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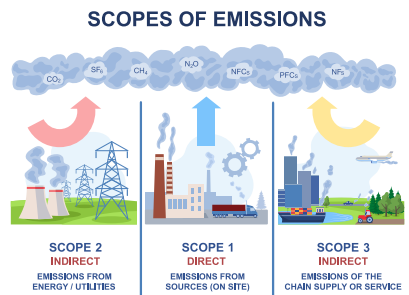
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Here we go again. It is the end of November, and I am sitting in my office in Oakville. It has been freezing rain off and on all day. It is now dark when I leave for the office (always is – I leave at 4 AM), but now it is dark when I leave to go home as well.

Although we didn't have an actual event for the OIAA in November, things haven't slowed down. I haven't had much time to talk about our Senior Executive to date as we have been doing one event after the next. I think now would be a great time to give them the acknowledgement they deserve. I have the most amazing group of people working alongside me this year on our senior executive. Obviously, we have Kyle Case, our Past President; our guiding light for this year's Sr. Leadership Team. Then we have our 1st VP, Shawna Gillen. She is fantastic and always ready to step in for me when I am unavailable. Shawna is locked and loaded to take the reins come July 1, 2024. Jennifer Brown is our 2nd VP; she is the glue that is the OIAA. Jennifer is the wheels that keeps this bus moving in the right direction. I couldn't say enough kind words about Jen Brown, but I try.

Then we have the tag team duo of Emily Feindel and Carrie Keogh, they are very passionate about the OIAA. Not that anyone else is less passionate;

but they wear it on their sleeve. They have been the driving force for the OIAA Holiday Party, Emily has kept me in check on this event. If you ever need someone to plan a Party, Emily is your person. Carrie is the décor queen; I have been advised that the décor is a secret until the day of the event. I have seen her office; I am sure it is going to be a smashing success.

There has been so much planning for this years events. I can't believe the amount of time, effort, blood, sweat and tears that it takes to put these events on.

I am so very proud to have such a great group of people in this organization that is willing to give up their time.

I want to thank all of our wonderful sponsors for this upcoming event. Here goes: Hudson Restoration, Aberdeen Investigations Inc., ARS Global Emergency Management, Aurex Relocations, Kings Restoration Group, Larrek Investigations, Newtron Group, Winmar, Complex Claims Restoration, First on Site, MBBM Lawyers, MBC Group, Rebuild Response, Accomsure, Davis Martindale, CRDN, DocuSketch, Reeves Richarz LLP, Relectronics, ServiceMaster, Steamatic.

Without our sponsors we couldn't put on events like our Holiday Party and Claims Conference, we thank you for your ongoing support and time you have given to the association and our events. I will be forever grateful, and I have made some amazing life lasting friendships along the way.

See you all on the 7th, stay warm or Frosty!!
whichever you prefer.

See you all soon,

**Terence Doherty,
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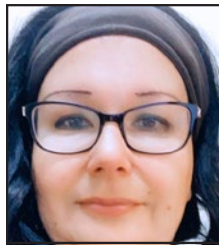
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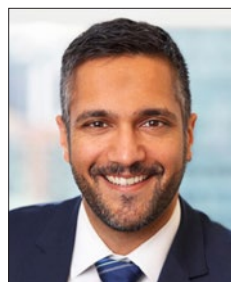


Rory Love

Prepare to be tackled by laughter as we introduce Rory, the Scottish sensation and former insurance adjuster who traded rugby pitches for

legal battles. Born and raised in Scotland, he ventured to Canada to chase his rugby dreams, but life had other plans for him—now he's tackling claims on behalf of clients like a pro.

With a laundry list of expertise that covers CGL, personal injury, motor vehicle liability, and more, Rory is like a one-man legal wrecking crew. He's seen it all, from municipal liability to product's liability, and he's ready to take on any challenge that comes his way. It's safe to say he knows how to handle a curveball, both on and off the field.



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Dave Dhillon is a cybersecurity and insurance lawyer called to the Ontario bar, and practices at Clyde and Co LLP in Toronto, Ontario. His practice includes

