

COVID-19

The Business Interruption Guide to Calculating Economic Damages

A Forensic Accounting Perspective





Introduction

To Our Clients and Industry Friends,

As you are aware, these are unprecedented times for our industry. Lowers Forensics International has established a remote-working environment to ensure the safety of our employees and their families. In addition, we are taking additional precautions when visiting insured locations and have implemented all recommendations from the CDC. Together we can get through this and enhance our sense of community with compassion and positive actions.

In preparation for the potential increase in volume related to COVID-19 claims, Lowers Forensics International is proud to deliver this guide to you and your colleagues. The Business Interruption Guide gives the reader insight from our executives about specific industries and the nuances we have seen over our careers. There is much more to consider, but our team felt that it would be beneficial to all, that a simple guide be available and ready for all. Being proactive and prepared is the key to success in this disruptive situation. Let us know if there is anything else we can do to be of assistance.

As we look ahead to the future of our industry, we hope to see everyone succeed and overcome such a devastating event. In the meantime, please accept this small gesture from us, and god speed.

Sincerely,

Marc

Marc Johnson
President
Lowers Forensics International

Joe

Joe Scarlato
President, International
Lowers Forensics International



Overarching Issues

The insurance industry is bracing itself as concerns over the coronavirus (COVID-19) pandemic have intensified with an increasing number of cases reported across the globe. According to the Center for Disease Control (CDC), the virus is “an emerging, rapidly evolving situation” for which complete details are not yet known. Therefore, while it is difficult to gauge the full implications the virus will have on a global scale and on the insurance markets, we can look at the information we do have and use our prior experience with catastrophic events such as 9/11, Hurricane Katrina, and Deepwater Horizon to prepare as much as possible for what may come.

Impacts on Business

The COVID-19 impact across the globe may affect the way business is conducted forever. We were sorely unprepared for a pandemic of this magnitude. Fortunately, our government and business leaders have banded together to protect the population, the healthcare system, and the economy from collapse by implementing policies including social distancing and work from home.

Although these policies are almost certainly necessary in restricting the spread of the virus, they will have serious and lasting effects on the economy.

Possible Impact on Insurance Industry

While it may not be flashy or exciting, the insurance industry forms the backbone and safety net of the economy. With small businesses across the U.S. being pushed to the brink of closure on the heels of this pandemic, we are seeing more and more lawmakers debate and articles discussing the role of insurance in keeping businesses afloat. Business owners rely on their insurance policies to provide the financial restitution to continue paying their employees and keep their doors open following recovery from catastrophes.

During this difficult time, policyholders will be submitting insurance claims stemming from travel cancellations, interruption in business activity, decreased productivity, and supply chain issues that negatively affect their business’ performance. Subject to available coverage or legal mandate, the insurance industry will need to respond to these claims

Industries Impacted

In order to provide timely and accurate claims resolution, each industry and each business must be analyzed based on the unique scenarios they face in the wake of this pandemic.

We feel the following 7 industries will be most impacted by COVID-19. As such, we tapped into the extensive collective experience of our executive forensic accounting team to outline an overview of the potential impact, expert insights, and key considerations to help you better support your policyholders.

1. Hospitality
2. Restaurants
3. Retail
4. Gig Economy
5. Legal and Financial Services
6. Medical
7. Entertainment/Event Venues



Hospitality

Impact Overview

With many businesses implementing restrictions on non-essential travel and individuals afraid of contracting or spreading COVID-19, tourism and the hospitality industry have been and will continue to be affected. This is likely to continue until the spread of the virus is contained and both a vaccine and cure are available. Universities and colleges are sending students home and ending their semesters, and even their entire school years early, and cancellations of graduation ceremonies that motivate thousands of friends and family members of graduates to travel and attend will have significant implications on the revenue of surrounding hotels.

