

PIPE FREEZE-UPS - SUBROGATION CONSIDERATIONS

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1. Consider retention of legal counsel to supervise subrogation investigation; to permit adjuster to be involved in the immediate adjustment problems. Even with the liberalization of discovery rules, protection is still granted to work product of counsel.
2. Consider immediate engagement of expert (may require hands-on trade person, such as a plumber, mechanical engineer, metallurgist, etc.).
3. Obtain photographs of the source of the loss -- as many as possible -- taken as soon after the occurrence as feasible.
4. Obtain and preserve any failed or broken portions of the system (e.g., cracked valves, fittings, etc.).
5. Determine the nature and type of heating system that may have failed or shut down and the reasons why.
6. Get a copy of the Lease Agreement to review for contractual legal obligations, exculpatory clauses, waivers of subrogation, etc.
7. Get names, dates, details and written documentation of recent work performed by a third-party contractor.
8. Obtain plans and blueprints of applicable system that failed (plumbing, sprinkler, HVAC).
9. Determine the age of the installation of the system that failed and which entity was responsible for the location and amount of insulation or protection afforded the system.
10. Obtain meteorological information. Counsel can obtain U.S. Weather Information from local reporting stations, including temperatures, wind velocity and direction.
11. Determine the names of the last occupant prior to the discovery of the loss and get statements from them, as well as the building superintendent, plant engineer, maintenance man, etc., concentrating on:
  - a. temperatures in the building;
  - b. time periods unoccupied;
  - c. time of discovery of the loss;
  - d. details of any surveillance system, e.g. guards, sprinkler alarms, flow sensors, temperature monitors, etc.;
  - e. names, contract details of any outside supervising or monitoring services;
  - f. prior similar occurrences;
  - g. if already repaired, the names of the repairing entities, and any written documentation;

- h. subjective weather information (e.g., localized dusting); and
- i. any admissions in post-loss meetings with outside parties.

12. While the adjuster assigned to the loss will be immediately concerned with the scope of loss and remedial measures to limit additional damages, any and all of the above can be accomplished by counsel. Cozen and O'Connor stands ready, by telephone notice, either by contact to the individual attorney or by Watts line number of 800-523-2900, to consult, make recommendations or personally appear to direct the investigation.