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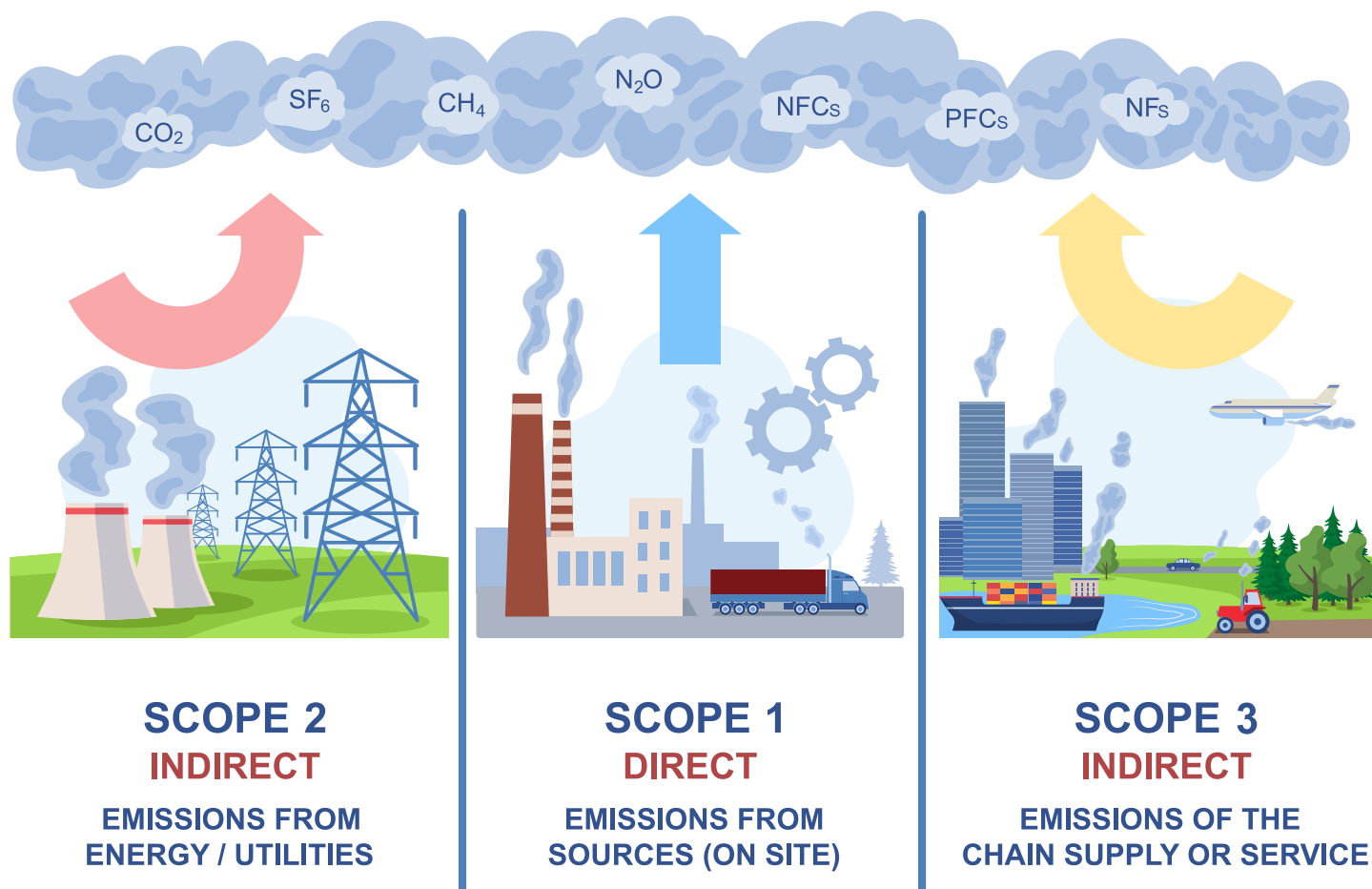
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OFSI Legislation Looming: Demystifying Scope 3 Emissions for P&C Insurance

By: Ross Huartt MRICS, PQS - Founder & Chair - EcoClaim Solutions, President & CEO - MBC Group

SCOPES OF EMISSIONS



INTRODUCTION

The global climate crisis demands urgent action from all sectors, and the Property and Casualty (P&C) insurance industry finds itself at a pivotal intersection.

Particularly, the construction restoration activities that follow insured events have emerged as a significant source of Scope 3 greenhouse gas (GHG) emissions, which for many insurers constitute much of their carbon footprint, in conjunction with underwriting

liabilities & invested assets. As the world gravitates towards more stringent environmental policies and corporate accountability, understanding and managing these emissions is not just a matter of compliance but is increasingly seen as a tenet of responsible business. For members of the Ontario Insurance Adjusters Association (OIAA), grasping the intricacies of GHG emissions accounting is becoming integral to their role in shaping the industry's future.

Understanding GHG Emissions: Scope 1, 2, and 3

To contextualize the conversation around emissions, it's essential to unpack the categorization that has become the baseline of carbon accounting: Scope 1, 2, and 3 emissions. Scope 1 emissions are direct emissions from owned or controlled sources. For insurance companies, this could encompass emissions from company-owned vehicles or from heating their office spaces. Scope 2 emissions are indirect emissions from the generation of purchased energy, which includes the electricity or heating purchased to keep the lights on and the offices warm.