Expert Insights

Forensic accountants and systems responsible for calculating the economic impact of the COVID-19 pandemic on the hospitality industry will have much to consider. Megan Johnson, vice president at Lowers Forensics International, offers the following insights:

- Consider the extra costs incurred to more frequently clean and sanitize common areas and hotel rooms in order to help reduce the spread of the virus and to help alleviate guest concerns.
- Know that hotels will likely be experiencing lower Average Daily Rates (ADRs) in addition to lower bookings as they fight to boost bookings.
- Guest cancellations and no-shows are also likely to be an issue. Despite hotel cancellation policies, the business may or may not be able to recover partial revenue given the circumstances. Hotels and vacation rentals are likely to experience a large number of cancelled stays that may not follow normal cancellation protocol.
- Closure of amenities designed to attract guests can affect both bookings and revenue generated during the guests' stay.
- Since tourism is motivated by local attractions and events, contingent business closures should also be accounted for. When the attractions are closed, nearby hotels that host the travelers suffer collateral damage. We are already seeing this become a major issue with Disney, Broadway, and professional sports temporarily suspending operations.
- Seasonality of the industry and each hospitality destination is also important to consider. The hospitality industry is intrinsically seasonal, with ebbs and flows based on weather, season, and school year. A ski resort, for example, would be overflowing with guests during ski season, but might be far less busy or even closed altogether once the season ends. Each business is unique, and no one can provide better insight into the normal ebbs and flows than its management team, so they should be a reliant source of information throughout the claims process.

Key Considerations

- Decreased demand
- Closures of key amenities and tourist attractions
- Cancelled reservations and no-shows
- Cost savings due to lower occupancy
- Additional sanitizing costs
- Seasonality



Restaurants

Impact Overview

Restaurants are being hit especially hard by the COVID-19 pandemic. We are seeing unprecedented levels of mandated civil authority resulting in partial, if not total closures. Federal, state, and municipal governments have limited most restaurants to take-out and delivery, in order to reduce large gatherings.

The restaurant industry is scrambling to accommodate customers without providing a dine-in experience. We are seeing more and more restaurants partner with established third party delivery services but this is unlikely to allow restaurants to maintain the sales they were generating prior to the pandemic. Restaurants are in a particularly difficult situation due to the nature of food service and public fears of contamination and sanitation.

Expert Insights

As we use our experience to help insurers calculate the impact, there are a number of factors to consider. Kaye Shelton, senior vice president at Lowers Forensics International, offers the following insights:

- In addition to ordinary payroll coverage, insurance policies may or may not include coverage for tips that would have been received by wait staff and bus staff while impacted.
- It is possible to see hourly employees included in their key employee coverage, although this is much more typical at high-end restaurants.
- When calculating short-term impact at a restaurant, it is crucial to properly assess sales based on the day of the week. In general, restaurants generate the majority of their revenue Thursday - Saturday, but some may see differing success throughout the week with campaigns such as happy hour or Taco Tuesday.
- Restaurants are likely to have excessive food spoilage due to lack of customers.
- Customers buying gift cards from their favorite restaurants to be redeemed after the pandemic will need to be taken into consideration when analyzing actual revenues while a restaurant is impacted.

Key Considerations

- Food spoilage
- Lack of dine-in customers
- Loss of high margin liquor sales
- Savings on hourly labor
- Potential for revenue through deliveries
- Gift card sales



Retail

Impact Overview

COVID-19 is having a dramatic impact on big box and mom and pop retailers — even those seemingly benefiting from these short-term runs on merchandise such as groceries, cleaning products, paper products, and non-perishable goods.

