

Client Alert

November 2017

Potential Coverage for Wine Industry Amid the Ashes from California Wildfires

Although the wildfires in northern California have begun to burn out, the resulting damage will linger. Experts estimate that the fires incinerated hundreds of thousands of acres of land and caused billions of dollars in damage. Many believe cleanup efforts will take years to complete. The damage from the wildfires presents a slew of headaches for vineyard owners, operators, and wine distributors in the Napa and Sonoma counties—the wine capital of the country. A variety of coverages under different insurance policies may help address some of the challenges facing wine-industry participants as the region recovers in the coming months and years.

1. Property damage coverage

Commercial property policies should cover any damage to the physical property of the vineyards themselves—i.e., any buildings, equipment, inventory, etc. Fortunately for wine merchants, the wildfires began after most of the grapes on the vine had already been harvested, but a few vintages had yet to be picked, including Cabernet Sauvignon. Where crops sustained damage while still on the vines, growers may be out of luck unless they had procured standalone crop insurance, since most commercial property policies exclude coverage for growing crops. On the other end of the production process, vintners' property policies may cover loss arising from damage to completed bottles of wine awaiting distribution or sale; however, the amount of coverage available for loss of finished stock will vary from policy to policy based on each policyholder's specific terms of coverage. For grapes and wine damaged during the intermediate stages of production, vintners can expect their insurers to contest their damage models and should prepare detailed proofs of loss with precise valuations of lost or damaged product at each stage of the winemaking process. Wine connoisseurs are a sophisticated clientele, with refined palettes and senses of smell. Even the slightest amount of smoke damage may irreparably harm the value of a given vintage. Wine-industry insureds would do well to tell their insurers as much.

2. Business interruption coverage

Common sense dictates that a business without product to sell or customers to purchase its products doesn't have any business. The same applies here. Beyond the actual selling of wine itself, Sonoma and Napa valleys are major draws for domestic and international tourism. To the extent that the wildfires forced temporary vineyard shutdowns, road closings, or otherwise prevented access to vineyards, operators may have valid claims for business-interruption losses. As the fallout from the wildfires continues to make national headlines and the evening news, potential tourists may choose to remain at home rather than make the trip to northern California, especially if they get wind of a "lost year" in terms of smoke-damaged wine from the region. For insureds, loss quantification will be critical. Affected insureds can "prove up" their claims retroactively by presenting evidence in the form of sales reports from previous years or prospectively use forecasted sales estimates. Even those remotely affected may have valid contingent-business interruption claims. If, for example, a distributor relies upon particular vineyards for supply, and the wildfires forced those vineyards to temporarily suspend production, contingent business-interruption insurance should cover the distributor's lost profits.

3. Environmental coverage

Even after the last of the wildfires has been extinguished, piles of ash will remain in their wake. This ash may present a variety of environmental concerns. For instance, some buildings that burned down contained asbestos, making the ashen residue potentially toxic. Owners and operators of vineyards that burned down may find themselves facing potential environmental exposure, if ash migrates from their properties onto the property of others. When California's rainy season begins, ash may also find its way into the state's waterways, presenting another potential source of environmental liability. As a result, wine-industry insureds suffering from wildfire damage may require environmental coverage as well.

Vineyards and wine merchants face a long road ahead as they recover from the wildfires that devastated northern California earlier this month. Insurance coverage may help them recover some of their losses from this tragedy and stave off future liability. As always, industry insureds seeking to recover from wildfire-related losses should consult sophisticated coverage counsel.

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