

INSURING YOUR BUSINESS

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The Gulf Oil Spill: Will Insurance Cover Your Business's Lost Income in Pennsylvania?

*By Michael R. Kelley and David Oyster**

The Gulf Oil spill has created massive losses. Estimates of losses and the rate of the oil leak seem to grow by the day. Some experts predict that oil will enter the Gulf Stream and make landfall along the East Coast, creating an even greater financial impact.

Insurance covers many of the losses associated with the oil leak. For example, Transocean, the owner of the oil rig that burned and sank, has already collected approximately \$500 million in insurance recoveries for its physical loss. Transocean's insurers are also covering losses associated with oil that leaked from the rig (very little), but denying responsibility for oil leaking from the well itself. On the other hand, BP is largely self insured for the cost of the cleanup and has already spent over \$2 billion. It has pledged to create a compensation fund of another \$20 billion. It is impossible to estimate BP's total liability associated with the spill.

Although the fate of BP and its partners is fascinating, many businesses are more concerned about whether they will be able to recover for their loss of income caused by the oil spill. Fishermen and beachfront hotels are already experiencing the impact of the oil. The spill, however, will affect businesses farther inland too. For example, restaurants may experience shortages of seafood from the Gulf and goods transported through ports along the Louisiana coast may be delayed.

Businesses directly affected by the oil spill may be able to recover their lost income through business interruption insurance. Although the specifics of business interruption coverage vary from policy to policy, the general idea behind the insurance is to provide compensation to a business that unexpectedly loses income because of an accident or disaster. Basic business interruption coverage may only indemnify the business for lost income caused by direct physical harm or damage to property. For example, this type of coverage protects a business if its building burns down and it loses profits because it cannot operate for weeks or months. This coverage may help businesses located directly on the coast, but it is of little use to businesses that are not physically impacted by the oil spill.

In addition to basic business interruption coverage, some property insurance policies include contingent business interruption coverage. Under this coverage, even if a business is not directly physically impacted by the spill, it may be able to recover its lost income. Contingent business interruption insurance protects a business from losses caused by a supplier's inability to deliver goods to the business. For example, a manufacturer in Pennsylvania may have to cease production because delays in shipping, caused by the oil spill, prevent its supplier from delivering a vital component. Contingent business interruption coverage may also cover loss of business income attributable to damage to the property of a customer, which prevents it from purchasing goods or services.

Overall, business interruption insurance varies from policy to policy and the rules governing the coverage vary from state to state. A business experiencing loss of income due to the oil spill, or other circumstances out of its control, should begin by reviewing its insurance policy. Depending on the coverage and the conditions, a business may be able to recover its lost income, even if it is not directly physically impacted.

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Getting the Run Around on Your Insurance Claim? 6 Tips for Dealing with Your Insurance Company

By [Michael R. Kelley](#)

We all know that dealing with insurance claims can be a hassle. What to do with the damaged property? When will the insurance company respond to the claim? What happens if the company denies the claim? It can sometimes feel as if you are getting the “run-around.”

Knowing what to do and understanding the insurance company’s obligations to you can help make sense of the process. Here are six tips to help you deal with your next insurance claim.

1. Notify Your Company ASAP

If you know you have an insurance claim, or even if you think you have one, report the loss to your insurance company. Most policies require you to “promptly” notify the company in the event of a loss. So, don’t wait around before making your claim. Some policies require written notice of a claim, but most companies accept notice of a claim over the phone and provide a phone number to call to report claims.

2. Preserve the Evidence

Whether your claim is for property damage, coverage for a third-party liability claim (such as someone asserts that she was injured on your property), or another type of loss, most policies require you to preserve the evidence of your claim to the extent possible. For instance, if your business is damaged by fire, you must preserve the damaged building and its contents until the insurance company has had an opportunity to inspect the property. However, there are extenuating circumstances that may make preserving the evidence difficult, if not impossible. For instance, a damaged building may pose a safety risk to passing motorists and pedestrians. If the risk of harm is immediate, you may secure the building to prevent further injury to others, even if it means destroying the evidence of loss.

3. Get Your Company to Acknowledge the Claim

Under the law, your insurance company has an obligation to acknowledge receipt of your claim, in many cases within ten days. The company satisfies its duty with a phone call or a letter to you noting that it has received your claim and that it will be in further contact with you to investigate your loss. If you don’t hear from your company for more than ten days after you make your claim, you can inform them that you know that the company has an obligation to acknowledge receipt of the claim. In most cases, this will spur the company into action.

4. The Company Has a Duty to Accept or Deny the Claim

The insurance company has a duty under Pennsylvania law (and under other states’ laws) to accept or deny a claim, in

writing, within thirty (30) days of receipt of the claim- unless it has good reason for the delay and informs you of that reason in writing. The company has an obligation to keep you informed of the status of your claim every thirty (30) days thereafter. You are entitled to know whether your company believes that your claim is covered or not. The company cannot ignore your claim, or delay its decision on whether to cover your claim, unless it has a good reason to do so.

What types of circumstances amount to a good reason for delay? One example would be where the insurance company needs an independent expert to examine the loss before it can determine whether the loss is covered. It is not a proper excuse, however, for the company to require that you submit a "proof of loss", or itemized inventory of your loss, before making the coverage decision. The proof of loss affects how much you may be entitled to under your insurance, not whether the loss is covered at all.

5. Submit Your Proof of Loss

You have an obligation to submit a "proof of loss" to your insurance company within the time period set forth in your policy. The proof of loss is an itemized inventory of the entire claimed loss. In the event of wind or storm damage to your building, for instance, you would need to identify all damaged portions of your building and any contents that were damaged as well. The loss may also have interfered with your business operations. If you have coverage for business interruption, you would itemize this loss as well. Most companies will give you a form to use as your proof of loss, or the form may be available on the company's website.

6. If Your Company Denies Coverage, Don't Delay

If your insurance company denies coverage, and you believe that the decision may be wrong, don't delay in getting legal advice. The statute of limitations for challenging the company's decision is generally four (4) years, but may be shorter under your policy. You may also be obligated to seek arbitration or mediation of any disputes within certain timeframes, which are set forth in your policy. Insurance policies are complex legal documents and there are many court decisions that interpret the meaning of these policies. Insurance companies sometimes deny legitimate claims. If you believe that your company has wrongfully denied your claim, you do have recourse. These tips are not exhaustive. But, they do provide basic information about the duties of insurance companies in responding to claims. In dealing with your insurance company during your next claim, knowledge of the process can be a powerful tool.

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