4 – Documenting Claims

# 1 – Representational Documentation

**Objective**: Demonstrate the importance of these types of representational documentation and how they are useful in claims investigations: Photos; Videos; Maps; Diagrams

When investigating a claim, a claims representative has several options for documenting each type of evidence in the claim file. Photographs, video, maps, and diagrams are all useful means of documenting evidence, but for different reasons

In property-casualty insurance, nearly every type of loss produces physical evidence that must be preserved or documented in the claim file. However, not all physical evidence can be directly preserved. For example, skid marks at an auto accident scene will be worn away over time, and the accident scene itself-the configuration of the streets, traffic signals, and surrounding buildings and vegetations-can change.

**Representational documentation, such as photographs, videos, maps, and diagrams,** can preserve such evidence and illustrate what a loss scene looked like, how an accident happened, and the extent of any property damage or bodily injuries. For example, in a claim resulting from a collision of 2 vehicles that damaged both vehicles and injured both drivers, the claim file might include photos of the accident scene, the vehicles, and possibly the drivers’ injuries; video of any obstructed views the drivers may have had at the intersection; a diagram indicating how the accident occurred; and a map or drone footage of the intersection showing traffic flows.

## Photographs

Photographs may be used in a claim file for two different purposes, serving **to document either a point relevant to the event that gave rise to the claim or an investigative technique**. For example, a claim representative might include photos of the process of packaging a key piece of evidence to indicate that it was not further damaged when it was unpacked. Occasionally, **photos can also provide evidence of ownership, such as a photo of the insured wearing a fur coat** that has since been reported stolen or a photo of the dust ring around the spot where a now-missing television sat.

**Photos in auto collision claim files might include images of the vehicles involved (both damaged and undamaged parts); the location where the collision occurred, from all directions; any skid marks on the road surface; shrubbery that may have obstructed the insured’s view of an intersection; traffic signals; buildings; and other identifying landmarks near the incident location; points of contact (not just on the vehicles but also on other objects, such as gouges in the road and damage to other vehicles, or buildings); and the vehicles’ final resting places. In some cases, aerial photos of the scene taken by drones may provide useful information.**

Photos can also help in other types of liability claims. For example, if a claimant alleges **injuries suffered in a fall in a darkened hallway, photos of the hallway, the location of any lights, the presence of handrails, and the condition of the floor may document evidence relevant to the claim.**

**To avoid the effects of changing conditions, claims representatives should arrange for evidence at accident scenes to be photographed as soon as possible after an accident. Photos should be taken at about the same time of day that the accident occurred and in the same weather conditions to provide evidence about lighting and visibility.**

**A disadvantage of photos is that they can be misleading.** Camera angles can distort apparent distances or the proximity of one object to another. **Lighting can cast shadows** or make an individual look malicious or less than honest. It has also become much easier to digitally manipulate photographs. Claims representatives should avoid any deliberate attempts to distort photos. **Claims electronically marked with the date and time are preferable;** if that is not possible the claims representative should label each photo. Digital photos should always be saved in their original file format and should be stored as read-only files with limited access.

**For more serious claims, photos should be taken by a professional photographer**, an experienced investigator, or a person who has no involvement I the claim. Such a precaution will help avoid challenges on the basis of bias. However, anyone who takes photos at an accident scene **should be prepared to testify** **as to the type if camera, film, if applicable; lens, camera settings; and prevailing weather conditions**.

## Videos

**Videos can be a powerful means of explaining how an event occurred (by recreating the event) or documenting damage or injury. For example, claims representatives can use videos to show the extent of damage in a large warehouse fire. A Soundtrack can explain the visual evidences as it is viewed**.

**Videos can also show that a claim may be exaggerated or fraudulent;** for example**, a claimant who is claiming total incapacity could be shown painting a house after her or she filed the claim**. Such videos, however, must be made carefully so as not to invade the privacy of the claimant. The objective of an activity check is to obtain information about the claimant’s injuries and current activities, and the taping must be confined to that subject. To be useful in court, the video must clearly identify the claimant as the person engaging in the activity. The person taking the video must be able to establish the date, time, and place of the activity. Claims representative should hire only licensed, ethical investigators who would make a good impression on a jury.

Claims representatives and lawyers also increasingly record witness interviews and depositions. Recorded statements from parties to the claim at the loss scene could be useful. For example, a homeowner going through his storm-damaged house and describing the damaged and destroyed items can document the extent of the loss being claimed.

Claims representatives may be able to obtain videos of accidents and/or their aftermath from other sources, such as television stations or individuals who captured videos on their smartphones. If surveillance cameras are posted in the area, they may have video images of the incident that would be helpful to the claims representative. Drones can also be sued to obtain footage of the scene where a loss occurred, providing views of large areas and perspectives that might not otherwise be available.

## Maps

A map can be used to show the location of places that are relevant to the case. Depending on the situation, claim representatives may use official survey maps, road maps, or computer-generated street maps. **Maps drawn to scale can indicate relevant distances, locations of landmarks, topographical features**, and even GPS coordinates in case the specific location could affect the outcome of the claim (for instance, in a matter contingent on where an incident occurred in relation to state lines).

**Maps should be prepared by professionally trained surveyors or engineers.** If a map is introduced as evidence, the professional preparer may be called to testify about the method of measurement, the scale, and his or her qualifications. **The claims representative, and possible the defense attorney, should determine which issues the map will address – for example, those relating to causation, parties’ conflicting contentions, and how topography and landscape features may have contributed to the accident. As with photos, a court will admit a map as evidence only when satisfied that it is a faithful representation of what it seeks to portray. Therefore, the claims representative should instruct the preparer as to what relevant information the map should convey**.

## Diagrams

**Diagrams included in a claim file can communicate or clarify the events that gave rise to ta claim**. A diagram of an auto accident scene, for example, may be for more succinct than a written report describing how the accident occurred.

A claims representative may also use diagrams in interviewing witnesses. Some witnesses may find it much easier to explain what happened when referring to a diagram or when drawing their own diagram.

In an auto accident investigation, diagrams may be included with the police report, or the claims representative may produce one. Such **diagrams usually show the accident scene, including the streets, the direction of the vehicles before the accident, their position just before impact, and their position when they came to rest. The diagram might also show any possible obstruction to views; the grade of the street; and the location of traffic signals, skid marks, utility poles, and landmarks. Diagrams could also indicate camera angles for any photos taken**. Because roadway layouts in accident scene diagrams on police reports are sometimes hastily drawn and imprecise, satellite imagery of the location, available on line, may be used to verify their accuracy.

