DON’T LET YOUR SUBROGATION CLAIM BE STOLEN

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As many of you already know, preservation of your loss scene is crucial to any subrogation claim. It is not only imperative to preserve the scene for your own investigators to conduct a complete and thorough investigation, but also to provide potential target defendants the opportunity to inspect the undisturbed scene and thwart any argument of spoliation. But as the price of copper has skyrocketed over the last few years, there has been a rash of thefts of copper piping and wiring, not only from public utilities and vacant buildings, but from unprotected loss scenes as well. The price for copper has risen drastically from about 70 cents per pound in July 2001 to about $3.60 per pound today. But what makes copper so attractive to thieves, in addition to the sharp increase in its value, is the relative ease of obtaining it from unsecured buildings and loss sites, and the fact that copper is 100% recyclable and very easy to sell.

Initially, utility companies, railroads and construction companies were the primary targets for copper thefts. Thieves were even so brazen as to steal overhead electrical cables between utility poles. In San Bernardino County, California alone, there were 148 reports of copper wire theft since January 1, 2006. Verizon Communications estimated that it lost $700,000 in stolen cable and other property on the west coast since 2004. Thieves are also targeting abandoned buildings and construction sites - stealing the copper from plumbing, electrical and hvac systems. Unfortunately, your loss sites have now become another favorite source of copper.

Not only can the theft of copper wiring and piping increase the nature and size of your loss, but can also have far reaching and detrimental consequences to your subrogation claim. Cozen O’Connor has recently received a
number of losses in which the scene had been altered due to someone stealing the electrical wiring or copper piping before an investigator could even be retained. Amazingly, some thefts have occurred within only hours of the loss. Thieves that enter an unsecured loss site may not only alter the scene and compromise your expert’s ability to provide a favorable opinion for subrogation, but may also remove actual physical evidence. For example, in a recent loss in Arkansas, the fire department reported they believed the loss was due to an electrical failure in new structural wiring that was recently installed. By the time the independent fire investigator arrived on scene, all of the structural wiring had been stripped from the building. There was simply nothing that could be done from a subrogation perspective.

These loss sites are seen as targets by opportunists because the buildings or structures are no longer occupied and are no longer secured. In addition, lighting and alarm systems are now disabled, making access that much easier for a thief. Most of the thieves are believed to be homeless, transient workers, drug users or simply criminal opportunists who are typically not viable targets for a subrogation claim. The culprits are rarely apprehended, and although restitution may be ordered in some jurisdictions if they are apprehended, it is doubtful that the perpetrators have the financial resources to comply with such an order.

Thus, the key to protecting your scene and subrogation claim is to be proactive. Early notification to subrogation counsel not only allows Cozen O’Connor the opportunity to act quickly to arrange for the investigators to get to the loss scene in a timely fashion, but also to take the steps necessary to secure the site as soon as possible. Steps to preserve the scene may require more than simply locking the front door or boarding up broken windows. Depending on the circumstances, securing the scene may entail fencing and barricades, or the hiring of security companies to post on-site, round-the-clock security. This may not be economically feasible in all losses, but larger losses definitely warrant the extra expense.

The importance of scene preservation has certainly been recognized long before the current increase in copper thefts, but these thefts serve as a reminder of the necessity to protect a loss scene from alteration and removal of evidence. As always, Cozen O’Connor stands ready to assist you in quickly securing your loss scenes and preserving subrogation potential.