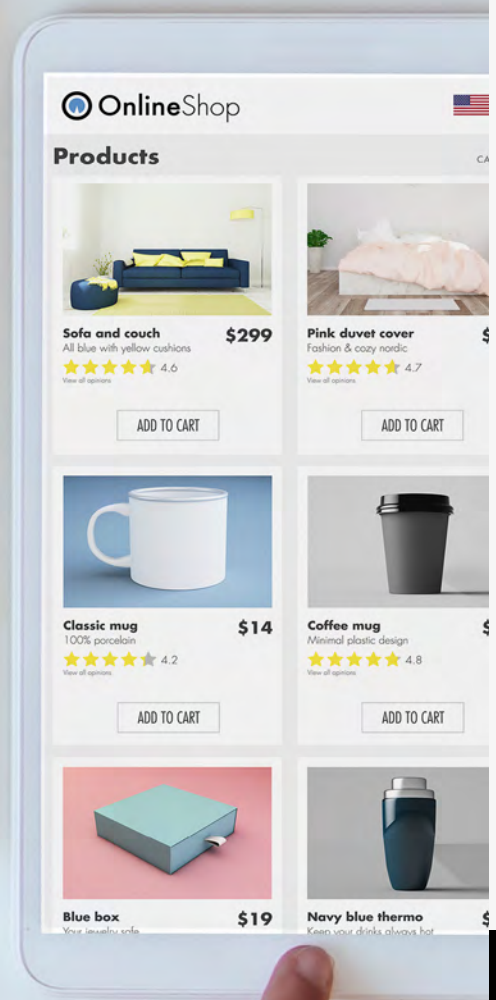
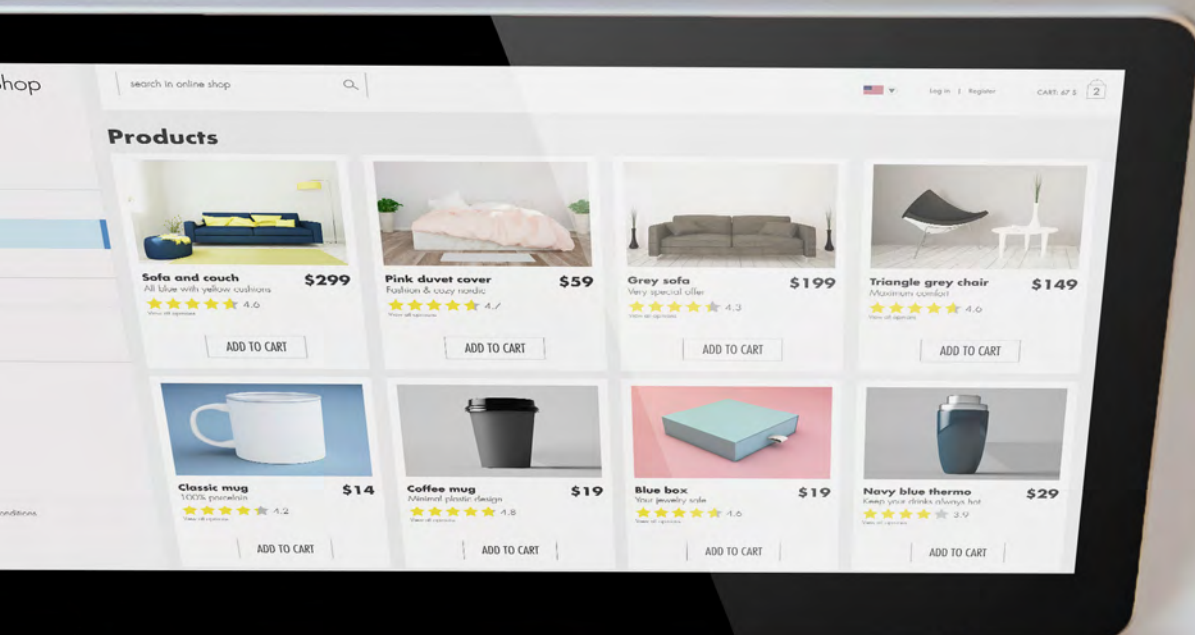
Mass store closures are well underway by all stores, including major brand outlets, and an increasing number of shopping centers and malls are closing their doors. It is quite possible that by the time you read this guide, all non-essential retail stores will be closed.

Expert Insights

Kyle Aldridge, vice president at Lowers Forensics International, offers the following considerations for approaching COVID-19-related BI claims in the retail industry:

- Be aware of any increased pre-closure/ impact revenues at retail stores due to runs on merchandise. At a minimum this could impact revenue projections and trend analyses, as well as potential considerations related to the overall impact of the event on the business.

