. Appraisal awards are binding and may only be set aside by the Court in cases of “bad faith, fraud, misconduct or manifest mistake.”

When disputes arise and Statutory Appraisal is demanded, there are times that there may be some gray areas as to whether an issue is a coverage dispute or a valuation dispute. Some carriers have attempted to argue that the scope of damage (e.g., how much drywall must be replaced) is a coverage issue and that only the cost (of the drywall, for example) is subject to appraisal. That is not the case. Both scope and costs are part of the valuation and are subject to appraisal.

3 Litigation

When coverage issues cannot be resolved by negotiation or appraisal, litigation will be required. There are several key factors to be aware of if your client pursues this approach.

4 Extra Contractual Damages/Penalty Interest

In the event a claim cannot be resolved and litigation is filed, the question of “bad faith” damages often comes up. Many states have strong bad faith laws to protect consumers of property insurance. There is some case law to support arguments for extra contractual damages in the event the insurance company is found to have been in breach of contract. Extra contractual damages are difficult to recover.

Public Adjusters Specialize in Property Damage & Business Interruption Insurance Claims



Public Adjusters Specialize in Property Insurance Claims

When preparing the claim, it is important the insured take the time to read and understand the policy as well as thoroughly document their losses. Most large losses contain enough complexities that the insured should seriously consider retaining their own experts to assist them with the process.



An experienced and knowledgeable public adjuster can help level the playing field by advocating for the insured. As the saying goes, “You don’t know what you don’t know.”

As a trusted advisor, it is also important you understand the resources and experts available to your clients. These experts may include forensic accountants, building estimators, contents specialists and engineers. In many cases, the insured will need counsel to deal with direct claim-related issues, as well as ancillary issues resulting from the claim, such as landlord-tenant issues, vendor/service contracts, customer issues (contractual fulfillment and otherwise), etc.

Additionally, they will need a professional who is an expert at dissecting their policy and who knows how to prepare the claim in the format the insurance company will understand.

Your insured has a right to hire their own insurance adjuster. Adjusters that work exclusively for policyholders, not insurance companies, are called public adjusters. Licensed public adjusting firms often have most of the needed experts on staff and are familiar with the many duties and obligations placed on your client by the terms of their insurance policy.

Many insureds settle claims for substantially less than what they were entitled to recover without realizing it. That is where the right experts can make all the difference. Of course, as with all professions, if a public adjuster is needed, it is important to interview them to make sure they have the capabilities to handle your client’s specific claim.

90+

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