

2009 HOSPITALITY LAW CONFERENCE

# The Claims Process





# Presenters



- Dale Kingman, Esq.  
Partner, Gordon Tilden Thomas & Cordell, LLC
- Dale is an insurance coverage attorney from Seattle, who has regularly presented at the Hospitality Law Conference
- Dale's Coverage Practice emphasizes the Hospitality industry
- Dale is also involved in Alternative Dispute Resolution and has mediated and arbitrated over 700 matters in the last 15 years.



# Presenters



- Dauné Dowell – Corporate Risk Manager, Pacifica Hotel Company. In this capacity:
  - Addresses the financial impact of exposures and develops related programs and training sessions to avert further risk.
  - Identifies and addresses both insurable and non-insurable risk; Procures all levels of insurance – casualty and property.
  - Manages the claims administration functions, both property and casualty, and interfaces with In-house counsel regarding claims related lawsuits.

# Presenters



- Jeff Hellman – Executive General Adjuster
- Over 20 years of property claims experience
- Responsible for the management and adjustment of property losses for domestic and international insurers and multinational corporations
- Specializing in Hospitality accounts



# A Property Claim Requires a Team to:

- Identify Key Issues
- Outline and Execute a Strategy and Agenda
- Manage Expectations
- Work Toward Settlement



# Prior to Loss

- Centralize Loss Claim Management with Insured Organization
- Negotiate Policy Terms Through Broker
- Designate an Independent Adjuster
- Locate Experienced Coverage Counsel
- Locate an Experienced Business Interruption Expert
- Locate a Remediation Partner



# Claim Management by the Insured

- The Insured's Role is the Most Important
  - Point of contact for broker, carrier, counsel, hotel property employees, and adjuster
- The Claim is Centralized With the Insured Organization
  - Streamlined communication with Executive Branch, decision makers
  - Instills confidence in adjusters and insurers



# Claim Management by the Insured

- The Insured Prepares for a Loss Before it Occurs
  - Onsite Training/Preparation
  - Safety Program/Meetings
  - Efficient reporting lines/processes/paperwork
  - Effective communications/chain of command
- The Insured Selects and Directs the Team
  - Empowers all team members
  - Has decision making authority





# Claim Management by the Insured

- The Insured Facilitates Communication Among the Team and With the Insurer
  - Reporting lines
  - Chain of command
  - Effective communicator
- The Insured Develops and Manages Expectations Among all Parties



# Benefit of an Experienced Broker

- Pays Attention to the Insured's Business Requirements
- Assists in Communication with the Insurer
- Facilitates Cooperation Among the Insurer, Insured, and Adjuster
- Provides a Focal Point for Keeping the Insurer and Adjuster Informed
- Instrumental in Assisting the Parties to Move Towards Reasonable Resolution and Settlement



## Benefits of a Designated Independent Adjuster

- Knowledgeable About the Insured's Business
- Becomes Part of the Team
- Provides Reporting Oversight and Auditing of Costs
- Assists in Managing Expectations with the Insurer
- Assists in Reaching Reasonable Outcomes
- Helps Overcome Hurdles in the Adjustment Process



# Benefits of Coverage Counsel

- Assists Client in Identifying and Executing Agenda and Strategy
- Identifies Coverage Issues and Appropriate Responses
- Familiarity with the Client's Business and Operations
- Assists in Assembling and Managing Experts
- Aids in Managing Client Expectations
- Can Work with the Broker as a Complimentary Channel of Communication with the Insurer
- Should View Litigation as Last, Not First Option



## Benefit of a Business Interruption Expert

- Assists in the Claim Process and Preparation of the Claim
- Provides Useful Advice, Expertise, and Manpower
- Provides the Insurer with a Tangible Work Product
- Provides for Both Parties Detailed Calculations and Supporting Information
- Will Provide a Rebuttal Analysis and Assist in Counter-Proposals



# Benefit of a Remediation Contractor

- Potential for Contractor Approved by Insurer
- Ability to Quickly Respond to Loss
- Potential for Agreement Limiting Contractor Recovery to Insurance Proceeds



# Key Issues in Claims

- **What you need in your Policy:**
  - “All Risk” Manuscript Policy
  - Appropriate Deductible Language
  - Limited Exclusions Tailored to Business Operations with “Ensuing Loss” Provisions
  - Broad Replacement Cost Coverage
  - Ordinance and/or Increased Cost of Construction Coverage
  - Extended Period of Indemnity for Business Income Losses



# Key Issues in Claims

- **What you need in your Policy:**
  - Designated Adjuster
  - Coverage for Loss Adjustment Expenses, Including Attorney's Fees
  - Stand-Alone Collapse Coverage: Eliminate Requirement that All or Part of Building Must Have "Fallen Down or Caved In"
  - Broad Suit Limitation Clause and Notice Provision