

**APPEAL PANEL DECISION FORM**

**I. CLAIMANT AND CLAIM INFORMATION**

|                      |  |                 |            |
|----------------------|--|-----------------|------------|
| <b>Claimant Name</b> | Last/Name of Business<br>██████████      | First           | Middle     |
| <b>Claimant ID</b>   | ██████████                               | <b>Claim ID</b> | ██████████ |
| <b>Claim Type</b>    | Business Economic Loss                   |                 |            |
| <b>Law Firm</b>      | ██ |                 |            |

**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):**

This Claimant presents a claim that requires some factual consideration due to the need for a substantive determination of the nature of its business. The Administrator denied the claim based partially to a NAICS Code that the Claimant's accountant selected for use on its federal tax returns. The code selected is 524291; Claims Adjusting. The Claimant adamantly asserts the code it used does not accurately reflect its specialized business. The records show that the Claimant worked for claims management service companies that serviced the off shore oil industry whose workers were covered by the Jones Act. Claimant describes its activities in its filings. Basically it would receive a call that a worker had been injured and be dispatched to meet the boat or helicopter at a prescribed location and to accompany the worker to a medical facility. It would obtain reports, get a recorded statement from the worker as to the facts of his injury and either return the worker to the transport site for return to the job or accompany him to his residence. It would then draft and send a written report to the company, referred to as the "contracting principle" by the Claimant. The Administrator excluded the claim as an "insurance related business" under Settlement Agreement Section 2.2.4.4. Under the "looks like a duck, quacks like a duck, and walks like a duck" analysis, the Claimant certainly appears to perform claims adjusting type services to the oil industry which are related close enough to insurance activities to warrant exclusion. The Administrator could likely have excluded the claim as related to the oil industry as well. The denial is affirmed.