- Also be aware of any decreases in revenue pre-dating the civil authority proclamation as this may be indicative of revised sales trends to utilize during the partial or full closure.
- Is the insured charging for home delivery to customers during the quarantine period? If so, there may be a potential increase in revenue for delivery charges.
- Does the insured offer online services? For larger chains most likely the answer is yes; those potential implications must be considered.
- Gift certificate sales should be considered. Particularly for small mom and pop / local stores, as many people are buying gift certificates now to support businesses which would be redeemed later.
- Does the insured have a “grab and go” policy in place? Many locations are limiting or not allowing customers to enter stores, but curbside pickup is being offered. If so, this would be considered partial operations during the loss period.



Retail (Cont.)

- Get clarification on the impacted days and the specific reasons for closure. Was it due to a government mandated closure? Civil authority mandates should be verified with documentation from the local government.) Was it due to limited hours or services that were allowed to be provided? Was it due to employee issues, such as employee fears related to working?
- Be sure to consider potential supply chain issues and re-stocking of merchandise. Is the insured having issues obtaining product? Were there any increases in costs for goods and freight / delivery from suppliers? Increased costs may apply on the customer side as well; for example, did the insured's delivery service provider increase their rates to ship products to customers?
- Consider the insured's inventory levels and review pre-and-post loss reports. What is the coverage for retail goods (i.e. selling price vs cost)? Does the insured have the right under the policy to dispose of any goods they deem to be damaged?
- Review continuing and non-continuing expenses for the store including: rent, payroll, utilities, advertising, delivery charges, repairs & maintenance.
- Obtain a copy of the lease and review the wording on closures and civil authority; review for potential rent credits from landlords. Does the insured pay a percentage-of-sales rent as part of the lease?

Key Considerations

- Store closures
- Lack of store traffic
- Uptick after re-opening
- Continuing and non-continuing expenses
- Impacts of civil authority
- Gift certificate sales



Gig Economy

Impact Overview

The lack of movement of the world's workforce has impacted the gig economy significantly. Rideshare apps are seeing a huge reduction in usage, cities are virtual ghost towns, and people are afraid to order food from gig economy service providers. Even though the gig economy was the new "norm", COVID-19 has pivoted the sector and has made the operational environment extremely challenging. There are many factors that will need to be considered, but in the end, demand drives the gig economy.

Expert Insights

Lowers Forensics International President, Joe Scarlato, offers the following key insights for COVID-19-related claims in the gig economy:

- The gig economy is demand-driven and primarily mobile, so regulatory decisions will play a major role and should be considered as part of any adjustment to a covered claim.
- Companies in the gig economy may need to increase advertising spending during quarantine/shutdown periods in order to maintain brand awareness and market saturation so they can return to a healthy level of business post-shutdown.

- There could be potential market share loss if competitors pivot during the shutdown or offer complimentary services to customers.
- Employee acquisition costs are important to consider. Many furloughs will lead to skillset shifts and tenured employees leaving to join other companies. Retraining may be required.

Key Considerations

- HR costs to furlough workers and then to onboard same or new workers once demand returns
- Supplementing income with other services to carry standing charges
- Delay of development of new features for sites, apps, etc.
- Advertising campaign cancellation, force majeure clauses, and deferment of advertising contracts
- Advertising costs during and post shutdown due to quarantine, till demand returns
- Potential increase in demand due to increased travel and movement by the public sector



Legal and Financial Services

Impact Overview

The COVID-19 pandemic will create unique circumstances and hardships for professional service firms for the foreseeable future. In working through the resulting claims it will be important to have a complete understanding of coverage, the insured's business and clientele, the environment where the insured conducts their business, and the books and records available to analyze the insured's claim.

For purposes of this discussion, we will address claims involving firms that bill time in order to generate revenues. Contingency firms (those paid based on the outcome of a matter) will require a completely different approach.

Although our approach and analysis related to billable hour firms are very consistent, each insured and each timekeeper within each firm will be unique. That is why our analysis breaks down the loss location on a timekeeper by timekeeper basis. We would also like to point out that a large number of these claims will involve shortened loss periods (less than one month in length).