However, it's Scope 3 emissions that present the most significant challenge. These are the indirect emissions that are a consequence of the activities of the company but occur from sources not owned or controlled by it. For P&C insurers, this is predominantly the emissions from the construction and restoration work carried out when settling insurance claims. It should be noted that Brokers, Adjusters & Claim Assessment service providers scope 1 & 2 will need to be included in the Carriers scope 3 reporting. As these activities are performed by third parties, they are inherently more difficult to monitor and influence, yet they are essential to consider in the industry's environmental impact.

The P&C Insurance Industry's Scope 3 Challenge

Within the P&C insurance sector, Scope 3 emissions represent a formidable frontier of indirect emissions tied to the gamut of third-party services that insurers draw upon. When an insured event, such as a natural disaster or a property loss, necessitates repair or reconstruction, the ensuing construction activities, from resource extraction to product disposal, contribute to the insurer's Scope 3 footprint. This includes the emissions from the manufacturing of construction materials, the transportation of these materials to the site, and the actual

construction processes themselves. Given that these indirect emissions often dwarf the direct emissions from Scopes 1 and 2, it becomes clear that for P&C insurers to make any significant stride in reducing their carbon footprint, the focus must firmly be on managing their Scope 3 emissions.

Construction Restoration's Impact on Scope 3 Emissions

Construction restoration work, which often ensues from claims, involves a range of activities with significant environmental impacts. Whether it's the replacement of damaged infrastructure or the complete rebuilding of properties, each step in the restoration process has associated GHG emissions. The manufacturing process of building materials such as steel, concrete, and glass is energy-intensive and generates a considerable carbon footprint. The transportation of these materials, often over long distances, adds to the emission tally. On-site construction processes, including machinery operations and waste management, further contribute to the Scope 3 emissions associated with the P&C insurance sector.

The challenge for insurers is not just the complexity of

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these emission sources but also their indirect control over the activities. Unlike Scope 1 and 2 emissions, where reduction strategies can be directly implemented, Scope 3 requires a collaborative approach with external stakeholders, including construction firms, material suppliers, and policyholders themselves.

Strategies for P&C Insurers to Manage Scope 3 Emissions - You can't manage what you can't measure.

1. **Engage with Supply Chains:** Collaborative engagement with construction and restoration supply chains is critical. Insurers must work closely with contractors and suppliers to encourage the adoption of sustainable practices. This could include setting environmental standards for suppliers, incentivizing the use of low-carbon materials, or implementing project management practices that minimize waste.
2. **Adopt ESG Reporting Tools:** Embracing ESG reporting solutions is key to tracking and managing Scope 3 emissions effectively. These tools can aggregate data across various sources, providing insurers with the insights needed to make informed decisions. Advanced analytics can pinpoint hotspots in the supply chain where interventions could have the most significant impact.
3. **Encourage Innovation:** Insurers can play a pivotal role in driving innovation within the construction industry by promoting the use of sustainable materials and building methods. Encouraging investments in research and development of new construction technologies not only aids in reducing emissions but can also lead to cost savings and improved market competitiveness.
4. **Educate and Train:** There's a profound need for education across the board. Insurers must ensure that their employees, from adjusters to executives, understand the importance of GHG emissions management. Training programs can equip

them with the knowledge to make decisions that align with environmental goals. Furthermore, educating policyholders about the benefits of sustainable restoration can influence demand for green construction services.

5. **Invest in Carbon Offsetting & Capture:** While the primary goal should always be to reduce emissions, carbon offsetting can complement these efforts. Investments in projects that compensate for the emissions footprint, such as reforestation or renewable energy initiatives can help insurers balance out the emissions that are currently unavoidable.

Challenges and Opportunities Ahead

The path to managing Scope 3 emissions is fraught with obstacles. Accurate data collection is a perennial issue, with many insurers dependent on third-party reporting that may lack consistency or completeness. The regulatory environment adds another layer of complexity, with policies around emissions reporting and reduction evolving rapidly as governments respond to the climate crisis.

Yet, these challenges present a ripe landscape for in-



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novation and leadership. The P&C insurance industry has the potential to influence a significant shift toward more sustainable construction practices through its vast network and financial clout. By setting environmental performance criteria for their service providers, insurers can drive change not only within their operations but throughout the entire supply chain.

Moreover, as insurers begin to tackle their Scope 3 emissions more vigorously, they align themselves with the growing trend of environmental, social, and corporate governance (ESG) that resonates with consumers, investors, and regulators alike. In this way, addressing Scope 3 emissions is not merely a matter of compliance but also a strategic move towards building a resilient, future-proof business.

Conclusion

In conclusion, the management of Scope 3 emissions is set to become a defining aspect of the P&C insurance industry's approach to environmental responsibility. The connection with construction restoration activities provides insurers with a unique opportunity to exert influence and drive progress toward a low-carbon economy. By leveraging strategic engagement, innovative tools, and a commitment to edu-

cation and carbon offsetting & capture, insurers can make meaningful reductions in their carbon footprint.



