

## 9/11-The Destruction of the World Trade Center

Within days of 9/11, it became apparent that the destruction of the World Trade Center presented the insurance industry with a highly complex set of valuation and coverage issues. The post-loss environment required a coordinated, strategic response by insurers. Zelle coordinated coverage, measurement, reinsurance and subrogation strategies for one of the world's largest property insurers, providing consistent analysis to the entire book of business at risk. Zelle attorneys were responsible for claims made under nearly 100 different insurance contracts, including highly complex property and time element claims related to the loss of:

- major financial institutions
- insurance brokers
- retail stores
- communications infrastructure
- governmental agencies
- rail transportation infrastructure

Zelle assisted its clients in the resolution of billions of dollars of claims through a combination of adjustments, mediations, appraisals, arbitrations, jury trials, multiple trips to the Second Circuit Court of Appeals, and delicate political negotiations with local, state and federal elected officials.

coverage issues resolved

- The insurer's right to appraisal. *S.R. Int'l Bus. Ins. Co. v. World Trade Ctr. Props. LLC*, 2002 US Dist. LEXIS 15272. (S.D.N.Y. August 19, 2002).
- The insured does not have a right to prejudgment interest pending appraisal.
- The appropriate scope of replacement cost coverage. *S.R. Int'l Bus. Ins. Co. v. World Trade Ctr. Props. LLC*, 2006 U.S. Dist. Lexis 79326, \*6 (S.D.N.Y. Oct. 31, 2006).
- The appropriate measure of the period of restoration for a time element claim. *SR Int'l Bus. Ins. Co. v. Allianz Ins. Co., LLC*, 2005 U.S. Dist. LEXIS

13001. (S.D.N.Y. February 16, 2005).

- The trigger of leasehold interest coverage.
- The effect of a post-loss assignment on a time element claim. *SR Int'l Bus. Ins. Co. v. World Trade Ctr. Props., LLC*, 394 F. Supp. 2d 585 (S.D.N.Y. Oct. 5, 2005).

#### SUBROGATION issues resolved

- The insurers' priority of subrogation rights. *SR Int'l Bus. Ins. Co. v. Allianz Ins. Co., LLC*, 343 F. Appx. 629 (2d Cir. July 28, 2009).
- The New York collateral source statute CPLR 4545(c) does not bar insurer's subrogation recovery. *In Re September 11th Litigation*, 649 F. Supp. 2d 171 (S.D.N.Y. August 13, 2009).
- Recoverable damages in a subrogation matter. *In Re September 11th Litigation*, 590 F. Supp. 2d 535 (S.D.N.Y. December 10, 2008).

#### REINSURANCE issues

The firm also handled the following reinsurance issues:

- follow the fortunes doctrine
- recoverability of loss adjustment expenses
- reinsurance reinstatement issues
- claims control issues