Expert Insights

David Gardiner, senior vice president at Lowers Forensics International, points out the following

as it relates to BI claims resulting from COVID-19 within the legal and financial services sectors:

- Insurance policies typically cover the business or, more specifically, the loss location and NOT the individual employee billing their time. Carriers and adjusters need to determine what is driving the losses. For example, if the loss location (office) is open for business and 10 timekeepers are at home recovering from COVID-19, would that be enough to trigger coverage?
- Higher-level employees (partners, associates, managers, and executives) typically have laptops and the ability to remote access into a corporate file server. Lower-level employees may not have a computer or access to the server remotely. They also require adequate supervision when working on billable matters. With social distancing and self-quarantining at home, the higher-level employees of a personal services firm should be able to continue to operate while lower-level timekeepers may experience significant inefficiencies. These differences need to be considered.
- Professional services firms will also be impacted by their clients and environment. Client businesses may shut down leading to a reduction in clients needing legal, accounting, or consulting assistance.
- Insurers need to have an understanding of the type of firm that is submitting the claim and how their line of work might impact their revenue going forward.
- Other policy issues to be considered are loss of files or new matters. A significant source for professional services firms to obtain referrals are through in-person marketing efforts such as networking, presentations, seminars, and conferences. With large gatherings being restricted or cancelled, this may significantly reduce the influx of new matters coming into the firm.
- Based on experience, it is highly recommended for firms to incur extra expense to mitigate their business interruption loss. Every day that a large professional services firm isn't billing clients for its time and services, it could be losing thousands or millions of dollars.

Key Considerations

- Knowing what is driving the economic damage
- Line of work impacts
- Mobile workforce costs
- Loss of new business potential
- Productivity decline on billable hours



Medical Offices

Impact Overview

It may be counterintuitive to imagine any aspect of the healthcare industry experiencing a loss of patients or revenue given the global pandemic. However, we anticipate doctors and dentists in private practice will suffer as patients who are well, or not severely ill, postpone their routine visits in order to socially distance themselves. Meanwhile, those who are severely ill will likely continue to flock to emergency rooms and hospitals for care.

Expert Insights

John Ganss, senior vice president at Lowers Forensics International, offers these insights:

- Healthcare providers who have the ability to offer telemedicine could be well-positioned to work from home during the pandemic. This should be considered in any claim adjustment. Unfortunately, few doctors and dentists are currently equipped, however, they may be able to incur extra expense to utilize third parties who offer telemedicine services to extend them to current clients which could help in the mitigation of their business interruption loss.

- Sanitization is especially important for healthcare professionals, so they may incur extra expenses to purchase additional cleaning supplies and ensure a clean workplace for patients and employees.
- Doctors and dentists will likely see an increase in no-shows during the early months of the pandemic and patients may be less likely to schedule wellness check-up appointments moving forward. Doctors may be able to mitigate some of this if they have multiple locations by sending patients to be cared for at other offices that may not be in heavily affected areas.
- Doctors may be able to make up for revenue lost during the pandemic with increased volume of appointments when the infection rate decreases and patients become more willing to be out and about.
- Even if billings are not affected, we are seeing more and more everyday Americans struggle financially as a result of business closures. This is especially a concern since recent figures show 4 in 5 American workers live paycheck to paycheck. As a result, doctors and dentists may have trouble collecting fees from patients who pay out of pocket.

Key Considerations

- Sanitization
- Lack of appointments
- Extra cleaning expense
- Uptick after reopening
- Telemedicine
- Collections



Entertainment and Event Venues

Impact Overview

Entertainment, due to the nature of large crowds gathering, has practically been suspended worldwide. The NBA, NHL, NCAA, and MLB, as well as concerts, conferences, movie theatres, amusement parks, bowling alleys, and many more entertainment venues are impacted without a definitive date for return.

The impact of these closures extends not only to the teams and venues, but also to the concessions, suppliers, and service companies. The ripples of furloughing employees, rehiring new employees, and establishing operations quickly, once things get back up and running, will lead to significant economic impact.