Claims representatives often use accident investigation diagram templates as an aid to preparing diagrams, along with stencils of appropriate symbols. Software is also available for electronic diagraming, and some websites or mobile apps provide simple diagramming functions free of charge.

# 2 – Spoliation of Evidence

**Objective:** Describe the following considerations related to spoliation of evidence: The insurer’s obligation to preserve evidence; What constitutes spoliation of evidence; Available defenses to spoliation claim; Remedies in a spoliation claim.

An insurer’s failure to preserve evidence relating to potential litigation can adversely affect its position in lawsuits, lead to sanctions, and even be grounds for an independent lawsuit against the insurer.

**Preservation of evidence is important for thorough claims investigation and to protect the interest of the insured and the insurer. Claims representatives should be aware of what evidence related to a loss should be preserved, and for how long, to avoid exposing the insurer to allegations of spoliation of evidence**. Such allegations can delay claims resolution, complicate litigation, lead to court sanctions against the insurer, and influence jury verdicts.

**Spoliation – the failure to preserve property for another’s use in litigation – is often raised in relation to the destruction of documents or electronic files relevant to a court proceeding.** Spoliation claims against insurers usually arise from the diminished chances of success of an insured, a third-party claimant, or another party in litigation as a result of the insurer’s failure to preserve evidence from a claims investigation. Such cases may include subrogation proceedings or lawsuits that arise after a claim has been settled.

For example, after an auto accident liability claim is settled with the injured third party, an insurer sells the insured’s auto for salvage. **The insurer later decides to bring a subro claim against the auto manufacturer, alleging the autos’ brakes were defective. The manufacturer files a pre-trial motion to dismiss the case based on the insurer’s spoliation of evidence necessary to the manufacturer’s defense**.

Similarly, the injured third party may consider suing the auto manufacturer for damages beyond what the insurance settlement covered. Because the insurer would not be a party to that lawsuit, the third party would likely address the spoliation allegation in an independent lawsuit against the insurer rather than through a pre-trial motion. In this case, the third party would charge that the unavailability if the evidence (the auto defective brakes) compromises its ability to prove its case against the car manufacturer. Depending on the state, the court may allow the third party to consolidate the lawsuit against the manufacturer and the spoliation lawsuit into one case.

**The law relating to spoliation continues to evolve. While recognizing an insurer’s duty to preserve relevant evidence, courts differ on what evidence is considered relevant, how long it should be preserved, and whom the duty is owed. Available defenses to a spoliation claim, as well as remedies and sanctions can also vary depending on the facts of a case and the jurisdiction in which the claim is brought**.

## The Insurer’s Obligation to Preserve Evidence

**An insurer has a duty to preserve relevant evidence in claims investigations. Without physical evidence of the cause of the loss, the chances of successfully defending an insured or pursuing a subrogation claim against a third party are significantly diminished**.

Storage of physical evidence can be costly. Preservation of some evidence at a loss scene may be impractical or could even increase the amount of a claim by delaying an insured business’s ability to resume operations. Insureds usually want to clear damage and rebuild, and business may need to put damaged machinery back into use.

How **long evidence should be preserved depends, in part, on to whom the duty to preserve is owed**. **The insurer’s duty extends to the parties in a claim but may also extend to others not involved in the claim, such as the car manufacturer in the previous example.** The general rule is that the insurer’s duty is to preserve evidence that is relevant to any contemplated litigation related to the claim. **Some courts use terms such as “pending and future litigation”, “reasonably foreseeable litigation”, or “the potential for litigation**”.

**For loss scenes that contain relevant evidence that cannot be preserved for an extensive period – for example, a fire scene at a home that the owners want to rebuild – insurers can take the precaution of identifying any foreseeable potential defendants in litigation arising from the event (such as manufacturers of products that may have caused the fire) and giving them an opportunity to view the loss scene. These parties should be notified as soon as possible after a claim is filed and invited to inspect the accident scene within a reasonable time (such as fourteen days).**

In spoliation cases, courts consider insurers to be professional litigants that should, therefore, be aware of the need to preserve evidence. As such, insurers may be held to a higher standard of care than parties who may be less familiar with litigation.

## What Constitutes Spoliation of Evidence

Spoliation claims are most often raised as a defense in court proceedings, although either party can raise such a claim. Such claims may be entered as motions submitted before or during trial for dismissal of the case or summary judgement, exclusion of evidence, specific jury instructions, or other sanctions against the alleged spoliator. Some jurisdictions allow separate causes of action in tort for spoliation.

**The unavailability of evidence is not in itself sufficient to support a claim of spoliation. Although courts vary in the proof that the evidence has been improperly lost or destroyed, that the alleged offender had ownership or control of the evidence, that the evidence is relevant or material to a claim in litigation, that the loss or destruction was the accused party’s fault, and that the unavailability of the evidence is prejudicial to the other party**.

Some states allow independent tort actions for spoliation only as an intentional tort; others allow claims based on negligent spoliation.

Courts generally agree that, for spoliation to apply, the evidence in question must be relevant and material to the case. In determining relevance, courts may analyze the extent to which the absence of the evidence prejudices the opposing party’s case and the fault or degree of bad faith to the party responsible.

**Several state courts have held that spoliation occurs when “crucial” evidence is destroyed or altered**. Crucial evidence may include a product that malfunctioned and cause injury or a heater that exploded and caused extensive property damage.

**At issue in some of these cases is how much of the evidence must be preserved – for example, whether it is sufficient to preserve a machine’s component that caused damage or whether the entire machine must be preserved. In products liability cases, some courts have held that the entire product is crucial evidence. In some cases, and entire loss scene may be considered crucial evidence**.

**Because an insurer’s determination of the cause of loss may be contested in court, an insurer may face a spoliation claim if it has failed to preserve potential alternative causes of loss**. For example, an insurer’s fire investigation may have identified a space heater as a cause of loss; however, a toaster oven in the same room may be a potential alternative cause of the fire. If the toaster oven has not been preserved, the heater manufacturer in a subrogation actin may accuse the insurer of spoliation, alleging that its defense has been compromised by its inability to offer evidence that something other than the space heater may have started the fire.

An insurer’s duty to preserve evidence does not extent to items that are not essential to proving a case. If a party can prove its case or defend itself without the evidence, a spoliation claim is not likely to prevail.

