



MAY 2019

THE CHALLENGES OF ASSESSING SEASONAL HOME DAMAGE

HOW KITTY LITTER CAN IMPACT INSURED PROPERTY LOSSES



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OVAA Newsletter

Publication Deadlines

If you have a submission for the newsletter, please advise the editor ASAP so space can be reserved. The actual submission content (articles, advertising changes, etc.) must then be received by the following dates:

Newsletter Issue	Submission Deadline
June 2019.....	May 15, 2019

If you have an article that will

Enlighten, Educate or Entertain,

kindly contact a member of the OVAA Executive
(See page 1 for Contact Info) for submission
guidelines and publication deadlines.



**Ottawa Valley
Adjusters Association**

**PO Box 30034 Greenbank North PO
Ottawa, On K2H 1A3**

2019-2020 OTTAWA CHAPTER EXECUTIVE

President: **CINDY BRIDGE, CIP, CRM**
Desjardins General
Insurance Group, Ottawa
Phone: 613-692-1169
Fax: 613-692-3381
E-Mail: cindy.bridge@dgig.ca

Vice-President: **TBA**

Treasurer: **CONAR MARCOUX, BA, CIP**
Crawford & Company
285-955 Green Valley Cres,
Ottawa ON, K2C 3V4
613 564 7184

Secretary: **RYAN REISS, FCIP, CRM**
Economic Insurance Company
London
T 613.567.7700 ext. 56301
F 613.236.7931
E: ryan.reis@economical.com

Directors: **PATRICIA MARTIN, CLAIMS
REPRESENTATIVE, B.A. (HONS)**
ADJUSTER, PROPERTY CLAIMS
O 613.567.7700 ext.56322
TF 1.800.210.6548
F 613.236.7931

Past President: **JORDAN LEGG, B.B.A.**
ClaimsPro,
Ottawa
Phone: 613-798-1998 x333
Fax: 613-798-1810
Email: Jordan.legg@scm.ca

Chapter Delegate: **CINDY BRIDGE, CIP, CRM**
Desjardins General
Insurance Group, Ottawa
Phone: 1-866-866-3888 ext 5511194
Fax: 613-692-3381
E-Mail: cindy.bridge@dgig.ca

SEMINAR SUGGESTIONS

During the course of planning our year, we look to our members, associates, advertisers and friends either to provide guest speakers for our monthly meetings or to let us know what topics are of interest.

Should you wish to present a seminar for the OVAA Membership or should you have an idea for a seminar topic you would like to see presented, please contact:

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UPCOMING LUNCHEONS & EVENTS

**OIAA - Annual Golf Tournament
June 6, 2019**

**OVAA Golf Tournament - Save the Date!
June 27, 2019**

**2019 Kick Off
September 11, 2019**





President's Pen & REP'S Ramblings

May is here at last!!! I think we broke a record in April for the amount of rainfall we received. Reaffirming April showers do indeed bring May flowers and green grass!! And lots of it!! It is nothing but blue skies and sunny days ahead!!

Our Provincial Claims Conference Co-hosted with TIAA, took place on May 2nd, and 3rd at the Shaw Centre. I am pleased to announce that it was a resounding success. A great time was had by all. We had approximately 300 people attend the two day event. It kicked off on May 2nd with our trade show, followed by a mix and mingle that provided an amazing assortment of delicious dishes that delighted everyone's palate accompanied with duelling pianos providing an unbelievable performance for the nights entertainment. We also had an auction with a silent auction component to raise money for people that had been touched by the flooding in Ottawa over the past couple of months. It's nice to be able to support our community in their time of need. The second day was our educational component. We had a number of seminars taking place all day providing a variety of topics and speakers that touched on all areas ab/bi, property, commercial and liability. There was something of interest for everyone. We had two outstanding speakers on both days. One regarding distracted driving and one outlining one man's struggle to overcome an accident that rendered him a paraplegic and how he overcame all odds and vowed he would ride again. He became the 1st paraplegic to ride a motorcycle. He is truly an amazing man and an inspiration to us all. The Shaw Centre exceeded our expectations and provided an exquisite dinner and dessert. We finished off the night with a live band that kept the dance floor packed until the last note of the night. This event was two years in the making but it went by so fast. All the hard work and preparation leading up to the big day and then in a blink it's over... everyone smiling and cheering... a sigh of relief... we did it and it was GREAT!! I would like to take this opportunity to thank each and every one of our committee members from our OVAA chapter as well as TIAA for all their hard work, time and commitment to making this event an AMAZING success!!!! The torch was passed on in our closing ceremony, to the next chapter in line to host the next Provincial Claims Conference, in 2021 to Kawartha Durham. I wish them good luck and I look forward to attending their event. We can kick back, relax and enjoy!!