Expert Insights

President of Lowers Forensics International, Marc Johnson, offers insights from his extensive experience working on claims for entertainment and event venues.

- Specific highly touted events may be rescheduled. If they are, the revenue from the event needs to be considered when calculating damages.

- Costs are highly variable in these types of venues and standing charges need to be reviewed for potential abatement, force majeure, or forgiveness.
- Attendance records from previously held events are an important indicator of what could have been achieved had the event not cancelled.
- For ordinary payroll considerations, there are specific hourly employees that may be considered key persons despite not being salaried due to skill sets.
- Off-season increase in income due to major events being moved should be considered as an impact to the insured.

Key Considerations

- Ticket sales/reservation cancellations
- Vendor contracts: cancellation, force majeure, delay
- Savings of hourly labor
- Potential re-scheduling
- Potential sponsorship impact and loss of revenue from advertising
- Television contracts and revenue



Special Concern: A Rise in Fraud

*D. Mark Lowers, CFE, Chief Executive Officer,
Lowers Risk Group*

Events such as the COVID-19 pandemic can demonstrate an amazing level of humanity from many individuals. For others, it can spark the pressure, opportunity, and rationale to benefit for personal gain.

Indeed, in the midst of dealing with this healthcare and public safety emergency, individuals, organizations, regulators, and even the World Health Organization find themselves with another set of worries: pandemic-level fraud. From email and text phishing scams, fake charities, and forgeries to pump-and-dump financial scams, fraudsters are cashing in by tapping into the fear and uncertainty of the general public.

The insurance industry is and will continue to be impacted.

To understand why the COVID-19 pandemic is setting up to be a fertile ground for fraud across the insurance sector, consider the fraud triangle — a three-pronged model created back in 1953 by criminologist, Donald Cressey. Still relied upon by professional fraud examiners today, the fraud triangle can help us understand the factors that are leading bad actors to take advantage of what most people see as a time for heightened morality.

The three prongs of the fraud triangle are:

1. Rationale

Some people simply have an inherent nature that allows them to knowingly and intentionally commit dishonest acts. Others, and particularly during extreme situations, can rationalize an act as being consistent with their personal code of ethics.

2. Opportunity

The fraudster recognizes an opportunity for gain and believes they have a low risk of getting caught. Opportunities can stem from weak internal controls, poor security, unchecked management access, etc.

3. Pressure

Need and greed are common pressures or incentives for committing fraud. Financial pressure, which many individuals will find themselves under during this pandemic, is a common form of pressure that can combine with opportunity to make the fraud all more attractive.



As a Certified Fraud Examiner and CEO for the global enterprise risk management firm, Lowers Risk Group, my focus during times like this is to ensure our clients and company are protected against bad actors and the schemes they employ to take advantage of innocent people and distracted organizations.

Here are some tips that may be beneficial to you, your company, customers, and family while facing this pandemic.

✓ Heighten Your Awareness

Be aware of who you are doing business with when presenting, handling, or reviewing a claim submission. There are predatory individuals that will seek indemnification by any means necessary. Arson, malicious flooding and egregious representation contracts are common where coverage is being questioned. My colleague worked on a case where a public adjuster came in and coerced the business owner into signing a representation agreement for seventy-five percent of total recovery. The owner was so busy dealing with the insurance claim, he signed the document without reading it. Ignorance, perhaps, but fraud, certainly.

✓ Do Your Research

Do research on any person or organization asking for donations. More importantly, when giving a donation online, ensure that the site is safe by researching the site information online. There are fraudsters currently creating skins and wrap around sites utilizing reputable organizations that will ask for financial information to further exploit the individual giving the donation. Check the state filings to ensure the non-profit is in good standing or even if the non-profit is registered properly.