Examples of Spoliation Claims

* A fire inspector determines that a fire was started by an appliance in one corner of a room. The appliance and other items in that area were preserved. The extensive testing the insurer conducts causes it to fall to pieces and destroys some of its components. The appliance manufacturer in a subrogation claim, raises a spoliation claim. **The court determines that nondestructive testing could have been performed and rules that the results of the insurer’s test on the appliance are not admissible as evidence**.
* A business destroys documents relevant to a court case a week before the court orders parties to the case not to destroy any documents. In defense of a spoliation motion, **the business argues that the documents were destroyed in compliance with an established retention policy. In general, courts are reluctant to permit this defense. Even when legal proceeding have not yet begun, a court may find that a business would have been aware of the pending case**.
* After **a woman is injured by a defective product in her home, she throws the product away**. The product manufacturer, in a subsequent lawsuit, alleges spoliation. **The court delivers an “adverse inference” instruction to the jury.**
* Evidence in a products liability case is lost during shipping. The manufacture in defense of a spoliation claim points out that it was not in possession of the evidence when it was lost. The court rejects the defense because the evidence was improperly packed and the shipment was not monitored.
* An injured employee sues his employer and its work comp carrier alleging the employer refurbished the machined that caused his injury, leading him with no evidence to which to base a third-party lawsuit against the machine’s manufacturer. The defendants state that work compensation laws, as the exclusive remedy for employee injury, precludes the lawsuit. The court rejects that defense.

## Available Defenses to Spoliation

The party that claims spoliation bears the burden of proof. Available defenses, which vary according to the facts of the case and the jurisdiction in which the claim is brought, may include these:

* **The evidence that has gone missing or has been destroyed is not relevant to the case or is not prejudicial to the other party’s case** – if the party alleging spoliation can successfully present its case or its defense without the missing evidence, the spoliation claim may be defeated.
* **The evidence can be reconstructed – for example, copies of destroyed documents are available and can serve the same evidentiary purpose as the originals. Such as photos of damaged brackets.**
* **The party claiming spoliation was given a reasonable opportunity to examine the evidence before it was lost or destroyed** – Courts recognize that not all physical evidence or entire loss scenes can be preserved indefinitely. Whether or not the complaining party examined the evidence when it was available, the fact that is was given an opportunity may be a sufficient defense in some cases
* **Litigation was not contemplated when the evidence was destroyed** – Courts generally rule that the mere fact that a loss or an injury has occurred is not sufficient to require the preservation of evidence for a potential lawsuit. Courts apply standards of reasonableness to determine whether litigation should have been contemplated or foreseeable.
* **The evidence was destroyed in the regular course of business for another valid reason** – a television station’s practice of erasing digital videos after broadcast of an insured’s clearing a fire scene. This defense is not valid if, at the time of destruction of the evidence, a court order (called a litigation hold) was in effect prohibiting destruction of evidence in connection with this case.
* **In a workers comp case, a spoliation action in tort is precluded by the “exclusive remedy” rule** – Workers compensation laws are designed to be the exclusive remedy for workplace injuries, precluding tort lawsuits. However, some courts have ruled that because a spoliation case does not relate to the injuries, the exclusive remedy rule does not apply.

## Remedies for Spoliation

Courts have imposed remedies or sanctions for spoliation to deter future spoliation, to place the risk of erroneous judgement caused by lack of evidence on the party who created the risk, or to restore an innocent party to the same position it would have been in had the evidence been available.

**In court proceedings, the most sever sanction is dismissal of a case. If the nonspoliating party can prove that it cannot adequately defend itself without the evidence, the court may dismiss the case. Lesser remedies, such as exclusion of any evidence relating to the missing evidence, are designed to remove any unfair advantage the spoliator might gain from using the evidence**. For example, a court may bar a plaintiff’s expert witness from testifying about the evidence that is not available to the defendant

**Courts may also seek to eliminate a spoliator’s unfair advantage with an “adverse inference” instruction to the jury. The jury is allow to infer that, had the evidence been available, it would have been adverse to the spoliating part’s interests**. Such an inference may influence a jury to favor the opposing party.

**Some courts impose sanctions only if the spoliation was intentional or in bad faith**. Other courts impose less sever sanctions for negligent or innocent spoliation, depending on the degree of prejudice suffered by the nonspoliating party.

**Courts may impose monetary sanctions on spoliating parties to cover the costs of investigating the spoliation charge, preparing and monitoring motions related to the claims, and the courts time and resources consumed by the claim. In rare case, courts have imposed significant punitive fines**.

Independent tort actions for spoliation, sanctions may include monetary damages. Federal law and a few states allow criminal charges for spoliation.

# 3 – Taking Statements

**Objective:** Compare the advantages and disadvantages of audio, written, and video statements in documenting claims.

Claim representatives interview witnesses, claimants, and insureds to obtain evidence during their claims investigations. To preserve the information gathered in these statement, claim representatives record them.

Whichever kind of statement is used, effective questions are crucial to gathering the most complete and relevant information regarding a particular loss.

## Audio Statements

Audio statements, also know as recorded statements, can be taken in person or by telephone. The advantages of audio statements for claims representatives include saving time and having an account of the loss in the interviewee’s own words. Also, audio statements allow the interviewer to ask additional questions to clarify or expand on information provided by the interviewee.

**In some cases, an attorney may agree to an audio statement only if the claims representative will waive the right to a later deposition of the interviewee.**

**It is almost never advisable to waive the right to a subsequent deposition in exchange for an audio statement. If an interviewee is represented by an attorney, it may be wise for the claim representative to consult with defense counsel prior to taking a statement**.

Before the start of an audio statement, the claims representative should ensure that the recording equipment is working. He or she should also spend some time making the subject of the interview comfortable with the process.

**The audio equipment should begin with the interviewee’s acknowledgement that the statement is being recorded and that he or she has granted permission for the recording. The statement should conclude with the claim representative asking the interviewee whether he or she gave permission for the statement to be recorded and to verify that the facts are true to the best of the interviewee’s knowledge**.

Any interruptions that occur should be acknowledged in the recording, and the recorder should be turned off for the duration of the interruption. Example, If the recording is interrupted so the interviewee could answer the door, noting the time, and then state for the record that the interview is resuming.

Audio statements are usually summarized in the claim file, and many insurers have templates to use for these summaries. If the interviewee requests a copy, or if the statement will be used in a legal proceedings, the audio statement can be transcribed.

## Written Statements

A Written statement may be either a free-flowing description of events by an interviewee or, more commonly, an interviewee’s answers to questions on a form provided by the insurer. If the interviewee is represented by an attorney, that attorney may insist on a written, rather than audio statement so that eh or she can review it before submission.

**Written statements should contain signed consent from the interviewee,** in addition to the interviewee’s signature on each page. If an attorney is present, the attorney should also sign a statement indicating that he or she was present, has read the statement, and verifies that it accurately reflects the interview. A copy of the statement should be provided to the interviewee, and any corrections within it should be initialed by the interviewee.

