

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business ████████████████████	First ██████████	Middle ██████████
Claimant ID	██████████	Claim ID	██████████
Claim Type	Business Economic Loss		
Law Firm	████████████████████		

II. DECISION

Denial Upheld

Denial Overturned

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

Claim should have been excluded.

Claim should have been denied.

Claim should not have been excluded.

Claim should not have been denied.

No error.

Comment (optional):

████████████████████ appeals the denial of its BEL claim, arguing it was entitled to a Tourism designation and the concomitant presumption of causation. ██████████ owns a chain of ██████████ stores and this claim involves its location in ██████████. After the initial denial and before its appeal, claimant requested re-review, suggesting it fit within the Tourism category in the Settlement Agreement which includes "All other General Merchandise Stores that retail a general line of new merchandise, such as...automotive parts." ██████████ provided further : "While claimant is an ██████████ supply business, it sells many categories of supplies, including cell phone accessories; snack foods and drinks; generators; screwdrivers, wrenches and other tool sets; workwear and gloves; satellite navigation devices, including devices for marine use; batteries for automotive, marine ATV and golf cart usage, among other categories; and many other categories of products that travelers may require, with no single line predominating. " In its appeal, claimant seemed to move away from this argument. The more complete text of the NAICS section which claimant was attempting to fit into references establishments which "retail a general line of new merchandise, such as apparel, automotive parts, dry goods, hardware, groceries, housewares or home furnishings, and other lines in limited amounts, with none of the lines predominating". This category is an illustrative example of the type of business which should be entitled to a Tourism designation under the Settlement Agreement. Nevertheless,



presumably, claimant recognized that the store in question, aptly named [REDACTED], deals "predominantly" with [REDACTED] and. therefore, no credible argument could be made that claimant could fit into this NAICS code which would confer a Tourism designation in this case. Instead, [REDACTED], in its appeal, referenced the general language which qualifies an entity as a Tourism business under the Settlement Agreement . Claimant then vaguely suggested that [REDACTED] displays a maintenance checklist on its websites which identifies "many products that [REDACTED] should inspect and consider replacing " before long distance travel. This contention falls far short of the type of concrete evidence needed to establish that a business "provides services such as attracting, transporting, or accommodating or catering to the needs or wants of persons traveling to, or staying in, places outside their home community": [REDACTED], where the business is located, would not generally be considered a tourist area. Additionally, the fact that a few people may stop by the store to pick up [REDACTED] parts before or during a road trip is far too incidental to qualify this business for a Tourism designation. Without this designation, the claim does not satisfy causation under the Settlement Agreement. Claimant's appeal is dismissed and the denial of this claim is affirmed.