✓ Don't Click

With more people working remotely, email phishing schemes can be more difficult to control. Each individual must be on the lookout for email phishing schemes. Most companies have mobile security enforced, but with mobile devices and home computers perhaps easier to use, employees may want to be comfortable working at home. These devices and machines are not part of the corporate security ecosystem and are more vulnerable to the cyber fraudsters that are taking advantage of the COVID-19 transactional environment. Remember the adage, "If it is too good to be true, it probably is."

✓ Watch Your Mailbox

In addition to insurance fraud, forgery is a particular concern today. With stimulus most likely on its way, individuals will be on the lookout for checks that can be easily signed and cashed with a simple ID. Be vigilant of your mailbox and if your mailbox is on a porch or attached near the front door, consider installing a video doorbell or camera to detect movement. During Hurricane Katrina, FEMA cards were stolen, sold for pennies on the dollar and US taxpayers became the victim of fraud. Be careful.

It is with preparation and awareness that we can stop fraudsters in their tracks. The ACFE, Association of Certified Fraud Examiners, of which I am a member, has great information on their website www.acfe.org and recently has posted various articles on the coronavirus and schemes they are seeing worldwide.

I wish everyone the best of luck in navigating through all of this and with faith, conviction, and community we will see a better world soon.



Special Concern: A Rise in Litigation

*Karl Weisheit, Senior Vice President,
Director of Litigation*

As the head of litigation at Lowers Forensics International, I am usually entrenched in my case work, but as a practitioner, I felt it was important to address certain issues that our clients should be aware of in the wake of such an unprecedented event in our country's history.

Expert witnesses are integral when considering some of the key time element issues that may arise from this pandemic. Whether you hire our firm or any other expert witness, we want to make sure that our clients are focused on the right qualities and make the best choice for their stakeholders.

Firstly, ensure that your expert truly understands the difference between a fact (lay) witness and an expert witness and how the two may overlap in time element coverage.

An expert witness is a witness who is qualified as an expert by knowledge, skill, experience, training, or education and may testify in the form of an opinion or otherwise if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.

Expert scientific testimony is admissible only if the court is satisfied that the expert testimony rests upon reliable scientific principles. An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. Experts may testify to opinions based on inadmissible evidence, provided that it is of the type reasonably relied upon by experts in the field. An expert witness can be a credentialed specialist in medicine, psychology, economics, accounting and many other fields. For example, an accountant can be called upon to testify regarding time element issues in a business that has suffered a loss.

A fact or lay witness is an individual who is knowledgeable towards the facts of the case through a direct participation or observation of the intricacies involved. This can include an accounting professional such as a claims' professional, who analyzed a first party property claim. In general, fact witnesses do not offer opinion testimony, however, some fact witnesses may be allowed by the court to offer testimony in the form of an opinion, if that testimony is rationally based on the witness's perception and is helpful to a clear understanding of the witness's testimony or to a determination of a fact in issue. This can be especially true when a first party property dispute goes into litigation.

A fact or lay witness may become an expert witness, especially in the arena of time element coverage. A claims professional may very well be a fact witness as it relates to the calculation of a first party property claim but become an expert witness if the first party property claim goes into litigation.

In addition to knowing the difference between a fact witness and an expert witness, your expert needs to have a deep understanding of claims calculations like those we deal with on a regular basis.

Knowing how to calculate business interruption losses or understand the concept behind time element coverage indemnity is one thing, but truly understanding the revenue and expense drivers of an industry and the impacts of concepts such as make-up or mitigation, loss of attraction, ordinary payroll, sales value of inventory, loss vs delay, etc. can be the difference in winning and losing a case.

With an expected rise in litigation resulting from the COVID-19 pandemic, it will be vitally important to have the right team in place to put you in the best position for a timely, equitable outcome.