**Written statements are usually more easily admitted into evidence in legal proceedings than audio statements**. As long a s a statement is signed by the interviewee, it is typically admissible. **Audio statements, in comparison usually require testimony that the recording device was working properly and that no edits or changes were made to the recording before the statements can be admitted as evidence**.

Advantages and Disadvantages of Audio Statements as Compared to Written Statements

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| **Audio Statements** |  |
| Advantages | Disadvantages |
| **Recording is less time consuming**  The interviewee can be observed (if done in person)  **Exact wording is recorded**  Illegible handwriting is not an issue  **Ability to ask additional questions to clarify or expand on information**  Telephone or video call interviews are an option  Recorded statements can be transcribed | Equipment may fail  Recordings must be stored (electronically)  Transcription adds to cost  Transcript must be reviewed for accuracy |
| **Written Statements** |  |
| Advantages | Disadvantages |
| Interviewee may be less anxious  Claims rep has more control  Transcription is not required  Interviewee’s signature may be easier to obtain | Handwriting may be illegible  Producing a written statement takes more time  Interviewee’s may claim they were misquoted  Paraphrasing may lead to challenges in inaccuracy |

## Video Statements

**When it is feasible to do so, taking a video statement adds significantly to the interview by revealing physical characteristics of the interviewee, including visible injuries, body language, and expression**. If a video statement is planned the claim representative should consult with an attorney regarding the rules of the relevant jurisdiction for the admissibility of video statements.

The procedures for taking a video statement, other than the operation of the equipment, are the same as those for an audio statement. The statement should open and end with acknowledgement that it is being videotaped and should include permission form the interviewee for this type of recording.

## Statement Content

Effective statements exhibit these qualities;

* **Coherence – The statement follows a logical sequence**
* **Completeness** **– the statement is thorough**
* **Objectivity** – **the statement contains facts relevant to the loss expressed in the interviewee’s own words**

**With few exceptions, the content of the statement should be the same whether it is written or recorded and should generally flow a patter to ensure that all relevant information is included. The Seven-Part Method can be a good guide for this.**

**Seven-Part Method**

1. **Permission and introduction – date, time, and location of the interview, names of the parties involved in the interview, and an affirmation from the interviewee that the interview is given with permission**
2. **Identification – identifying information about the person being interviewed, such as name, address, phone number, and driver’s license number**
3. **Setting – answers to questions such as who was involved in the loss, what was involved in the loss, when the loss occurred, where the loss occurred, and why the loss occurred.**
4. **Incident – A step-by-step description of how the loss occurred**
5. **Post incident injuries/damages – description of the property damage and bodily injuries to individuals**
6. **Miscellaneous - any information the interviewee wants to add**
7. **Conclusion – reaffirmation that the statement was taken with permission**

**The body of the statement should be adapted for different types of losses and should contain information specific to each type of loss**. Whether the statement is written or recorded, the claims representative should have an outline of the questions that need to be asked. For this purpose, many insurers have statement guides.

The questions that a claims representative asks should reflect the specifics of the claim. For example, questions for an auto accident will differ from those for a slip and fall claim, and questions for an insured may be different from those for a claimant or witness. Additionally, the investigation should uncover facts or concerns that the claims representative will need to clarify in the statement.

## Types of Questions Used in Statements

Claim representatives should develop statement-taking skills that encourage cooperation and elicit acts about the loss. A key aspect of producing effective statements is an understanding of three different types of questions: direct, open-ended, and leading

**Direct questions specifically and objectively address an issue and are typically used to clarify an interviewee’s statement**. **A question that seeks specific information, can often be answered with a yes or no answer.** An example of a direct question is, “was the car stopped at the traffic light when you approached the intersection”. The answer is direct and objective, and it would be difficult for an interviewee to change such an answer

**Open-ended questions require explanation, seeking detailed answers in the interviewee’s own words.** **A question that seeks an answer that explains or elaborates on the circumstance under consideration.** Open-ended questions tend to relax the interviewee and can make the statement-taking process feel less intimidating. Examples:

* How did the accident occur?
* What happened next?
* What was the condition of the premises?
* How did the fall occur?

**Open-ended questions allow the interviewee to be flexible in his or her response. Also, open-ended questions can lead to new follow-up questions.** If a claim representative asks “how did the fall occur?”(an open-ended question), the claimant may respond, “I slipped on some water on the floor of the warehouse.” Then the claim representative can follow up, asking “did you see the water on the floor before you fell? (A direct Question. Here the open-ended questions leads to a direct question asking for specific information.

**One potential problem with open-ended questions, however, is that they can be time consuming and allow the interviewee to wonder to topics that are either unrelated or do not follow the interview sequence**. Example, the interviewee may veer into a discussion of issues related to his injuries while the claim rep is attempting to gather information about how the accident occurred. Keeping open-ended questions specific and using direct questions as follow-ups to open-ended questions may help avoid this problem.

**The third type of question used in statements, leading questions, may require a yes or no answer and may prevent the interviewee from explaining the answer. A question that seeks or suggests a particular answer**.

**Direct, Open-Ended, and Leading Questions**

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| **Direct Question** | **Open-Ended Question** | **Leading Question** |
| Did you see the red Toyota stop at the stoplight? | What was the red Toyota doing? | The red Toyota stopped at the light, didn’t it? |
| At what speed would you estimate the Toyota was traveling before impact? | Can you tell me what you observed regarding the Toyota? | Did you see the Toyota traveling at a high speed? |

**Leading questions undermine the admissibility and credibility of statements**. Also interviewees may feel intimidated by leading questions and become less cooperative during the interview as a result.

**Some circumstances require special considerations when taking statements**.

* **Hospitalized interviewee** – many states prohibit or restrict taking statements from people who are hospitalized after an accident. Even if the statement is permitted by law, **such statements can later be challenged if the interviewee was experiencing shock or pain or was under the influence of medication**.
* Injured interviewee – it is usually advisable at the beginning of a statement to ask a person who is claiming injuries after an accident whether he or she is taking medication. Additional questions may include whether he or she feels up to giving a statement.
* **Minor interviewee** – laws regarding statements from those who have not reached the age of majority vary by state. Most states require permission from a parent or guardian before the minor be interviewed, some require the parent be present.
* **Foreign language interviewee** – the claims representative will usually **arrange for an interpreter to assist in interviewing a person who speaks a foreign language** and is not fluent in the language of the interviewer. Interpreter ca be either a professional or a member of the interviewee’s family.

