

ROCK ACSR Newsletter

"Reaching Out, Communicating, Knowledge"



INDEPENDENT INSURANCE AGENTS OF VIRGINIA

Property Damage: When is Recovering ACV the Only Option?

An agent's insured has multiple rental properties. During a recent inspection, the insured found hail damage to a roof and reported the claim to his agent, but was not sure of the date the hail caused the damage.

Q: "The adjuster claims the last hail storm was more than 180 day ago and will only pay actual cash value (ACV), citing this CP 00 10 provision:

'You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.'

We have never seen this interpretation. What do you think?"

A: "We ran this by the Big 'I' Virtual University (VU) faculty and the unanimous response was we do not believe this was the intent of this provision, nor do we read it the same way as the adjuster.

This condition says, 'In the event you *elect* to have loss or damage settled on an actual cash value basis...' (emphasis ours). Unless the insured is *electing* to settle initially on an ACV basis (he's not), the rest of the sentence ('...you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage') doesn't apply, because it's conditional on the insured requesting ACV.

In one Tennessee legal case, a policy gave the insured a year to sue the insurer from the date of loss. The insurer did not deny the claim for more than 11 months. When they finally denied most of the claim, the insured was unable to get an attorney and file suit within a year of the date of loss. The court ruled the one-year period should begin to toll from the denial, not the date of loss. That has been the rule of law in Tennessee ever since.

To be fair to all parties, we believe ISO should change the language so the 180 days begins when the damage is discovered in the case of situations like this, or when covered hidden water damage from a leaking pipe becomes apparent. Our national Technical Affairs Committee will consider bringing this issue to ISO."

Bill Wilson is director of the Big "I" Virtual University.

This question was originally submitted by an agent through the [VU's Ask an Expert Service](#). Answers to other coverage questions are available on the [VU website](#). If you need help accessing the website, email logon@iiba.net to request login information.

ACSR Newsletter

August 2014

Upcoming Events:

- Sept. 1: Labor Day
- Sept. 7: Grandparents Day
- Sept. 11: Patriot Day
- Sept. 18: Tidewater Area Social
- Sept. 21: International Day of Peace
- Sept. 23: First Day of Fall
- Sept. 26: Native American Day
- Oct. 9-10: Young Agents' Conference

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Business Income Coverage for Weather Damage to Golf Course Greens & Trees

By: VU Faculty

High temperatures and drought conditions caused a golf course, despite its mitigation efforts, to lose most of its greens. A severe storm downed dozens and dozens of trees on a golf course. In both situations, business income was reduced or suspended for several months. Is this covered under standard ISO forms?

QUESTION

"We insure a country club and golf course under a CP 00 10 and CP 10 30. Wind destroyed trees on the golf course and the course is closed for several months. Can the insured collect under the Business Income coverage?"

ANSWER

While there is no coverage for windstorm damage to trees under the cited policy forms, the CP 00 30 covers loss of business income caused by damage to property on the premises. It does not matter if the direct damage is covered under other forms or not as long as a covered peril on the CP 10 30 damages property (not necessarily "covered property") on the premises.

FACULTY RESPONSE

The ISO Business Income coverage part requires only that damage be to property (not covered property - only property) located on the described premises by an insured cause of loss. Further, the property that is damaged must result in a necessary suspension of operations. If these are met, as seems to be the case with the golf course, then loss of business income (as defined) should be covered subject to the policy limit.

FACULTY RESPONSE

The form just requires damage to property (does not need to be covered property) by a covered cause of loss (windstorm). The resulting suspension of operations should be covered. You just need to prove up the amount of loss.

FACULTY RESPONSE

Coverage is dependent on the description of premises. BI requires a "suspension" of "operations" (which your facts indicate) due to damage to property (not covered or insured or any other qualification – just property) at the described premises from a Covered Cause of Loss. Assuming the coverage is not x-wind, there is damage to property (trees, etc.) from a covered cause so the key question is the description of premises.