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In addition to his professional achievements, Ross is an active member of the YPO and a prominent figure in the Business Council of Alberta. He frequently collaborates with both public and private partners, furthering his commitment to industry growth and development. As a recognized authority in his field, Ross has been a featured speaker at events worldwide and has received numerous awards and accolades.

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Expert Reports: Not great to be late

By: Rory Love



In *Lamothe v. Sudbury Trail Plan Association*, 2023 ONSC 3176, the Superior Court refused to allow the defendants to deliver late expert reports. The defendants attempted to bring a motion to be granted leave to deliver late expert reports which was opposed by the plaintiffs.

Background:

The action arose from a snowmobile accident that occurred on February 4, 2014, involving the plaintiff Gaeten Lamothe. As a result of the accident Mr. Lamothe alleged to have suffered injuries to his abdomen which required surgery and to be fitted with an ileostomy bag.

The statement of claim was issued September 12, 2014. The trial record was filed in November 2018 and the judicial pre-trial took place in June 2019. At the time of the judicial pre-trial, the plaintiffs had delivered several expert reports, including one from a gastroenterologist.

In December 2019, the lawyers consented to the action being set for an eight-week jury trial, beginning on September 1, 2021. As a result of pandemic related delays, the plaintiffs were not available for trial until 2023. In March 2022, the lawyers consented to a fixed-date eight-week jury trial beginning September 5, 2023. The date was confirmed via an assignment court in June 2022.

On February 1, 2023, the defendant STPA requested consent for a gastroenterologist expert with the proposed assessment time and place not provided to the plaintiffs until April 20, 2023. The defendant Talevi requested an orthopedic, psychiatric and gastroenterology assessment on April 11, 2023. Details of the time and location of the assessments were provided on May 4, 2023.

The plaintiffs argued that the defendants were out of time to bring the motions and the motions should be dismissed.

Rule 48

Rule 48 of the Rules of Civil Procedure provides that, after an action has been set down for trial, leave is required to bring motions. The test for leave is confirmed in *Nelson v. Chadwick*, 2019 ONSC 2063 at paragraph 35 as follows:

- a. *The court should consider the facts known to the party seeking leave as of the date that the party consented to the action being placed on the trial list;***
- b. *Whether there has been an important change in the facts since the party consented to the action being placed on the trial list;***
- c. *The object of the request for leave; and***
- d. *Whether the relief sought would likely be granted if leave were given to bring the motion, notwithstanding the party's consent that the matter be placed on the trial list.***

Rule 53.03

Rule 53.03 provides that parties must deliver expert reports not fewer than 90 days prior to the judicial pre-trial; reply reports, 60-days prior to the judicial pre-trial. Rule 53.03(4) permits the parties, on consent, or the court, on motion, to extend the time to deliver expert reports. Pursuant to Rule 53.03(3) experts cannot testify at trial without leave if their report is not filed in accordance with the Rules.

In assessing whether leave should be granted, Rule 53.08 provides that a party seeking leave must satisfy the trial judge that:

- 1. *There is a reasonable explanation for the failure; and***
- 2. *Granting leave would not,***
 - i. *Cause prejudice to the opposing party that could not be compensated for by costs or an adjournment, or***
 - ii. *Cause undue delay in the conduct of the trial.***

Decision

The Court decided not to grant leave to deliver the late expert reports. The Court determined that there was no explanation for the defendants' delay in obtaining the reports. The defendants argued that the late delivery of

the expert reports would not delay the trial, which the Court disagreed. As the trial was three months after the motion, the Court noted that it was unrealistic to expect the plaintiffs' experts to be able to respond the any defendant reports before the commencement of the trial.

It was decided that the situation was of the defendants' own making, which could not be used to justify the prejudice that would occur with the trial was adjourned to accommodate the late reports. The prejudice to the plaintiffs could not be compensated by costs and would be exacerbated by any adjournment.

Takeaways

The decision in *Lamothe* emphasizes that even if there is a reasonable explanation, allowing a party to obtain late expert reports can cause undue delay in an action. Serving late expert reports leaves the opposing party rushing to decide whether to respond in advance of a trial. This rush can only be combated by adjourning the trial, which would cause prejudice to a responding party.

To avoid any costs exposure, and delay to litigating a matter, parties should pay close attention to Rule 53.03 and the consequences for a failure to comply with the deadlines within the rule.