**Taking a statement when there are special circumstances could result in the statement’s being deemed inadmissible. Also, taking a statemen when an interviewee is hospitalized, in pain, or otherwise vulnerable risks compromising the future cooperation of the interviewee**. Insurers often have policies and procedures for handling statements when special circumstances exist.

# 4 – Using Sworn Statements

**Objective**: Explain the following regarding sworn statements: Why are they used; What forms they take; How they are obtained; When and how they are used.

Sworn statements can play a sizable role in claim settlements. Claim representatives should familiarize themselves with the process of recording a sworn statement, as well as the statement’s uses, for the best chance of obtaining fair and equitable settlements.

Sworn statements can be valuable tools for claim investigations. Different forms of sworn statements are used for different types of claims. To be able to use these statements effectively, claim representatives need to understand why, when, and how to obtain and use various forms of sworn statements.

## Why Sworn Statements are Used

**To be admissible as evidence in legal proceedings, statements must typically contain a declaration by the person giving the statement that the information provided is true under penalty of perjury. This legal requirement is the major reason for obtaining a sworn statement.**

Another reason to obtain a sworn statement is that **many insurance policies require the insured to provide a sworn statement at the request of the insurer**. Although almost all policies require an insured to cooperate after a loss, an insurer can more readily persuade a court to compel an insured to provide something that is specifically required by the policy, such as a sworn statement.

Additionally, a sworn statement may provide more complete and accurate information than a statement in which there is not sworn declaration attesting to the truth of the statement. In addition to encouraging people whose intentions are basically honest to be forthright, a sworn statement also permits an insurer to pursue legal penalties for perjury if a person knowingly gives false information.

## The Forms Sworn Statements Take

The forms that sworn statements take may vary according to the policy and the circumstances of the claim.

### Recorded Statements

**All recorded statements should contain a verbal declaration by the person giving the statement that the statement’s contents are truthful to the best of that person’s knowledge**. However**, most recorded statements do not contain an affidavit by a third party, such as a notary public, that the person giving the statement sworn to the truth of the statement. Also, recorded statements do not contain the signature** of the person giving the statement unless the claim representative has the statement transcribed and sends it to the person who provided the statement with a request for signature.

**Recorded statements are adequate for many claims. In certain lines of insurance, such as workers compensation and commercial general liability,** recorded statements may be the only type of sworn statement available to a claims representative during the investigation phase of the claim.

### Affidavit

**An affidavit in a claim is essentially a sworn written statement. The person who is making the statement swears to the truthfulness of the facts, usually before a notary public, who then notarizes the affidavit**.

Each state has a form and procedure for affidavits. Insurers may provide forms for affidavits that comply with appropriate state regulations. If a form is not provided by the insurer, the claim representative should consult with an attorney regarding the appropriate form and procedure to ensure that the information provided in the affidavit will be admissible in legal proceedings.

An affidavit can be added to a recorded statement if the statement is transcribed. The claim representative can then send the transcript to the person giving the statement along with an affidavit to be signed before a notary attesting to the truthfulness of the statement.

### Proof of Loss

**Many insurance policies require a sworn proof of loss**. For example, the Insurance Services Office Inc (ISO) Homeowners 3 – Special form policy contains this duty of an insured after a loss.

Sent to us, within 60 days after our request, your signed, sworn proof of loss which sets forth, to the best of your knowledge and belief:

1. The time and cause of loss;
2. The interests of all “insureds” and all others in the property involved and all liens on the property;
3. Other insurance which may cover the loss;
4. Changes in title or occupancy of the property during the term of the policy;
5. Specifications of damaged buildings and detailed repair estimates;
6. The inventory of damaged personal property…;
7. Receipts for additional living expenses incurred and records that support the fair rental value loss; and
8. Evidence or affidavit that supports a claim under E.6. Credit Card, Electronic Fund Transfer Card or Access Device, Forgery And Counterfeit Money under Section I – Property Coverages, stating the amount and cause of loss.

The sworn proof of loss typically requires the insured to have the form notarized after the insured completes it.

### Examination Under Oath

Many insurance policies require the insured to submit to an examination under oath at the request of the insurer. Example; ISO Personal Auto Policy coverage form states that “A person seeking coverage must… submit, as often as we reasonably require… to examination under oath and subscribe the same.” **An examination under oath should be used whenever serious questions exist about the validity or extent of injury or damages in a claim.**

**An examination under oath is more formal than a recorded statement. It is typically taken at the insurer’s office with a court reporter present or at the court reporter’s office. An attorney representing the insurer usually asks the questions. Although the insured has the right to have an attorney present, that attorney may not ask questions or participate in the examination**.

The attorney for the insurer will notify the insured of the time and place for the examination under oath. Failure to appear for the examination under oath will usually give the insurer the right to suspend any benefits to the insured under the policy until the insured cooperates with the examination under oath.

### Deposition

As in an examination under oath, the person who is deposed is required to swear to the truthfulness of the information he or she provides during the deposition. **A deposition is typically part of the discovery in a lawsuit. It takes place an the office of an attorney , a court reporter, or the insurer and is usually conducted by an attorney for any party in a legal proceeding. An attorney for the other party or parties has the right to object to questions and to conduct a cross-examination**.

## How Sworn Statements are Obtained

The methods of obtaining sworn statements vary considerably. They may involve adding a verbal attestation to a recorded statement, an affidavit or a proof of loss sent by mail, or a formal examination with attorneys and court reporter.

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| --- | --- |
| **Types of Sworn Statements** | **How They are Obtained** |
| **Recorded Statement**  **(Workers compensation claimant)** | * Claim representative **takes statement over the phone (or sometimes in person**) * Addition of verbal statement, under penalty of perjury, that the facts in the statement are true * Statement may be transcribed and sent to the person who gave the statement with an affidavit to be signed before a notary |
| **Proof of Loss**  **(to document damages)** | * Proof of loss **form is mailed** * Insured signs form before a notary attesting to its truthfulness, then mails it back to the insurer |
| **Affidavit**  **(affirms recorded/transcribed statements)** | * Affidavit **form is mailed** * Insured, claimant, or witness signs the form before a notary attesting to the truthfulness of the statement, then mails it back to the insurer |
| **Examination under oath**  **(red flags about the origin of a fire)** | * **Notice issued to insured to appear** at office of insurer, attorney, or court reporter * Attorney for insurer administers the examination |
| **Deposition**  **(complex product damages)** | * **Part of discovery in a lawsuit** * Attorney for either party can require deposition; **attorney for other party can participate** |

**The cost of obtaining a sworn statement varies according to the type of statement. A Sworn proof of loss typically involves only the cost of postage to send the form to the insurer**. However**, an examination under oath involves fees for the attorney representing the insurer, in addition to court reporter fees and costs of transcripts**.