Our annual Golf Tournament will take place on June 27, 2019 at the Meadows Golf and Country Club. Please note our earlier date**** 10:30 shotgun start. Sponsorship is filling up quickly and is limited. So don't delay register today. Please visit our website for the list of upcoming, seminars, speakers, dates, topics, events and to register.

Upcoming events OVAA – Skeet Shooting July 25, 2019

Upcoming events for the OIAA – June 6th, Annual Golf Tournament

– September 11th, 2019 Kick Off

Finally once again, I invite anyone that would like to submit an article for consideration for our magazine and/or the WP, please submit it for review. Also, if you are interested in joining our Executive, please send an email to ovaa.ca. I hope to see everyone soon.

Sincerely,

Cindy Bridge, CIP, CRM
OVAA President/Ottawa Delegate

Thank you to all of our sponsors who have secured a spot for the KO Conference in 2019!

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Canada's Anti-Spam Legislation (CASL) came into effect on July 1, 2014 and requires that we obtain your express consent to receive any communications from us sent after this date. Although we received several responses via email, we note that several are still outstanding. As our email blasts are one of the most important methods in getting information to our members, we need your help!

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These emails can be forwarded to ovadjustersassociation@gmail.com

By agreeing you are consenting to receive electronic messages from the OVAA (ovadjustersassociation@gmail.com) about the OVAA and its events, etc...

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HOW INTACT LOST THIS BATTLE OVER VEHICLE STORAGE FEES

WRITTEN BY GREG MECKBACH

Canada's largest P&C insurer has suffered a setback in its quest to minimize vehicle storage fees.

A recent Ontario court ruling means that, for the time being, Intact Insurance has to pay J.P. Towing Service & Storage Limited storage fees of \$70 a day after Intact-insured vehicles are recovered after accidents.

In 2012, Intact "took exception" to J.P. Towing's \$70 daily storage fee, Justice Laurence Pattillo of the Ontario Superior Court of Justice wrote in *J.P. Towing v. Intact*, released May 1.

J.P. Towing is contracted by the Toronto Police Service to tow vehicles which are abandoned or involved in a collision. The company charges \$180 for towing and \$70 a day for storage, Justice Pattillo wrote.

From 2012 through 2018, Intact made 108 applications, on behalf of auto insurance clients, to court under Section 24 of Ontario's Repair and Storage Liens Act. In each case, Intact was asking the court for a certificate giving Intact possession of a vehicle stored by J.P. Towing, while the dispute over storage fees was being resolved.

Other insurers have also made similar applications against J.P. Towing.

In 2016, a Small Claims Court judge ruled in favour of J.P. Towing over the \$70 daily storage rate that the towing company charged for a vehicle owned by one particular Intact client – Christopher Sherwood.

The more recent separate Ontario Superior Court of Justice ruling released May 1 means that the 2016 small claims court ruling — *J.P. Towing Service & Storage Ltd. v. Christopher Sherwood* — effectively applies to other disputed storage fees involving Intact.

This is because in *J.P. Towing*, Justice Pattillo ruled that the legal concept of issue estoppel applies to the Sherwood ruling.

Issue estoppel essentially means that a decision has



already been made on the same question involving the same parties and that previous decision is final.

Justice Patillo's May 1 ruling was on a series of motions brought by J.P. Towing.

As a result of his finding (on issue estoppel) in favour of J.P. Towing, Intact has to pay J.P. Towing nearly \$37,000 in legal costs.

The May 1 decision, however, was not entirely against Intact. Justice Pattillo declined to award J.P. Towing \$1 million in punitive damages, finding that Intact's conduct was neither high-handed nor malicious. He also found that Intact was not being vexatious in continuing to dispute the \$70-a-day storage fees.

Intact had argued the 2016 Sherwood case was about the fair value to store Sherwood's vehicle only. But Justice Pattillo found that Intact had understood that it would be bound by the 2016 Sherwood decision on the daily storage rate with respect to Intact's auto clients.

In 2013, lawyers for Intact and J.P. Towing agreed that they would select a test case and the result would be "persuasive" on remaining cases. Sherwood was selected as that test case.