See *Lamothe v Sudbury Trail Plan Association*, 2023 ONSC 3176 (CanLII)



Rory Love

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Outside of work, Rory's life takes a hilarious turn. He spends his time fulfilling his kids' endless snack requests, proving that he's not just a master in the courtroom but also a snack-fetching superhero. You can catch him at comedy and music shows, where he's always ready to laugh and have a good time. And let's not forget his undying support for the Glasgow Rangers F.C., cheering them on with the passion of a true fan.



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Chapter Spotlight

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NIAGARA CHAPTER

With the wrap up of a fantastic previous term for our Chapter and with another year of events underway, it is always a good time to reflect on all the effort that went into planning of events, the outcome of same, and to adjust for upcoming events accordingly. I, amongst many others, sincerely value and appreciate the OIAA organization and all it has to offer including education, networking and the formation of long-lasting relationships amongst industry peers. With that in mind I would like to acknowledge the tremendous amount of hard work/dedication required by the several executives across the province seem to continue to step up to the plate and make it all come together year after year.

This year's Niagara Chapter Executive committee is comprised of 11 members - Bob McCord (President), Chris Jolliffe (Vice-President), Brian Hornyak (Treasurer), Eric Griffi (Secretary), Rob Florido (Chapter Delegate), Jeff Edge (Director), Cody Hulley (Director), Chaussie Lawson (Director), Mike Ragona (Director), Dave Giles (Social Director), Randy Henderson (Social Director).

We kicked this year off with our 42nd Annual golf tournament, which for a second year was jointly held with the Niagara South Insurance Brokers Association in September at Whiskey Run Golf Course. A special thank you to our several sponsors, volunteers and participants that helped make it a wonderful day for all.

Last month we welcomed our Past Presidents to our annual Past President's night dinner held at Calamus Estate Winery on November 21st, 2022. It is always a pleasure to get together with both the past and present who have served our association.

Our Chapter is looking forward to the remainder of the year, including our staple events such as our Christmas Party/Annual food Drive, Curling Bonspiel, Bocce Ball Tournament, and several other social/educational events. I would like to in advance give special thanks and recognize all the speakers who will be volunteering their time to come out and speak at our upcoming meetings.

We encourage all to come out and join us at any of our future events/meetings and support our Chapter. Our members can look forward to further issues of our newsletter, The Attitude Adjuster, for anyone interested in subscribing, please email Chris Jolliffe at chris@leadingedgescs.ca. Please stay informed of all our upcoming meetings and events through our new and improved website, www.oiaaniagara.com.

Bob McCord FCIP, CRM, CFEI
President, Niagara Chapter



Chapter Spotlight

Get to Know the...

NIAGARA CHAPTER

Niagara Region Delegate Final Report

Rob Fiorido: Niagara Region Delegate

As a brief introduction, my name is Rob Fiorido, and I am the new delegate for the Niagara Chapter this year. I look forward to meeting new people around the province.

It's that time of year where we close up our pools, put all patio furniture away and look forward to a new season. The autumn is my favorite time of year, not too cold yet not humid and sweltering. Enjoying opening the windows at home letting the cool breeze into the house.

It is by that light (even if there is less of it with each passing day) that we witness the harvest moon, pumpkins, hockey, football and baseball games. As a sports enthusiast we welcome new hockey and basketball seasons.

But it's mainly those beautiful, technicolor deciduous trees we love to look at, your maples, oaks and elms. Autumn is a second spring when every leaf is in flower.

With the weather and seasons change I reflect on volatility of weather conditions across the country and how this impacts the insurance industry. As wildfires

prompted evacuation of many areas across the country, the industry is encountering many challenges.

Governments and industry players in Canada are racing to find solutions to ensure home insurance does not become a luxury for the rich.

In one startling Global example, insurance giants State Farm and Allstate have stated over the past year that they would stop issuing new home insurance policies across the entire U.S. state of California, citing increasing wildfire risk. Could such a situation happen in Canada? It's scary to think of.

The VP of Insurance at Ratehub.ca said Canada's insurance industry is in the early states of responding to climate change and the weather impacts, however overall the situation isn't as "dire" as in the U.S. as wildfires are still considered unpredictable in Canada.

I look forward seeing everyone at our upcoming Holiday Mix and Mingle on December 19, 2023.

Cheers - Rob Fiorido



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Navigating Cyber Claims:

A Strategic Approach for Claims Professionals

By: Dave Dhillon



Cyber incidents have become increasingly prevalent in Ontario, placing claims professionals at the forefront of managing a rising number of these cases. From a legal standpoint, there are several crucial considerations that claims professionals must keep in mind when responding to a cyber claim.

1. Selecting the Right Expert

Claims professionals, driven by a commitment to efficient and cost-effective solutions, often aim to respond promptly to claims without incurring excessive fees. However, selecting the appropriate expert at the right time is paramount to limiting claims expenses early on.