## When and How Sworn Statements are Used

Because the requirements and costs for different types of statements vary significantly, it is important for claim representatives to understand when and how these statements are used. Most policies contain a section describing the insured’s duties after a loss. This section of a policy typically contains a general provision regarding the insured’s duty to cooperate with the insurer, along with specific requirements, such as providing a sworn proof of loss or submit to an examination under oath. It is critical that a claim representative consult the policy before making a decision to obtain a sworn statement.

Although most policies require the insured, and sometimes third-party claimants to provide sworn statements, there are significant exceptions. For example, a workers compensation policy typically contains only a general duty of the insured to cooperate. Most state workers compensation laws contain no requirement for a claimant to provide a recorded statement or submit to an examination under oath. However, many states require a claimant to attend a deposition under certain circumstances.

**Recorded statements, written statements with affidavits, and sworn proofs of loss are usually used during a claim investigation. These types of sworn statements have little cost associated with them, and they provide a valuable method of obtaining and preserving information about the facts of a loss**.

**An examination under oath should be used whenever serious questions exist about the validity or extent of injury or damages in a claim. If there are contradictory statements about the circumstances of a loss, an examination under oath should be considered**. **If there is litigation in a claim, an examination under oath provides the insurer with an opportunity to assess how the insured will perform as a witness during the litigation process**. **In a routine, straight-forward claim involving no litigation, an examination under oath may add to the expense of a claim without providing any significant benefit**. Under most policies, the insurer usually has the right to an examination under oath of the insured at any time. The circumstances of each claim determine when it is appropriate to obtain and examination under oath. In some cases, it may be more appropriate to obtain it before a scheduled court hearing.

**Depositions are part of the discovery during a lawsuit**. An attorney for any part to the suit may require a deposition.

# 5 – Statutory and Specialty Reporting of Claims Information

**Objective:** Given a claim, determine what statutory reporting must be made and what specialty reporting would be useful.

State and federal governments require insurers to meet statutory reporting requirements for certain types of claims and insurance information.

**Aggregated insurance information supports the development of auto, property, and safety regulations on state and federal levels; can deter insurance fraud; and creates a basis for education and safety programs.**  **There are a number of data reporting service organization that help insurers and others to comply with statutory reporting requirements.**

## State and Federal Casualty and Property Reporting

Individual states have their own casualty and property claims reporting requirements to meet regulatory and information needs. The federal government has its own reporting requirements. Because of this, there are several types of casualty and property reporting.

### Bodily injury Reporting

**State and federal reporting on bodily injury claims enables the injury information to be aggregated to develop statistics that are then used to develop safety regulation or laws**. For example, states may use statistics on workers compensation bodily injury claims to properly staff workers compensation regulatory offices and **develop state safety codes for various workplaces**. **Some may use statistics on bodily injury from other types of claims to develop appropriate liability laws associated with bodily injuries, to support risk management, education, and safety programs, and for other purposes**. **The federal government uses workers compensation statistics to develop laws for the United States’ Occupational safety and Health Administration (OSHA), as well as general safety requirements and recommendations training programs and publications on workplace safety**. **Most reporting is handled through the National Council on Compensation Insurance, Inc. (NCCI).**

**State and federal reporting on bodily injury claims from all sources also helps reduce fraud.** Example, nationwide databases and query services can alert insurers to claims made for a single entry through multiple sources, such as workers compensation, auto liability, and health insurance claims.

The support organization Insurance Services Office, Inc. (ISO) has developed a comprehensive database and protocols to help with bodily injury reporting and other types of data services.

**Auto Accident Reporting**

**ISO provides various data collection, aggregation, and other services for reporting auto accident claims**. Auto claims reporting can be used for a variety of purposes, and requirements vary among states. Some states require reporting of all auto claims, while others require reporting only on specified types of auto claims or claims of specified amounts, such as those exceeding $2,500.

**Auto claims data is aggregated and used for statistics that form the basis of laws** regarding **minimum auto liability limits, no-fault laws, and similar auto regulations.** These statistics c**an also guide developmen**t of motor vehicle regulations and **road and traffic management design, such as deciding whether a traffic signal should be installed at a particular intersection**.

### Fire Reporting

**Many state Fire Marshals collect information regarding fire losses**, which helps states determine the number of fire stations and amount of equipment needed to protect communities and business owners. These statistics can also be used for numerous other purposes, such as assigning public fire protection classes, developing fire protection codes, and investing and tracking arson. ISO provides services to help insurers and others comply with state-mandated fire reporting.

### Child Support Enforcement Reporting

**Several states use claims reporting to redirect claim payments from individuals who are delinquent on their child support obligations**.

State child support reporting requirements vary among states. For example, one state might require the report only if a claim payment exceeds $5,000, while another state might require reporting if a payment is $500 or more. Sates also determine whether the origin of a claim payment is relevant – for example, whether such payments can stem from workers compensation, auto accidents, or other liability claims or from property damage claims. ISO provides state-specific reporting services that streamline reporting and compliance for subscriber organizations.

### Fraud Reporting

Many state governments and the federal government require insurers and special investigation units (SIUs) to report suspected fraudulent claims. **These government entities use insurance fraud statistics to develop fraud detection, investigation, and prevention services**.

Auto and mobile equipment fraud reporting helps detect stolen motor vehicles and mobile equipment, thereby deterring thieves from bringing them into a marketplace. It also helps aid recovery efforts around such stolen property. Auto fraud reporting protects consumers from title fraud as well and provides some consumer protection from unsafe vehicles.

The reporting of crime that is suspected or detected in auto, other property, and bodily injury claims is used to develop fraud detection and enforcement programs, public safety programs, and educational materials.

### Office Of Foreign Assets Control Reporting (OFAC)

**Certain claim payments and other insurance transaction must be reported to the federal government as required by the US Office of Foreign Assets Control (OFAC).** OFAC administers and enforces economic sanctions against foreign countries, organizations, and individuals that are involve din terrorism, international narcotics trafficking, and activities related to developing weapons of mass destruction. The sanctions can be comprehensive or selective and can apply to a country’s regime, wholly or partially state-owned organizations, front companies, high-ranking officials, and agents.

OFAC maintains a list of “specifically designation nationals (SDNs) and blocked persons” and other targeted entities, including variations on the names of those targeted. It blocks assets of targeted entities and implements trade restrictions in order to meet foreign policy and national security goals.