"The agreement between the parties preserved each party's right to appeal any decision (which was not exercised in Sherwood) and following the decision, the

Continued on page 10

HOW INTACT LOST THIS BATTLE OVER VEHICLE STORAGE FEES

WRITTEN BY GREG MECKBACH

parties could settle the remaining cases or determine the appropriate course of action," Justice Pattillo wrote. "To the extent that the remaining cases concerned issues regarding the towing fee or the number of days of storage, those issues remained alive and were not resolved by Sherwood. They would have to be resolved or litigated. However, as between J.P. Towing and Intact, Sherwood settled the issue of the daily storage rate at \$70 a day."

Minimizing towing and storage costs is one way auto insurers have addressed claims costs.

In 2015, the Ontario government passed Bill 15, the Fighting Fraud and Reducing Automobile Insurance Rates Act, which changed several laws. One result of that omnibus bill was that under the Repair and Storage Liens Act, vendors can only store vehicles for 15 days (down from 60) after an accident without giving notice to the owner.

Bill 15 made numerous other changes affecting auto insurance. One result is that disputed accident benefits claims now go to the Licence Appeal Tribunal instead of the Financial Services Commission of Ontario.

THE CHALLENGES OF ASSESSING SEASONAL HOME DAMAGE

WRITTEN BY ADAM MALIK



Despite being told flooding in Ontario's Cottage Country back in 2013 was one-in-100-years event, area businesses and residents are cleaning up from a second and more widespread flooding incident in less than a decade.

Climate is playing a key role in flooding and it's forcing everyone from adjusters to restoration companies to adjust their approach to assessing damage and lessening the fallout, said Shane Swinson, vice president, insurance portfolio at FirstonSite Restoration.

"As the climate becomes a little less predictable, we're

seeing longer winters and colder sparks of winter followed by warm weather," he added. "You have the excess of water that river and lakes haven't been used to."

When a flood hits, claims adjusters are facing a number of challenges upfront.

"Occupancy is a challenge with seasonal homes – there can be delays in discovering and reporting damages based on how frequently the seasonal home is visited by the policyholder or a caretaker," said Mike Koch, Kitchener, Ont.-based national property and catastrophe manager at Crawford & Company (Canada) Inc.

In Bracebridge, Ont., cottagers were told to stay away until water levels receded. On one hand, that's helpful to local crews trying to clean up, and it keeps people out of danger. However, delays can hinder loss mitigation and add to issues around contamination and mould.

Location is another issue – remote areas may have a small number of contractors on hand, while a property that doesn't have year-round access can mean a time limit on restoration efforts before winter sets in again.

"The key for claims adjusters handling these losses is to get

Continued on page 11

THE CHALLENGES OF ASSESSING SEASONAL HOME DAMAGE

WRITTEN BY ADAM MALIK

notice of a loss as early as possible so that an assessment of the damages can be completed and remediation efforts undertaken," Koch said.

Seasonal homes are also markedly different from one's main property. Newer cottages aren't built so close to a body of water while older ones were before modern rules were put in place, making them more susceptible to water damage. They can also range from rustic cabins to something resembling newly built homes in major cities.

"Each presents its own challenges for adjusters as they try to restore the properties to their pre-loss condition," Koch said adding that adjusters will also likely find recreation vehicles and equipment at the cottage, and homes aren't always up to building code, "which can be a challenging and expensive process."

And as challenges around intermobility persist, Koch admitted "there are times when our response can be slowed down as we work through the licensing process." But technology is helping, from drones to aerial maps that provide better real-time views.

"Technology is always playing a big role," Swinson said, whether it's making it easier to see damage in inaccessible areas or being able to quickly send videos and photos of the damage and restoration process.

HOW KITTY LITTER CAN IMPACT INSURED PROPERTY LOSSES

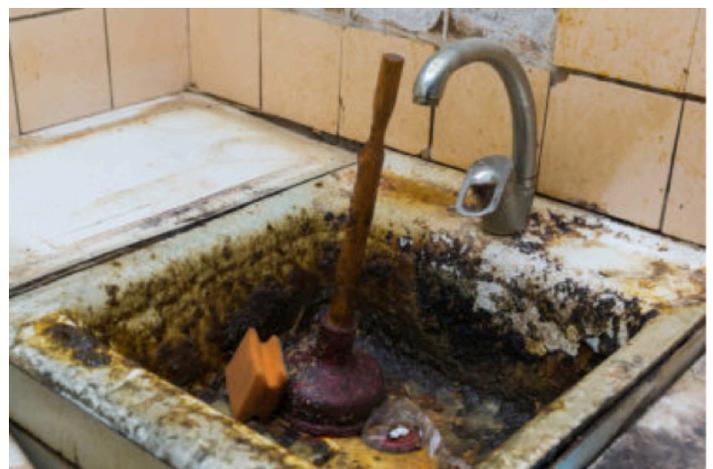
WRITTEN BY GREG MECKBACH

While spring rains and thawing have caused overland flooding of Biblical proportions, drain backups are also the bane of some insurers' existence.