For instance, consider a claim from an insured who has received a ransomware demand. The insured will likely require immediate assistance from experts (forensic IT specialists, breach coach, etc.). An insurer may consent to these services prior to a coverage

determination depending on the policy and the information at risk of disclosure.

Communication with the insured's broker or the insured through scoping calls or correspondence will help to assess the necessary assistance and urgency accurately.

2. Safeguarding Subrogation Rights

Insureds might seek resolution with third parties before insurer consent or notification, potentially jeopardizing subrogation opportunities. Claims professionals must clarify policy conditions related to subrogation or consent for settlement. This clarity ensures that the insurer does not lose the chance to recover when possible.

3. Addressing Third-Party Liability Claims

Unexpectedly, cyber incidents can lead to third-party liability claims. During the fact investigation phase, gathering comprehensive information about other

affected parties is crucial. This information allows claims professionals to set appropriate reserves and empowers the insured to protect themselves from additional liability. For instance, where possible, an insured should consult with their breach coach when reviewing service agreements with stringent audit requirements. These requirements might escalate forensic investigation or legal fees, necessitating careful consideration against the insured's policy limits.

Strategic Response and Maintaining Privilege

A strategic approach to cyber claims involves striking a balance between thorough fact investigation and maintaining privilege. Engaging vendors early in the process, when reasonable, ensures optimal outcomes for the insured. Claims professionals play a pivotal role in orchestrating a response that not only adheres to legal obligations but also safeguards the insured's interests effectively.

In the dynamic landscape of cyber threats, claims professionals are essential gatekeepers, ensuring a swift, effective, and legally sound response to cyber claims. By being proactive, clear in communication, and strategic in approach, claims professionals can navigate the complexities of cyber incidents, providing invaluable support to both insurers and insured parties.



Dave Dhillon

Dave Dhillon is a cybersecurity and insurance lawyer called to the Ontario bar, and practices at Clyde and Co LLP in Toronto, Ontario. His

practice includes cyber coverage and breach response, and the defence and litigation of insurance disputes (including the professional/specialty lines). You can often find his musings online on LinkedIn, in person at various insurance events, or at a local dog park.

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Tips to Maximize Subrogation Recoveries

By: Christine Andrews (FCIP, CRM)



While most larger insurers have dedicated subrogation departments, at some insurance companies' auto, property or all lines adjusters are often tasked with handling subrogation files. The risk in this approach is that subrogation files are not handled in a proactive manner when more pressing, first party claims take precedence due to high claims volume or weather events. Subrogation claims may be inadequately investigated, prematurely abandoned or lower than expected settlements may be accepted. Having an aggressive subrogation program can improve an insurer's loss ratios. Below are some tips to maximize subrogation recoveries.

1. Investigate potential subrogation claims and retain any evidence.

Adjusters are very busy these days and more claims are being handled by telephone without a scene investigation. This does not mean that a claim can not be investigated fully if it is suspected that it is suspected that there could be an opportunity to subrogate. The best way to ensure that a proper investigation is done is to hire a qualified expert, often a forensic engineer, to do a full scene investigation. While this is the ideal it often does not make sense to take this approach on smaller claims. For smaller claims an adjuster can instruct a contractor to take ample photos and videos of the scene and preserve

any relevant evidence (sump pump, plumbing fixture, faulty appliance etc.). It is important to preserve the evidence at the outset of a claim even if one is unsure whether subrogation will be pursued. Many engineering firms are willing to look at photos and offer an opinion about whether there's any potential for subrogation at no charge. A non-destructive examination of the evidence and a brief preliminary report can be provided at minimal cost and is often enough to establish liability on smaller claims. On very small claims providing photos, a theory of liability and/or an opinion from the contractor who attended may be sufficient for a third party to accept liability.

2. *Involve the appropriate experts if warranted.*

As mentioned above most often adjusters turn to forensic engineers when investigating a subrogation claim. It is wise to consider other experts as well. For example, if one was to suspect that an appliance was installed improperly, another experienced appliance installer may be able to provide an opinion on the installation based on photographs. It is also necessary to involve other experts such as forensic accountants, appraisers, contractors etc. to provide evidence to support the damages paid.

3. *Pursue all files with subrogation potential.*

Many adjusters do not consider subrogation unless there is a very high standard of evidence and a very strong chance of recovery. The evidentiary standard for proving liability with a subrogation claim is based on preponderance of the evidence, meaning that the party with the burden of proof must prove that there's a more than 50% chance that the claim is true. It is not necessary to prove with 100% certainty or beyond a reasonable doubt that the claim is true. There is risk on both sides to litigate claims and often a compromised settlement makes sense in cases where the evidence is less clear. Even with very limited evidence it never hurts to attempt subrogation. A third party may accept liability based on information they have that is not known to the party pursuing the recovery.