Companies are required to follow “due diligence steps” to determine whether a transaction is prohibited by OFAC; otherwise, they may face federal fines, several years in jail, and severe penalties.

Conducting business under an insurance policy with an SDN or targeted entity without an OFAC license if illegal. This includes issuing the policy or payment of a claim to that party or on behalf of that party. IN the case of payment ordinarily owed to an innocent third party, such as the victim of an auto accident or which an SDN was responsible, OFAC would likely work with the insurer, issuing a license to make payment to the innocent party.

### Medicare Secondary Payer Reporting

The US Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA), section 111, details **mandatory reporting requirements for liability insurers, no-fault insurers, workers compensation insurers, self-insurers, and group health plan (GHP) arrangements**.

**When a bodily injury claim is filed by a Medicare-eligible claimant or plaintiff, the insurer or self-insured organization is required to electronically submit information on the identity of that claimant to the Centers for Medicare and Medicaid Services (CMA). After such a claim is settled, or a judgement, award, or other payment is determined, insurers must electronically submit information on the claim to coordinate benefits.**

Support organizations often help their insurer subscribers comply with MMSEA. For example, ISO provides Medicare secondary-payer reporting service.

**Specialty Reporting**

**Specialty reporting has been established for specific purposes and is not government mandated. It helps deter theft of high-value property, such as works of art, antiques, mobile equipment, and marine hulls and machinery. Some specialty reporting is beneficial in attempts to recover lost or stolen high value property.**

**Marine reporting helps deter bodily injury fraud from marine workers who are not subject to federal workers compensation statutes, therefore not included in the NCCI database**. For-profit and not-for profit specialty reporting organizations have emerged to manage the data collection in these specialty areas and to provide various services to their members and to law enforcement authorities. Some specialty service providers include the Art Loss Register (ALR), the National Equipment Register (NER), and the Marine Index Bureau (MIB).

## Data-Reporting Service Organizations

A number of data reporting service organizations assist with statutory reporting compliance. **These organizations aggregate the data reported an maintain databases on may types of loss information and premium information, offering additional services to member organizations, including statistical reporting developed from aggregated data; programs to assist with risk control, loss , and theft recovery; and numerous educational programs and materials to help deter fraud and other crimes**.

### ISO

**ISO offers services and products to support insurers and risk management organizations. These include providing statistical, actuarial, underwriting, claims, and compliance information to organizations that subscribe to the appropriate services**. Example; **ISO offers claims information services and solutions through its comprehensive database system, ClaimSearch, which contains claim information from every type of insurance business.**

ClaimSearch participants include property casualty insurers, self-insured organization, and claims administrators. In addition to its participating organizations, ClaimsSearch serves state workers compensation insurance funds, third-party administrators (TPAs), state fraud bureaus, and law enforcement agencies.

The database is developed through insurers and other participants submitting their claim information through their own claim information systems or through direct entry into the ISO web interface. When an organization submits a claim to ClaimSearch, the system searches its database by the individual’s or organization’s name (as claimant or insured) and returns any matches in the identifying information, such as name, address, vehicle identification number (VIN), Social Security number (SSN), or tax identification number (TIN). The system returns exact and similar name matches.

In addition to claim inquiry services, ClaimSearch provides a variety of core and operational services, including statutory and regulatory reporting. VIN decoding, OFAC reporting, crime and fraud reporting, child support enforcement agency (CSEA) reporting, and National Motor Vehicle Title Information System (NMVTIS) reporting, among many others. Participants receive core services through a subscription to ClaimsSeach, but they can subscribe to optional services as well.

ISO has collaborated with a number of data collection associations and other organizations to collect required data and update information in appropriate databases. The ClaimSearch system automatically provides federal and state-required statutory and regulatory reporting. Some specialty uses of ClaimSearch include fraud detection and investigation, OFAC compliance, ALR and NER services, MIB reporting, and Medicare secondary payer reporting Services. SIUs claim personnel, and law enforcement personnel can use the ClaimSearch system to research prior loss histories, identify claim patterns, and investigate suspected fraud and other crimes.

### NCCI

**NCCI manages the nation’s largest database of workers compensation insurance information**, providing a bureau Compliance Statistical Service (BCSS) that assists insurers in submitting unit report data for all states. NCCI also transmits electronic data to state bureaus, analyzes industry trends, prepares workers compensation insurance rate recommendations, and determines the cost of proposed litigation.

### NMVTIS

At least forty-five states participate to some degree in **NMVTIS, which aims to prevent the introduction or reintroduction of stolen motor vehicles into interstate commerce, to protect states and consumers from automobile title fraud, to reduce the use of stolen vehicles for illicit purposes, and to provide consumer protection from unsafe vehicles**.

NMVTIS reporting requirements are imposed on junkyards, salvage yards, and insurers in participating states. State titling agencies must use NMVTIS to prevent fraud by verifying the motor vehicle and title information, information on whether the motor vehicle has been reported stolen, and labels that may indicate a vehicle is unsafe, as in a “flood vehicle”.

Insurers and others states that participate fully in NMVTIS submit to a national database the VIN, year, make, and model information of stolen or damaged autos. Before a title is issued, the titling agency uses the NMVTIS database information to obtain a full record of title from the last titling jurisdiction.

### National Insurance Crime Bureau

**The National Insurance Crime Bureau (NICB) is a not-for profit organization exclusively dedicated to preventing, detecting, and defeating insurance fraud and vehicle theft through data analytics, investigations, training, legislative advocacy, and public awareness**. Information in the NICB database is submitted by member organizations, including commercial and personal property and casualty insurers, self-insured organizations, rental care companies, parking service providers, and transportation-related firms. The data is used by local, state, federal, and international law enforcement agencies to help deter vehicle, property, and workers compensation insurance fraud and vehicle theft.

NICB coordinates collection of questionable claims with ISO through ISO’s claims database. NICB members submit data on questionable claims to ISO, which are then added to NICB’s questionable claims database.

# 6 – Personal Safety for Claims Representatives

**Objective:** Illustrate techniques or actions that inside and outside claim representatives use to ensure their personal safety when handling claims.

Claims representatives encounter many issues while handling claims, which requires thoughtful preparation and analysis and good communication and customer service skills. To prepare accordingly, they should understand how to respond to potential stressors and personal safety risks, as well as familiarize themselves with their employer’s guidelines and protocols regarding personal claims safety.