FACULTY RESPONSE

Here's what the CP 00 30 says:

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss.

The form only requires damage to "property" (as opposed to "covered property") and windstorm is a Covered Cause of Loss. If a delivery company's vehicles were all destroyed on premises by a tornado, wouldn't that trigger business income coverage?

FACULTY RESPONSE

I believe the CP 00 30 will respond, so long as the loss of income can be shown to have been caused by the downed trees, and they are located on the premises described in the declarations. It's a little hard to conceive how downed trees, by themselves, could cause a golf course to close for several months if no other damage was present.

(By the way, the CP 00 10 cited in the question would have no bearing on this claim, in my view, which may at first complicate the claim process, since trees are not covered for windstorm damage in the unendorsed CP 00 10.)

FACULTY RESPONSE

It depends on how the premises is described on the Dec. page. If it's the entire golf course where the trees are located, then you have damage to "property" by a covered peril. It doesn't matter that there is not direct damage coverage for windstorm to trees. At issue would be why it was "necessary" for the golf course to be closed for months. Once the premises were cleaned up, couldn't the course have reopened? Admittedly, it might not have been as much fun to play (unless you're as bad as I am and despise trees on the course), but was it playable? That might be your biggest challenge.

QUESTION

"Is business interruption always paid only if the loss was an insured peril? Case in point: Golf course had its greens ruined during the change in temperatures last January in Minnesota and not covered by an insured peril under the CP 10 30. The insured is disputing that and wants coverage under the Business Interruption part of the policy. The company and I agree it must come as a result of a covered peril. Your response please. Thanks."

ANSWER

This is an interesting question. At first glance, one would think this couldn't possibly be covered by insurance. However, the important thing is what the policy forms say. If the company has denied the claim, what exclusion did they cite? This is what the VU faculty has to say....

FACULTY RESPONSE

I don't see an exclusion. You have damage to property on the premises by a peril that isn't excluded.

FACULTY RESPONSE

Where in the CP 10 30 does it exclude damage to real property from temperature changes or drought? Exclusion 2.d.(7) only applies to personal property:

The following causes of loss to personal property:

- (a) Dampness or dryness of atmosphere;
- (b) Changes in or extremes of temperature;

Exclusion 3. for weather conditions only applies if it contributes to one of the Exclusion 1. exclusions:

We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. But if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.

Unlike direct property coverage, business income coverage only requires damage to "property" on the premises. It does not require loss to "covered property." Grass is property, so absent an exclusion, is the business income loss to the golf course covered? It looks like it is to me.

FACULTY RESPONSE

I think I agree with the preceding analysis of coverage, although I'm having trouble grasping how green "the greens" normally are in Minnesota in January. Would this really cause people to not play golf on brown grass, and the golf course to lose significant income? (I'm not a golfer, and have never been to Minnesota, so forgive the dumb question.)

FACULTY RESPONSE

The closest thing would be exclusion B. 2. b. Loss of use or loss of market, but this isn't really that type of loss.

FACULTY RESPONSE

My suggestion is that you have the insurer point out to you in writing the exclusions they are relying upon. In an ISO Business Income & Extra Expense Form (CP 00 30), the property that is damaged does not have to be covered property, but only property at the premises and damaged by an insured cause, to trigger the BI loss (presuming there is actual loss of Business Income as defined).

It is difficult to tell by your description what actually caused damage to the greens themselves (did they freeze and thus kill the grass?)

FACULTY RESPONSE

What exactly caused the damage and what exclusion is the insurer citing? Sometimes it's easy to confuse property coverage with time element coverage. The damage to the grass isn't covered but I can't find an exclusion for the loss of business income.

FACULTY RESPONSE

I'd like more factual information in two areas. First, what EXACTLY caused the damage? Second, what is the basis for denying the claim...i.e., what exclusion is cited?