In multi-storey commercial and residential buildings, drain backups are the number one cause of damage, said Adam Bartman, co-founder of Reed Controls Inc., in an interview.

"Very often we see cat litter and wet wipes and feminine hygiene products being thrown down toilets," said Bartman, a second-generation plumber who has run his own plumbing firm for 15 years.

"In these high-rise buildings, there is a vertical pipe from the roof to the ground. In the vertical position, there is very infrequently blockages, but as soon as it changes direction horizontally, you get a lot of accumulation of grease," Bartman explained.



"Somebody will be in their apartment and suddenly they hear the sink start gurgling and a minute later there is black water spewing out of their sink because the water has nowhere else to go. All of the people above them are using their kitchen sink and everything appears to be

Continued on page 12

HOW KITTY LITTER CAN IMPACT INSURED PROPERTY LOSSES

WRITTEN BY GREG MECKBACH

normal. The water is going away. Meanwhile the poor guy on the second or third floor is getting crushed by drain backup."

Moreover, a faulty toilet or dishwasher on an upper floor can cause water damage to the floors below it, Reed CEO John Lancefield said.

"What we keep hearing everywhere we go is water is the new fire," added Lancefield, commenting on the concept of property insurers bringing in standard policies that give incentives to clients to install systems capable of shutting off water remotely if there is a plumbing problem.

Bartman co-founded Reed Controls after having no luck finding products that could easily let users remotely shut off water in some multi-storey buildings such as apartment buildings.

"There's a whole bunch of stuff that works well in a single-family home that has one shut off valve and turns off the whole house. But most commercial buildings are more complicated than that. There are hundreds of valves in various locations."

HELD TO RANSOM

WRITTEN BY GRAEME NEWMAN

The two large-scale, high-profile global cyber attacks — WannaCry and NotPetya — have recently put ransomware in the spotlight.

But this cyber crime tactic has been affecting businesses of all kinds for more than a decade and it seems no one is immune to it. Victims are as far flung as municipalities in the United States to banks in the Middle East and universities in Canada, and ransomware's prevalence is only increasing.

For those less familiar with the term, ransomware refers to when computer systems are infected with a malicious software program that searches for data files and encrypts them so they are inaccessible without the decryption key.

Incidents such as drain backups and faulty appliances often cause damage on multiple floors, said Bartman.

"It often gets sticky and complicated because then you have the condo corporation or landlord's insurance dealing with the resident's insurance and there is a lot of administrative work and they are messaging me asking for reports and it gets very convoluted," said Bartman.

"The tenant's insurer is asking for reports but I can't really give it to them because I wasn't called by them. There are a lot of after effects from all this. It ends up being months and months of people waiting for insurance money to come in, they are displaced and it's very chaotic."

Based in Concord, Ont., north of Toronto, Reed makes networked devices that connect to plumbing valves. Those are designed to let building managers shut down water right away without waiting for a plumber to arrive.

A security guard or concierge could use an app on the phone to shut down the water supply either to the whole building or to banks of floors — for example 1 through 10 or 11 through 20, said Avi Moscovich, Reed's vice president of marketing.

System owners are then asked to pay for the decryption key and threatened with losing their data unless payments are made.

It is a form of crime that is showing a significant uptick. In the first quarter of 2016, for example, ransomware accounted for 12.9% of claims received by CFC Underwriting, while it was the root cause of 20.5% of claims in the same quarter of 2017.

The advent of ransomware is part of a natural evolution of computer crime. In the early days of computers, viruses were mostly just an inconvenience, posing no real threat to business continuity or balance sheets.

Continued on page 13

HELD TO RANSOM

WRITTEN BY GRAEME NEWMAN



Graeme Newman, Chief Innovation Officer, CFC Underwriting

However, as businesses began using technology to manage more and more of their operations and as data increasingly became one of their most valuable assets, it is only natural that criminals would try and monetize these attacks.

From the perspective of hackers, the attacks are fairly easy to implement, come with few risks and have the potential to reap significant rewards if done right.

TACTICS AND AIMS

Not all ransomware is created equal, however. In fact, as similar as the WannaCry and NotPetya attacks looked on the outside, each had a very different purpose and outcome.

The WannaCry attack this past May was a more typical example of the scattergun approach that many ransomware variants take. It just happened to identify

a very common security gap in unpatched versions of Microsoft Windows and was unusually fast-spreading.

