



## WEIRD SUBRO

# “Weird Weather-Subro” *The Challenge To Mother Nature!*

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Nationwide, weather is often the cause in a myriad of subro property and casualty claims. Snow, wind, ice, flood, lightning and hail are the most common culprits. Snow and ice plague northern states half of the year, while virtually all regions are visited by Mother Nature’s other forms of meteorological wrath. Often the claimant is totally unaware of the real cause of a major loss. To further complicate matters, the actual date and time of loss can be a key factor, thereby bringing into question the veracity of the claim.

In a recent case involving a commercial roof failure in West Texas, a previous hailstorm was stated as the cause for subsequent leakage. The claim was initially paid, based upon a general “Storm Report” for the alleged day of occurrence of the damaging hail. But upon further weather investigation, it was determined that the nearest hail was more than three-quarters of a mile away! The meteorologist working on the case was able to make use of state-of-the-art Doppler Radar Imagery which provided the “street-corner” detail and resolution that was required in this case. As a result, with weather NOT responsible for the \$487,000 payout, further investigation by a forensic engineer revealed previous faulty roof repairs as the likely cause of failure!

“Act-of-God” defense. Often, what’s defined as an “Act-of-God” in one area of the country is quite common in another. Case in point: Large, damaging hail of two inches or more is common in many Central Plains and Western States, but not in the populated Northeast U.S. Thus an “Act-of-God” defense is appropriate for two inch hailstones in New York, but NOT in Oklahoma.

There are often subrogation opportunities where the initial claim was an “Act-of-God,” take winds, for instance. On a windy day, shopping carts seem to have a mind of their own...but a dumpster? That’s what the owner of an expensive BMW found had slammed into her car, having caused extensive damage to the passenger side door, the side panel and window. Even the frame of the vehicle was bent slightly from the impact of the 450 pound metal dumpster. The insurance company made payment on the claim and their subrogation unit began an investigation. An analysis of the wind on the day of the occurrence showed that winds were strong with gusts as high as 30 miles per hour at the time of the incident. But was that enough wind to cause a heavy dumpster to roll on its own? Further investigation determined that on all of the previous days in which cart damage occurred, the wind speed was at least 27 miles per hour, and on a few of the days, winds exceeded 40 miles per hour. However, it didn’t seem likely that a heavy dumpster could be moved by winds of similar speeds. It was eventually determined that the dumpster had a faulty braking device on its wheels and that the refuse company had made a pick-up during the time that the BMW owner was parked in the lot. When the dumpster was emptied and placed back on the ground, it started rolling because of the faulty brake and ended up colliding with the car. The refuse company was ultimately found to be liable for the loss.

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