ACSR Newsletter

UPDATES AND UPCOMING EVENTS



Virginia Goes "LIVE" with Trusted Choice CAP Quoting

Virginia has now been added to the many other states in the Trusted Choice Project CAP Marketing program enabling consumers to actually seek and receive auto and/or homeowners quotes and select an IIAV member agency with whom to do business.

Currently, many carriers are already "up and running" with this online quoting set up including Central Mutual, State Auto, Safeco, MSA, Selective, Travelers and Mercury. Others are nearly ready and should soon, be on board, including Alfa, Stillwater, Grange, and Maine Mutual.

To see what the consumer may access, visit www.trustedchoice.com. The consumer may opt to go forward with a request for a quote or the consumer may seek to FIND AN AGENT. If you view the FIND AN AGENT option using the ZIP CODE as a locator, you'll quickly notice some IIAV member agencies show up more boldly than others with logos and preferred positioning. These agencies have already enrolled to receive the leads for the nominal monthly fee.

If you'd like for your agency to begin receiving leads from consumers actually seeking quotes and to buy coverage please visit www.projectcapmarketing.com. You may enroll in this lead-receiving program for a nominal monthly fee as mentioned.

IIAV will continue to share with you state agency participation information including the number of online inquiries, number of generated leads, and other important marketing data.

Three More Regional Socials To Go

We had 50 people join us for the Richmond Social on August 14. We hope you can make the social in your area. Each of the socials will take place from 5:00-7:00 p.m.

- [September 18 – Tidewater Networking Social](#) at The Yard House in Virginia Beach
- [October 23 - Roanoke Networking Social](#) at Parkway Brewing Company in Salem
- [November 13 – Northern Virginia Networking Social](#) at Dogfish Head Alehouse in Fairfax

Please register ahead of time for these free events so we know how many people will be attending.

To find out more about these events or to get more involved with the Young Agents' group, please contact Kristina Preisner, kpreisner@iiaav.com.

Only a Few Spots Remain for Agribusiness Conference

The Emmett J Vaughan Agribusiness Conference is coming to Richmond, VA, on September 8-9, 2014.

The Agribusiness Conference is designed for insurance professionals who want specialized training in basic farm coverages to niche agribusiness risks. The conference is unique because it affords participants the opportunity to obtain insurance education on farm/agribusiness risks and to earn the AFIS (Agribusiness and Farm Insurance Specialist) designation.

Space is limited and only a few spots remain.

Please invite a colleague, or forward this e-mail if you cannot attend.

[View more details and register here.](#)

Thank you for supporting this Conference, and we hope to see you in Richmond!