The aim was clearly to accrue a substantial sum of money from the US\$300 ransom demands, but its actual success was minimal. A security researcher in the United Kingdom stumbled upon the kill switch, which dramatically slowed the attack shortly after it began.

Although enhanced versions of this particular strain of ransomware have cropped up since, it is believed the hackers only pocketed around US\$125,000, meaning that only 1% of victims paid the ransom.

June's so-called NotPetya outbreak displays a different motivation. The attack originated from an update to a software package primarily used by Ukrainian companies and some multi-national corporations. It was designed to spread only within systems initially infected, instead of spreading globally across many computer systems like WannaCry.

In addition, the mechanisms whereby victims could pay the ransom quickly disintegrated, leaving those affected with trashed systems and no way to recover data without an uncorrupted back-up. All of this suggests that any ransomware component present in this virus was actually just a smokescreen, and that this was, in fact, a highly targeted attack designed to destroy systems rather than make money.

NotPetya affected a wide range of companies around the globe from logistics company Maersk to advertising giant WPP. Still, 80% of the victims were organizations operating in Ukraine, leading some to believe a nation-state actor was behind the attack and that this might have been a trial.

This is a scary prospect, indeed. It would only need a combination of WannaCry's wide reach and NotPetya's destructive force to cost businesses — and their cyber insurers — billions of dollars.

COSTS ADD UP

Contrary to how the crime is described, the vast majority of that money is not going towards a ransom. In fact, the extortion demand — around US\$300 on average and what the WannaCry attackers requested — generally represents the smallest cost to businesses when an incident like this

Continued on page 14

HELD TO RANSOM

WRITTEN BY GRAEME NEWMAN

occurs. Whether or not a victim pays the attackers, it is the aftermath of an incident that costs businesses money.

After an attack, it is not uncommon to need to bring in IT specialists to rectify and restore systems, forensic investigators to analyze how it occurred and where vulnerabilities lie, and even public relations specialists to publicly manage the issue. That does not even take into account probably the biggest expense a business will see following an event like this — business interruption. It is said that time equals money, and oftentimes just getting into a position where things can operate normally again takes weeks, meaning significant lost revenue.

All of these costs add up and before long, even a small event could lead to a daunting, sometimes bankrupting total.

Because of the way that ransomware infects systems, as a company grows, so usually does the cost. Maersk reports it estimates a business interruption loss of US\$450 million while the loss experienced by British consumer goods company Reckitt has been estimated to be around US\$100 million.

Logistics company FedEx, which was also hit by the NotPetya attack, has reported it will be looking at a significant material loss. This is as a result of remediation costs and decreased shipping volumes on the company's express service, and partly because it did not have cyber insurance in place that would cover this kind of event.

Some systems are not recoverable, but it is too early to quantify total damages.

The good news is that all of these are insurable losses under a typical cyber insurance policy. And not only can it cover these costs, but a good policy will incorporate access to specialist providers who can help a business manage the incident when trouble first strikes. Many insurers have panels of specialists in place that can help firms through each stage of incident response.

What cyber insurance will not cover are improvements to systems to prevent similar future attacks. After all, patching systems sometimes involves upgrading them, so deciding who is responsible for what can be hazy and if expectations are not met on either side, a real source of frustration.

As well as obtaining a policy, clients need to be responsible for maintaining a reasonable level of cyber security and making improvements if certain strategies fail. Equally, many insurers need to be clearer about what kinds of things a policy is meant to cover, and what it is not.

WHAT TO EXPECT NEXT

Costs of ransomware attacks are likely to climb as the world experiences more and more so-called targeted extortion attacks. This is a more personalized form of ransomware, whereby fewer people are targeted, but for larger sums of money.

Ransom demands here are higher, running closer to US\$10,000 to US\$20,000 on average, but some can climb to US\$100,000 if the attackers are confident the victim has no choice but to pay. Recent ransomware events are likely to galvanize hackers after seeing a series of large organizations affected.

Along with larger companies, hackers will, no doubt, increasingly target firms that rely heavily on technology or hold a lot of data, including financial services, education, healthcare and, worryingly, critical infrastructure.

Just last year, the University of Calgary reported that ransomware had encrypted the email server used by its faculty and staff. Nervous that some individuals could lose their life's work if the information stored was destroyed, the university opted to pay the \$20,000 extortion demand. With more to lose, these organizations are more likely to pay up and will, presumably, be the most attractive victims for hackers going forward.