4. *Be familiar with applicable case law, regulations, by-laws and statutes.*

Any case law, by-laws or statutes that can be used to

support a subrogation claim will help in facilitating a settlement. There's often case law that can be found that speak to issues of liability and/or damages for specific claim scenarios. The Building Code Act, Residential Tenancies Act, Municipal Act, Sale of Goods Act are some of the Acts that are referenced when pursuing subrogation claims. Many municipalities have by-laws that set standards for property maintenance, pet ownership, fences, snow removal, open air burning etc. that may relate to subrogated claims.

5. *Consider any uninsured claims.*

At the outset of a subrogation claim the potential for any insured claims should be considered. If there is an uninsured loss it may be necessary to enter into a recovery agreement for significant uninsured damages, or at a minimum discuss how the recovery process will work. It is not uncommon for a liable third party to want a release signed by both insurer and insured. If an insured is unhappy with the recovery or alleges an uninsured loss late in the process it can be very difficult to settle.

6. *Use effective notice and demand letters that have some call to action.*

A vague notice or demand letter is unlikely to elicit a response. A notice letter should outline why the party is being placed on notice and when the investigation is likely to be completed. Especially for larger claims it may be advisable to allow the third-party access to a scene and/or invite them to have an expert participate in a joint examination of the evidence. A demand letter should state the specific amount being sought and a date by which a response is expected.



7. Send a well-organized demand package.

Casualty adjusters are often dealing with a large volume of claims. The easier the demand package is to review the easier it will be to get a timely response and hopefully settle the claim. Any attachments sent should be properly labelled and there should be some sort of summary included that outlines the items being claimed. There should be documentation or an explanation for each item.

8. Include the full amount of the damage as the initial demand.

There is case law in Canada which suggests that the starting point relating to damages is the full repair or replacement cost, particularly when dealing with residential claims. The burden is placed on the defendant to show that a plaintiff has been "bettered" by the repair. It is common for a court to award the full amount of the damage without deduction for depreciation.

9. Be persistent.

Sending one letter may not be enough to get an appropriate response. If there's no response it may be necessary to call, e-mail, or escalate further to get the claim in the hands of the person who can settle the claim. Once the appropriate person is in receipt of the file regular follow up is required until the claim can be settled. If a proactive approach is not taken, claims will be ignored or take much longer to resolve.

10. Negotiate to maximize the recovery amount.

It can be tempting to accept any offer to close a claim, but it is not the best way to maximize the recovery. In most cases there is some room for negotiation.

11. Be realistic.

An uninsured party may not have the financial means to pay 100% of the damages, especially on larger claims. If a third party has no insurance and/or does not have the financial means to pay the full amount of the damages, it is often better to consider a compromised settlement than to spend money to litigate and receive a judgement that will likely be unenforceable. While I believe the starting point of the negotiation should be the full amount of the damages it is often necessary to compromise when

there are issues with proving liability and/or damages. An assessment should be made about the costs and risks associated with litigating and whether the responsible party can pay damages. There's no point to suing a party that has no assets or income, unless there's a belief that this individual's situation may change in the future, while a judgment is still in force.

12. Do not hesitate to litigate or consult with an attorney if your claim is denied or a reasonable settlement can not be reached.

A lawyer can review the claim and provide an opinion on whether there's enough evidence on a denied claim to take legal action. Sometimes, it is worth it pursuing a larger claim in the hopes that more evidence can be established during the discovery period. Some third parties may systematically deny or low-ball claims until a statement of claim is filed. It is important to do a cost/risk analysis before accepting a low offer or abandoning a claim.

In conclusion, insurers with established subrogation programs will recover more on claims with higher net recoveries per claim. If your

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Paul M. Iacono

Paul has over 50 years of experience in the field of Insurance litigation and dispute resolution. He served as a Deputy Judge of the Toronto Small Claims court for 25 years. In 2014 the International Academy of Mediators awarded him its highest honour, making him a Knight.



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company does not have the capacity to handle all subrogation claims proactively consider outsourcing these claims to a company that specializes in subrogation rather than leaving money on the table.



Christine Andrews (FCIP, CRM)
Christine is a licensed adjuster and the President of Sage Claims Solutions Inc., a firm that specializes in subrogation. She

began her career as a property adjuster in 1998 and has held several specialized claims, leadership, and risk management positions since then. She has specialized in subrogation since 2011. Since founding Sage Claims, she has been able to recover millions of dollars on behalf of her clients.

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"We are thrilled to bring our listeners a new season of engaging and informative content," said Terry Doherty, host of WP Radio. "We've been doing this for more than half a decade now and we're still just as excited and looking forward to speaking with all of our guests every time we record an episode."

WP Radio will continue rolling out MyKey's series 'Home Away From Home', on the podcast network and will additionally be at all Ontario Insurance Adjusters Association events, recording live with guests, sponsors and other members of the industry.