Education....Continuing Your Road to Success

| Upcoming Classes | Upcoming Webinars |
|--|---|
| <p>Charlottesville - Hyatt Place - 2100 Bond Street (22901) Oct. 14 (8:30-10:30): Lessons Learned from E&O-Course #201385 (2 VA OGI) \$30/\$40 Oct. 14 (10:30-12:30): Agents Standard of Care-Course #208212 (2 VA L&R) \$30/\$40 Oct. 14 (1:00-3:00): 2014 Laws & Regs-Course #210246 (2 VA L&R) \$30/\$40 Oct. 14 (3:00-5:00): Ethics 101-Course #208911 (2 VA Ethics) \$30/\$40 Oct. 15 (8:30-11:30): Ethics & Business -Course #208317 (3 VA Ethics) \$45/\$60 Oct. 15 (12:00-3:00): Social Media Fraud-Course #209720/209595 (3 VA OGI) \$45/\$60 Oct. 15 (3:00-5:00): Agents Fighting Fraud-Course #209719/208983 (2 VA Ethics) \$30/\$40</p> <p>Chesapeake – Chubb Insurance - 600 Independence Pkwy (23320) Oct. 27-30 (8:30-4:30): Property & Casualty Pre-Licensing (NA) \$300</p> <p>Lynchburg – Central Virginia Community College - 3506 Wards Rd. (24502) Sept. 25 (8:30-3:00): E&O Meeting the Challenge of Change (6 VA OGI) \$105/\$135 ** Sept. 25 (3:15-5:15): Ethics 101 (2 VA Ethics) \$30/\$40</p> <p>Manassas – Hampton Inn - 7295 Williamson Blvd. (20109) Sept. 9 (8:30-5:00): AAI 83 A-Principles of Agcy Mgmt-Course #208367 (8 VA OGI) \$165/\$215</p> <p>Manassas –Northern Virginia Community College: - 9485 Innovation Dr. (20110) Sept. 9 (8:30-5:00): AAI 83 A-Principles of Agency Management (8 VA OGI) \$165/\$215 Sept. 10 (9:00-4:00): ACSR Mod 6-Commercial Property (6 VA P&C) \$105/\$135 Sept. 16 (8:30-5:00): Advanced Truckers-Where We Are Now (8 VA P&C) \$120/\$160 Sept. 22-24 (9:00-6:00): Property & Casualty Pre-Licensing (NA) \$300</p> <p>Newport News – Residence Inn Marriott Newport News Airport - 531 St Johns Rd. (23602) Sept. 17 (8:30-11:30): Ethics & Business (3 VA Ethics) \$45/\$60 Sept. 17 (12:00-3:00): Social Media Fraud (3 VA OGI) \$45/\$60 Sept. 17 (3:00-5:00): Agents Fighting Fraud (2 VA Ethics) \$30/\$40 Sept. 18 (9:00-4:00): E&O Meeting the Challenge of Change (6 VA OGI) \$105/\$135 **</p> <p>Richmond - IIAV – 8600 Mayland Dr. Richmond, VA 23294 Sept. 10 (8:30-5:00): CRIS-Auto, Surety, CIPS, & Misc. Lines (8 VA P&C) \$150/\$195 Sept. 10 (9:00-4:00): ACSR Mod 6-Commercial Property (6 VA P&C/6 WV General) \$105/\$135 Sept. 16 (8:30-5:00): AAI 83 A-Principles of Agency Management (8 VA OGI) \$165/\$215 Sept. 17 (8:30-5:00): Advanced Truckers-Where We Are Now (8 VA P&C) \$120/\$160 Sept. 18 (8:30-11:30): Ethics & Business (3 VA Ethics) \$45/\$60 Sept. 18 (12:00-3:00): Social Media Fraud (3 VA OGI) \$45/\$60 Sept. 18 (3:00-5:00): Agents Fighting Fraud (2 VA Ethics) \$30/\$40 Sept. 22-25 (8:30-4:30): Property & Casualty Pre-Licensing (NA) \$300 Oct. 6 (9:00-4:00): ACSR Mod 1-Homeowners-Course #208285 (6 VA P&C/6 WV GEN) \$105 Oct. 7 (9:00-4:00): ACSR Mod 2-Personal Auto-Course #208286 (6 VA P&C/6 WV GEN) \$105 Oct. 8 (1:00-4:00): Ethics & Business-Course #208317 (3 VA Ethics) \$45 Oct. 8 (9:00-12:00): FEMA Flood Insurance Basic Course-Course #208545 (3 VA L&R) \$45 Oct. 9 (9:00-4:00): ACSR Mod 3-Pers. Lines Related-Course #208287 (6 VA P&C/6 WV GEN) \$105 Oct. 10 (9:00-4:00): ACSR Mod 4-E&O-Course #208289 (6 VA OGI/6 WV GEN) \$105</p> <p>Roanoke – Roanoke Higher Education Center - 108 N. Jefferson St. 24016 Sept. 23 (9:00-4:00): ACSR Mod 6-Commercial Property (6 VA P&C/6 WV General) \$105/\$135 Oct. 9 (9:00-4:00): E&O Meeting the Challenge- Course # 208589 (6 VA OGI) \$105/\$135 ** Oct. 16 (8:30-11:30): Ethics & Business-Course # 208317 (3 VA Ethics) \$45/\$60 Oct. 16 (12:00-3:00): Social Media Fraud-Course # 209720/209595 (3 VA OGI) \$45/\$60 Oct. 16 (3:00-5:00): Agents Fighting Fraud-Course #209719/208983 (2 VA Ethics) \$30/\$40</p> <p>Virginia Beach – Sandler Center - 201 Market St. (23462) Sept. 9 (9:00-4:00): ACSR Mod 6-Commercial Property (6 VA P&C/6 WV General) \$105/\$135 Sept. 16 (8:30-5:00): AAI 83 A-Principles of Agency Management (8 VA OGI) \$165/\$215 Sept. 17 (8:30-5:00): CRIS-Auto, Surety, CIPS and Misc. Lines (8 VA P&C) \$150/\$195 Sept. 18 (8:30-5:00): Advanced Truckers-Where We Are Now (8 VA P&C) \$120/\$160 Oct. 7 (8:30-5:00): AAI 83 B-Ins. Production Environment-Course #208368 (8 VA OGI) \$165/\$215 Oct. 8 (8:30-5:00): CRIS-Property Ins. for Contractors-Course #208333 (8 VA P&C) \$150/\$195 Oct. 15 (9:00-4:00): ACSR Mod 7-Commerical Liability-Course #208292 (6 VA P&C) \$105/\$135</p> <p>Click here for the full list of classes.</p> | <p>Sept. 8 (9:30-10:30): Commercial Umbrella vs. Excess Policies Course #208548 (1 VA P&C) \$25/\$35</p> <p>Sept. 9 (9:30-10:30): Workers' Comp Fundamentals & Coverage Requirements Course #210102 (1 VA L&R) \$25/\$35</p> <p>Sept. 10 (9:30-11:30): Traps & Tricks of Homeowners Course #202572 (2 VA P&C) \$40/\$55</p> <p>Sept. 18 (11:00-12:00): IRA Fundamentals and Small Business Retirement Plans Course # 210953 (1 L&H) \$24/\$34</p> <p>Sept. 18 (12:00-1:00): Annuity Basics and Where They Fit Course # 210954 (1 L&H) \$24/\$34</p> <p>Sept. 19 (9:30-10:30): Ethics: Not What You Think and More Than You Thought Course #208550 (1 VA Ethics) \$25/\$35</p> <p>Sept. 23-24 (9:00-12:00): E&O Risk Mgmt: Challenge of Change Course #208589 (6 VA OGI) \$105/\$135 **</p> <p>Oct. 2 (9:30-11:30): Bonds 101 Course #210329 (2 VA P&C) \$40/\$55</p> <p>Oct. 7 (9:30-11:30): Agents Fighting Fraud Course #208983/209719 (2 VA Ethics) \$40/\$55</p> <p>Oct. 15-16 (9:00-12:00): ACSR Mod 1-Homeowners Course #208285 (6 VA P&C) \$105/\$135</p> <p>Click here for a full list of webinars.</p> <p>** These classes may qualify your agency for a loss control credit through IIAV's Westport and Fireman's Fund E&O programs.</p> |

Virginia's Independent Spirit Since 1898!

INDEPENDENT INSURANCE AGENTS OF VIRGINIA

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Take A Moment To Relax:

Random Facts for Your Next Conversation

Here are a few interesting facts for the next time you are at a dinner party .

1. Picasso's full name is Pablo Diego José Francisco de Paula Juan Nepomuceno María de los Remedios Cipriano de la Santísima Trinidad Ruiz y Picasso .
2. Once you are thirsty you are already dehydrated. Thirst is secondary.
3. Donald Duck's middle name is Fauntleroy.
4. A swan's young is called a cygnet.
5. Porcupines float in water.

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These services and more can be found at www.iiav.com

Recipe of the Month



Mexican Skillet Casserole

Great for dipping or wrapping.

[Click here to view!](#)

Quote of the Month

I am driven by two main philosophies, know more today about the world than I knew yesterday. And lessen the suffering of others. You'd be surprised how far that gets you.

~ Neil DeGrasse Tyson, American astrophysicist