Recent events have demonstrated that ransomware and other forms of cyber crime are now part of the new reality. Cyber criminals will continue to find ways to circumvent end-point protection solutions to make money and wreak havoc.

For the reasons, businesses, must know that they have solid security software in place to protect as much as it can, but should the worst happen, a cyber insurance policy is vital for businesses to respond to and deal with this kind of modern-day crime.

WHY THIS CLAIMANT CANNOT SUE OVER AUTO COLLISION

WRITTEN BY GREG MECKBACH

A motorist should have known he was listed by his insurer as an excluded driver, an Ontario court has ruled.

Johnathon Trudeau filed a lawsuit against David Cavanagh as a result of a 2013 vehicle collision in Espanola.

Trudeau also applied for accident benefits with Wawanesa, which insured the vehicle Trudeau was driving. Trudeau's accident benefits claim file was provided to Cavanagh's lawyer in May, 2015 in preparation for an examination for discovery.

On discovering that Trudeau was an excluded driver under the Wawanesa policy, Cavanagh asked the Ontario Superior Court of Justice to dismiss the lawsuit – which Justice Robert Del Frate did in *Trudeau v. Cavanagh*, released Apr. 29.

Section 267.6 of Ontario's Insurance act prohibits a claimant from being awarded damages in a motor vehicle bodily injury lawsuit if that claimants was violating the Compulsory Automobile Insurance Act in respect of the vehicle involved in the collision.

Trudeau's vehicle was purchased a few days before the collision. His spouse called Brokerlink to insure the vehicle for both of them, Justice Del Frate wrote, adding Brokerlink placed the policy with Wawanesa under the same policy number issued in 2012 for a different vehicle.

Trudeau knew he was an excluded driver but argued that he believed he was only excluded from driving the previous vehicle rather than excluded from driving the newly-purchased vehicle in the accident. Trudeau argued his lawsuit against Cavanagh should not be summarily dismissed because a court should make a finding of fact as to whether Trudeau had an honest but mistaken belief that he was not an excluded driver.

But the endorsement excluding Trudeau as a driver stipulated the exclusion applies to all vehicles insured under the Wawanesa policy, Justice Del Frate wrote.

"Although there are situations where an honest but mistaken belief may absolve the insured, this is not one of

**OPCF 28A
Excluded Driver**

Issued to	Effective Date of Change Year / Month / Day	Policy Number

WARNING - BY SIGNING THIS FORM YOU AGREE THAT IF THE EXCLUDED DRIVER DRIVES ANY AUTOMOBILE DESCRIBED BELOW:

- **THIS POLICY WILL NOT PROVIDE THE INSURANCE REQUIRED BY LAW;**
- **THIS POLICY WILL NOT PROVIDE COVERAGE FOR DAMAGE OR INJURIES CAUSED BY THE EXCLUDED DRIVER; AND**
- **BOTH THE AUTOMOBILE OWNER AND THE EXCLUDED DRIVER MAY BE PERSONALLY RESPONSIBLE FOR DAMAGE OR INJURIES CAUSED BY THE EXCLUDED DRIVER.**

Please sign and return this form. Keep a copy for your records.

1. **Purpose of This Change** - This change is part of the policy. Except for certain Accident Benefits, it excludes all coverage when the person (the "Excluded Driver") named in paragraph 3 below drives the automobile(s) described in paragraph 2 below.
2. **Exclusions from Coverage** - Except for certain Accident Benefits under Section 4 of the policy, we will not provide coverage while the Excluded Driver is driving the automobile(s) listed below, as well as any temporary substitute automobile and any newly acquired automobile as defined in the policy.

Automobile #	Model Year	Trade Name (Make)	Serial # /VIN

them," the judge wrote. "The excluded driver endorsement cannot be any clearer on the consequences of operating the motor vehicle as an 'excluded driver.'"

There are "other avenues" open to Trudeau but those issues were not before Justice Del Frate. Instead, Justice Del Frate's ruling was on whether there were any genuine issues requiring a trial. Justice Del Frate ruled there were none, agreeing with the defendant that the lawsuit must be summarily dismissed on the grounds that Trudeau ought to have known he was an excluded driver.

The excluded driver endorsement was originally issued March 29, 2012.

"At the accident scene, the plaintiff called his spouse advising her of the accident and asking her for particulars of the insurance. It appears that proof of insurance bearing the same policy number was delivered to the accident scene and satisfied the investigating officer that a policy of insurance was in existence for that particular vehicle," Justice Del Frate wrote.