Claims handling can be stressful occupation. Absorbing heavy daily workloads, interacting with people who have experienced varying levels of loss and injury; and managing claims with adverse effects on policyholders and claimants can be exhausting. Moreover, claims representatives can face physical and emotional hazards while handling claims. Being able to recognize and respond to these hazards can help claims representatives perform their work appropriately and safely.

## Physical Hazards

### Emotional or Irate Customers

**When an insured or a claimant is emotional or irate after a loss,** the claims representative risks being verbally or physically threatened. **The claims representative can mitigate this risk by thoroughly reviewing loss-related documents to understand the claimant’s emotional state before initiating phone conversations or visits. This will prepare the claims representative for potential reactions so he or she can maintain control of the conversation**.

**Actively listening and demonstrating an understanding of the situation by paraphrasing the customer’s concerns can also help calm a highly charged claimant. By expressing empathy, the representative shows that he or she can relate to the customer’s frustration – which may, in turn, temper the customer’s reaction**.

A Claims representative who believes the situation is beyond control should advise the customer that he or she will review the customer’s concerns and be in contact later. **Common sense and professional demeanor** are crucial during a potentially explosive situation, and any perceived threat should be reported to management,

### Crime-Prone Area Hazards

Outside claim representatives, also called field reps, may conduct investigations or inspections in crime-prone areas and **must immediately leave such areas of they feel unsafe**. If you, as a claims representative, find yourself in a situation where safety is or will be an issue, you may wish to employ these techniques:

* Be sure that a manger, co-worker, or family member knows where you will be
* Schedule an appointment with your contact person and confirm where and when to meet beforehand; be sure to have his or her contact information with you
* Locate the nearest police and fire stations before arriving
* **Ensure that your vehicle is in good working order and ha enough fuel**
* Have a spare tire and know how to change it or have the phone number of a service that can assist
* Keep the doors locked and the windows up at all times
* Check both the back and front seats upon returning to the vehicle
* Keep any costly equipment, such as laptops and mobile devices, in the trunk of the car or otherwise hidden from view
* Keep a fully charged cell phone within easy reach at all times

Claims representatives who encounter would-be robbers should surrender any property demanded. Maintaining personal safety is far more important than securing physical items.

### Roadside Hazards

If a claims representative conducts and accident investigation requiring that he or she exit a vehicle and stand on a road, then **all rules of the road should be observed**, including the use of parking or hazard lights. Additionally, the claims representative should wear a safety vest while working in a high-traffic or high-speed area.

### Animal or Insect Hazards

The claims representative should always survey the area for domestic and wild animals, including insects. If pets are present at an inspection site, the claims representative should ask the owner to restrain them, or the appointment should be rescheduled to a time when the animals will not be present.

While inspecting a damaged site, including autos, claims representatives should be aware that animals may hide or nest in the damaged property. When inspecting auto physical damage at a repair or salvage facility that uses animals for security purposes the representative should request that the animals are property restrained before beginning an inspection.

### Property Inspection Hazards

Claims representatives need to be aware of potential safety hazards when completing a property inspection, such as these:

* Clutter or debris
* **Uneven surfaces**
* Weak floors and compromised structures
* Liquid spills resulting in slippery conditions
* Chemical or dust pathogens
* **Sharp objects and protruding surfaces**
* Live electrical wires

A claims representative should conduct an inspection only if he or she believes the area is safe and the property has been properly secured. If cleanup or repair work has already begun on the property, protective glasses, a disposable dust mask, and protective gloves should be worn to ensure physical safety. A hard hat may be appropriate to prevent head injury from falling debris.

**If a ladder is needed to inspect roof damage, special precautions should be observed to prevent injury. The ladder should be approved by the Occupational Safety and Health Administration (OSHA) and meet requirements for the weight and height of anyone using it**.

**The claims representative should also use common sense to ensure his or her safety. For example, if the type of roof, its condition, or additional hazards re a threat to the claims representative’s safety, he or she should not complete the inspection**.

### Boat and Trailer Inspection Hazards

Many of the same hazards that affect property inspections are present when inspecting a boat or trailer, such as debris, slippery surfaces, and sharp objects or protruding surfaces. A claims representative who needs to inspect a boat in the water should wear appropriate closing and footwear, as well as a life preserver.

### Auto Physical Damage Inspection Hazards

Claims representatives should be war of these hazards when working in auto repair facilities, drive in facilities, and towing and salvage yards:

* Clutter or debris
* Damaged **parts with sharp or protruding edges**
* Liquids and spills
* Repair equipment in use
* Paint booths in use that emit toxic fumes
* **Uneven ground or surfaces**
* Poor accessibility of the damaged vehicle

As with property inspections, claims representatives should complete auto physical damage inspections only if they believe the area is safe; further, they should wear appropriate footwear and be careful to avoid surfaces or debris that may cause a slip or fall. Contact with liquids or spills should be avoided because of potential chemical contaminants.

An auto body shop should make available a Safety Data Sheet, sometimes referred to as a Material Safety Data Sheet, advising what to do if contact is made with any hazardous material.

### Catastrophe Claims Handling

Handling claims during or after a catastrophe presents some unique additional hazards. Sever storms and other catastrophic events result in widespread damage and debris, which could call for claims representatives to wear protective clothing and safety equipment. Suitable housing may be an issue, exposing the claims representative to airborne or waterborne contaminants, and the claims representative may have to obtain precautionary inoculations that prevent certain infections and diseases.

**Catastrophe work can result in sleep deprivation, poor nutrition, and improper hydration** when claims representatives are not cognizant of their physical well-being. To combat these conditions, claims representatives should adhere to normal sleeping and eating patters as much as possible.

## Emotional Hazards

Emotion hazards can affect the claims representative’s demeanor, sometimes even causing depression. On a daily basis, claims representatives are required to demonstrate empathy, good communication, and customer service skills, and to remain calm in stressful situation, as most claims involve policyholders or claimants who may be emotional and under stress.

Regardless of the circumstances, claims representatives are expected to remain professional while representing insurers, whose interests may be at odds with an insured’s.

Catastrophe situations involving widespread damage, loss of life and property, and human suffering can create considerable stress for claims representatives. Working long hours, handling heave caseloads, and dealing with claimants and communities that have suffered devastating losses can take an emotional toll on anyone**. Claims representatives should be aware of the signs that trigger emotional problems resulting from job related stress, including fatigue, inability to sleep, changes in eating habits, and unusual irritability.**

Claims representatives should try to maintain a healthy work/life balance, and discuss any concerns about stressors and emotional hazards with a manager. **Mangers, meanwhile, should watch for warning signs in their representatives, such as personality or demeanor changes, and take appropriate actions**, **which may include temporary assignment changes for affected claims representatives**.