



## Current Articles 2001 – February

### A Virus !

Lately there seems to be an increase in threats of a virus to your computer or computer system. I personally have received two viruses in the past several months both of which came from responsible individuals that I know. Fortunately my virus protection program isolated the virus and I had no apparent damage. However, before I realized that I had been infected, I had passed the virus to others as it attached to my email address book.

New viruses are being introduced at the rate of 4 - 5 each day. At this rate the virus protection program may not be able to protect from a newer such virus. A large commercial risk was recently infected by such a new virus and the resultant costs to correct the system approached \$10,000.00! This included computer technologists, restoring of graphics into their web page, overtime labour and time required to alert the 339 addressees in the individuals address list.

Does insurance apply to damages caused by a virus ? The problem stems back to 1988 when a Cornell graduate student corrupted approximately 6,000 in the U.S.A. At first the C.P.C.U. (American equivalent to the IBC) stated that virus damage is not the subject of insurance. This was later reversed when they defined "virus" as follows: It is created by a conscious act that produces an ensuing result such as loss of data, data manipulation or derangement, consumption of capacity or other undesirable outcomes. It produces an unexpected result to the user.

As a result and subject to a policy's terms, exclusions and conditions virus is considered an Act of Vandalism or Malicious Mischief.

Several years ago Jim Pearson and I were asked to prepare a "Hot Topic - Hot Tip" regarding viruses for the IBAO convention. Before our presentation, we contacted many of the major insurers who (in some cases after discussions) agreed that it would be considered vandalism. Some insurers prepared newsletters stating this interpretation.

Any Vandalism or Malicious Mischief claim will be subject to the property policy exclusions whether it be virus related or not. Some of these that may relate to virus damage are as follows:

(1) Loss caused by or resulting from Dishonest Acts by the Insured, Partners, Officers and Trustees or Agents. (This exclusion does not exclude employees. This loss may also be covered by a Fidelity Bond (3D) if properly endorsed.

(2) Any will act intended to cause a loss committed by the Named Insured or anyone else at their direction. ( Intentional acts should not be covered. However this exclusions may also include employees. A disgruntled employee may seek revenge and intentionally infect the system and if proven coverage may be excluded.

(3) Loss caused by programming errors or faulty machine instructions. This exclusion may apply to Extra Expense. It would be most difficult to determine the loss was actually causes by a "virus" infection or a programming error.

(4) Loss caused by a hidden or latent defect or any quality in the property that causes it to damage or destroy itself. If "off-the-shelf" software contains the virus when purchased, is this not a latent defect?

Before advising clients check with your markets to obtain (and preferably in writing) how their policies will respond to potential virus damage and to the extra expenses or down time of your clients.

Jim and I will often end our virus presentation with the following warning:

"Beware of the latest virus called the "Adam and Eve Virus." It may take a big byte out of your Apple ! ! !"

We are always searching for topics. If you have a suggestion, I would love to hear from you.

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