Wawanesa denied accident benefits

THE RISING TIDE OF SUMP PUMP FAILURES

WRITTEN BY DAYNA SCHOLS

Spring is here, which will come as a relief for most people. However, with warmer weather, we also get melting snow and rain, which can be bad news for basements. Homes built in areas that are prone to flooding or on a high water table likely have a sump pump in the basement to prevent excess rain and groundwater from entering the house. Unfortunately, sump pumps are not immune to failure, and when they do fail, the resulting damage is never minor. The Christmas 2013 ice storm cost property insurers in Canada \$225 million in claims, roughly half of which were due to sump pump failures.[1] While this highlights one major reason sump pumps fail – power outages – it's not the only one.

Types of Sump Pumps

In order to understand how and why sump pumps fail, it is important that we first understand sump pumps themselves. There are a few different types of pumps, but the most common, and the ones we will be discussing, are submersible pumps and pedestal pumps.

Submersible pumps are smaller, more compact and designed to work underwater. This makes it possible to place them right inside the sump well. The other main difference is the switch. A submersible pump has a tethered float switch which can move in any direction (this will prove to be important later).

Pedestal pumps have a motor that stands above the sump well with the impeller located in the foot of the pedestal. They also have a vertical float switch which can only travel straight up and down with a guiding rod.

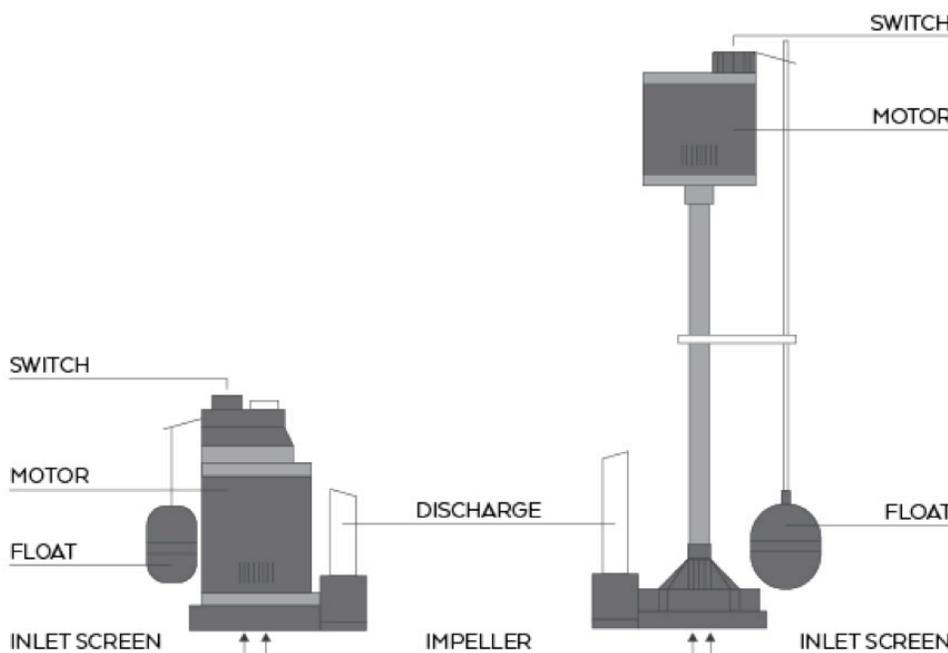
Common Causes of Failure

Sump pump failures can result in two potential outcomes: Fire and flood. Fire is a decidedly less common occurrence, however, when a sump pump does catch fire, it is a subrogatable loss. Fires usually involve pedestal pumps since the very nature of submersible pumps make it incredibly unlikely for one to ignite. A sump pump fire can be the result of many of the same things that can lead to a flood. The important difference is that a flood is considered a safe failure while a fire is an unsafe failure.

Debris Caught in the Impeller

The real issue here is not so much with the sump pump as it is the sump well. The problem being, sump wells aren't clean. Dirt and debris of all kinds can wind up in the well – sometimes following a renovation project. If a piece of debris is just the right size, it can get sucked in through the inlet screen and jam the impeller. The float will still activate the switch and turn on the motor, but with the impeller unable to spin, water will continue to fill up the well and eventually flood the basement.