In 2023, WP Radio has focused on expanding their production of branded content shows, as part of their mission to constantly grow and enhance their roster of episodes.

"We are committed to providing our listeners with the most valuable and up-to-date information in the insurance industry," said Doherty. "The new season of WP Radio will be an essential resource for anyone working in the insurance industry or interested in learning more about it."

Listeners can tune in to the podcast on all major platforms, including Spotify, Apple Podcasts, and Google Podcasts.

For more information on all branded content productions, options for sponsorship, and guest spots on interviews, please contact Kieran Doherty by phone or email.

Kieran Doherty
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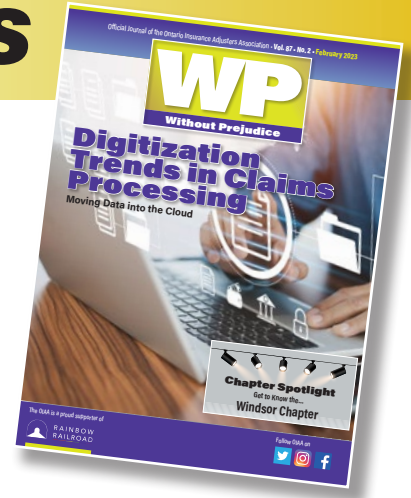
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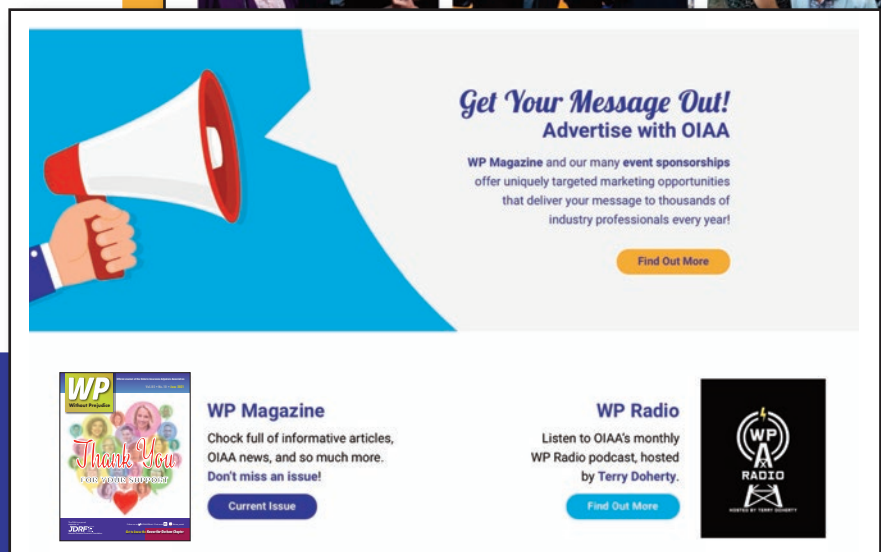
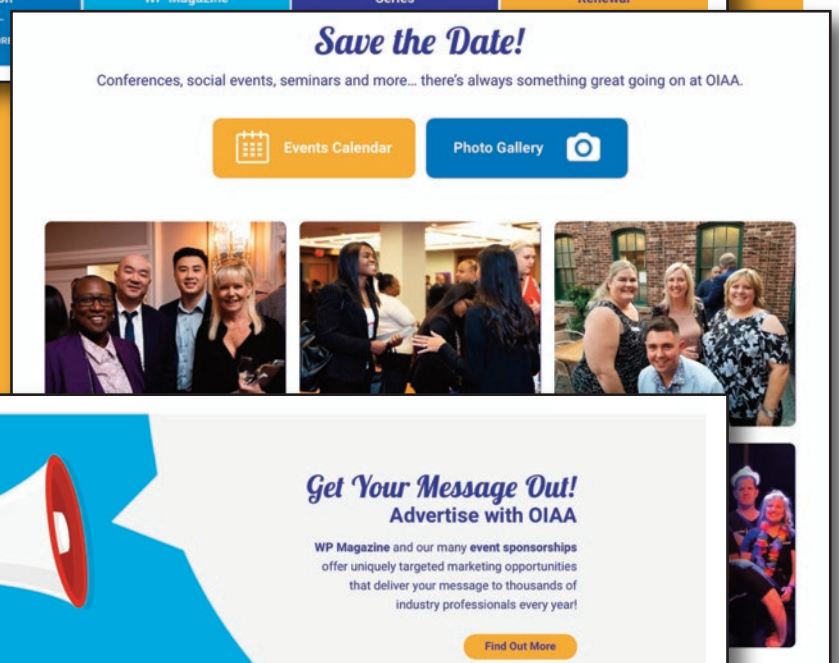
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