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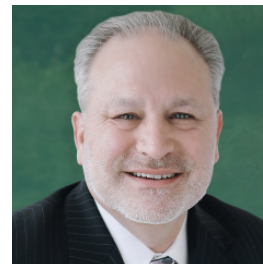
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Hospitality

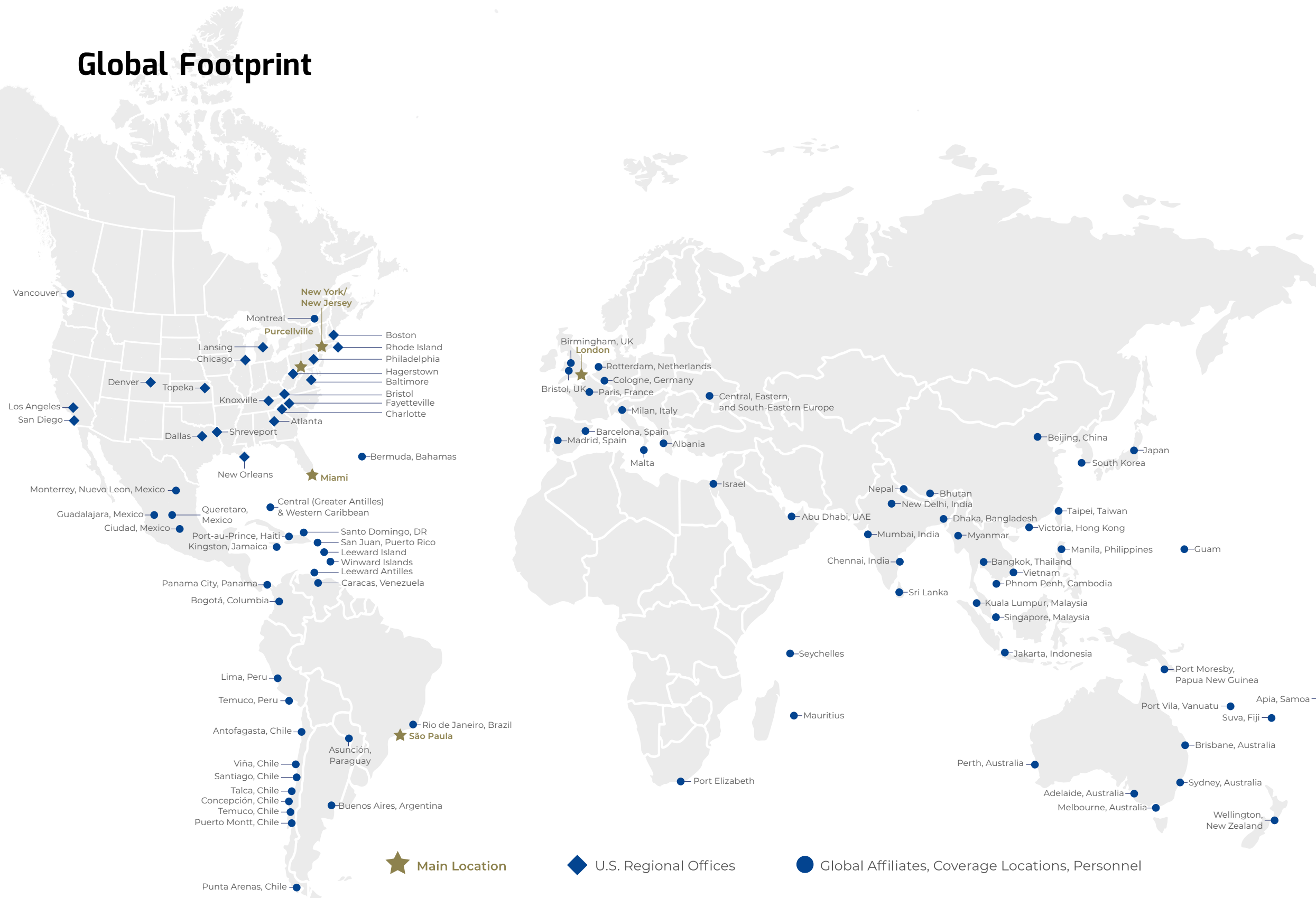
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Global Footprint



Bringing clarity to complexity.

The unpredictable and devastating impacts of losses and catastrophic events require a timely and specific response. Our independent and objective forensic accountants understand the delicate balance between crisis, relationships, accuracy, and timeliness when addressing matters that arise during BI claims adjustment.

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