As part of a destructive examination investigation, I was running tests on a sump pump in our laboratory. After confirming that there were no electrical continuity issues, I connected it to power and listened to it run (you can tell a lot about a sump pump by the sounds it makes). In this case, the low hum told me that electricity was circulating through the motor but the impeller wasn't rotating. I turned the sump pump upside down, unscrewed the bottom cover and tried to spin the impeller. It wasn't seized but it was incredibly stiff. Looking closer, I could see a tiny wood chip caught between the impeller and the wall. I pulled it out with a pair of tweezers and the pump proceeded



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THE RISING TIDE OF SUMP PUMP FAILURES

WRITTEN BY DAYNA SCHOLS

to perform as expected. This examination proved to be in favour of my client who was being pursued for negligence. Improper Installation

One type of failure we see within this subset, generally involving submersible pumps, has to do with the float. The problem occurs when the free-ranging float drifts too close to the wall of the well and gets caught. This can happen in the upward or downward position. If it gets stuck in the upward position, it will run constantly. This creates a situation where the motor could overheat or electrical components could fail, diminishing the life of the pump in both cases. If it gets caught in the downward position, it simply won't turn on regardless of the water level. Tethered float switches can also get caught on another pump in the well, which is something we are seeing more often. Having two pumps in a well is generally fine, and it might actually be advisable to have a backup pump. But, the well has to be suitably large and the installation needs to be done correctly – ideally by a professional – so the floats do not interfere with one another.

My most recent experience with this type of failure occurred while I was assisting with a structural failure investigation – it just so happens that the basement also flooded. It was a beautiful new custom home, built on a very high water table, so it made sense that there were two sump pumps in the basement. Unfortunately, the well wasn't large enough to accommodate both, and right away I could see that one of the tethers was caught against the wall. The second pump had also failed, but the cause of its failure was never determined as we were performing a structural failure investigation. However, it is likely that something had jammed the impeller since the well was full of debris from construction.

A different installation issue involving pedestal pumps is airflow, or lack thereof. Submersible pumps are surrounded by water which cools the motor. Since pedestal pumps have a motor situated above the water, they are cooled by the air flow around them. Without sufficient air flow, the motor can overheat. For example, in one basement, the sump pump was located inside a closet. At some point, several coats had fallen on top of the motor causing it to overheat and eventually start a fire. A subrogation claim was filed against the manufacturer who argued that the

sump pump needs to breathe. I remind you, though, regardless of installation or, in this case coats surrounding the motor, an appliance is required to fail safely. Had a flood only occurred, subrogation might have not been successful. In this case, because a fire had occurred, settlement was reached.

Wear and Tear

As with all mechanical devices, sump pumps wear over time. Some failures can be ascribed to manufacturing defects, such as problems with the mechanical or electrical components, but if the pump is more than seven years old, age may be a factor. By the same token, any time there is a damage claim and the pump is not more than a few years old it is worth doing an investigation because it may have prematurely failed internally, whether due to a capacitor, centrifugal switch, high-temperature limit safety switch or float switch failure.

Here's one example of an intermittent failure: Inside a float switch is a ball that moves back and forth to activate or deactivate the switch, and thus the motor. In one incident involving a particularly old sump pump, the ball had gone back and forth so many times throughout its service life that it was no longer round. It had worn itself down. So sometimes the ball would get caught in the upward position; sometimes in the downward position. It just so happens that one time, while caught in the downward position, the basement flooded. Of course, no component is immune to the effects of time, and age can cause anything to fail, from the float switch to the motor.

What to Do

While we prefer to attend the site ourselves, we understand that time is of the essence and that it may not always be possible. When attending a scene, get as much background information on the house and pump as possible. How old is the house? Have there been any renovations or changes? How old is the pump? Where was it purchased? Who installed the pump? Answers to these questions can prove crucial to our investigation and may indicate or help eliminate potential causes. When taking photographs, be sure to capture the sump pump while it's still in the sump well. This can help us determine if improper installation was a factor. Finally, secure the sump pump.

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THE RISING TIDE OF SUMP PUMP FAILURES

WRITTEN BY DAYNA SCHOLS

When is Subrogation a Factor?

Any time a sump pump failure results in a fire, you have a subrogatable loss – but that is not the only instance. Water damage claims are on the rise, in terms of both the number of claims and the average cost of a claim. We find ourselves investigating more and more sump pump failures – often for the reasons outlined above, however, this is by no means an exhaustive list. Design deficiencies and manufacturing defects can result in failures. There are also instances of builders installing the wrong size pump, or installing the right pump incorrectly. Subrogation can also come down to the circumstances surrounding the

failure. For instance, in a rented dwelling, a sump pump may fail because the landlord has failed to maintain it properly. Conversely, a tenant disposing of items in the sump pit can cause the pump to fail. In either case, one party's actions have resulted in damage to the other's property.

As common as they are, sump pump failures are by no means straightforward. However, years of experience and exposure to these types of failures allow us to quickly narrow down the potential causes and arrive at the correct conclusion.

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