

INSURANCE OVERVIEW

Presented by
The McLaughlin Company

Is the Liability Loss Covered?

- Was policy in effect for responsible party?
- Does the allegation “trigger” coverage?
- Is the entity that is being asked to pay an “insured” under the policy?
- Is the loss excluded for this insured?

GOOD NEWS.....LOSS COVERED!

Is a Policy **in Effect** for the
Responsible Party?

When is Liability Coverage "Triggered"?

Occurrence

- Business Auto Policy
- Employers Liability
- Commercial General Liability*
- Publishers Liability*

Claims Made

- Directors & Officers
- Union Liability
- Fiduciary Liability
- Employment Related Practices
- Errors & Omissions

Commercial General Liability (Occurrence Form)

The insurance applies to Bodily Injury and Property Damage only if the bodily injury or property damage **occurs** during the policy period.

Commercial General Liability (Claims Made Form)

The insurance applies to Bodily Injury and Property Damage only if a claim for damages is first made against any insured during the policy period.

When is a claim “made”

- “Claim” is a demand for money or services
- “Claim” is a written demand for money and services
- “Claim” is a notice given to the insurer of an incident that could give rise to a claim.
- “Claim” is not defined

Does the Allegation Trigger
Coverage?

Allegation: Bodily Injury and/or Property Damage arising out of Premises, Operations and/or Completed Operations

Source:

- The public
- Other entities
(lessors, tenants,
agents, contractors,
subcontractors)

Insurance:

- Commercial General Liability

Allegation: Bodily Injury and/or Property Damage arising out of Premises, Operations and/or Completed Operations

Source:

- Employees
- Families of employees

Insurance:

- Against Employer:
Employers Liability
- Against fellow-employee:
Commercial General Liability

Allegation: Libel, Slander Defamation of Character

Source:

- The public
- Other entities
- Employees
- Former Employees

Insurance:

- Commercial General Liability *
- Publishers Liability
- Union Liability

Allegation: Infringement of copyright,
trademark or slogan

Source:

- Other entities

Insurance:

- Commercial General Liability*
- Publishers Liability
- Union Liability

Allegation: Assumption of Liability under a contract

Source:

- Lessors
- Lessees
- Owners
- Agents
- Contractors

Insurance:

- Commercial General Liability
- Business Auto Policy

Allegation: Bodily Injury or Property Damage arising out of the furnishing of alcoholic beverages

Source:

- The public
- The government

Insurance:

- Commercial General Liability*

*Caution: Special Endorsements are needed if you are "in the business", if a charge is made, or if a license or permit is obtained.

Allegation: Bodily Injury and/or Property Damage arising out of the ownership, maintenance, use or entrustment of automobiles

Source:

- The public

Insurance:

- Business Auto Policy

Allegation: Contingent Bodily Injury and Property Damage

Source:

- Other entities

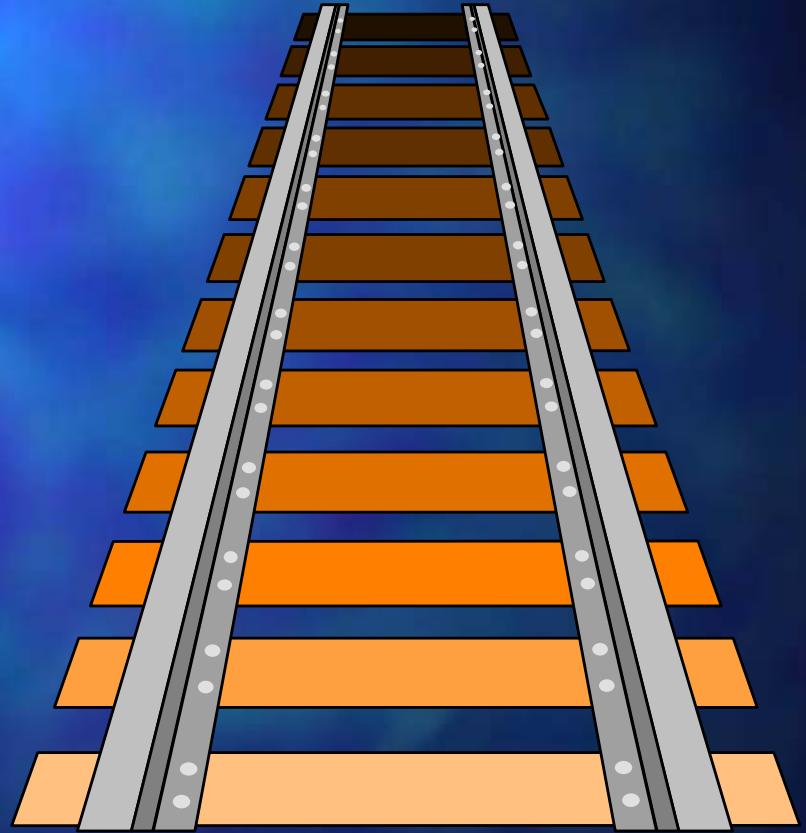
Insurance:

- Commercial General Liability
- Publishers Liability

Bridging the Gap

You have a problem if

- ⇒ your Commercial General Liability policy contains a professional acts exclusion
- ⇒ your Publishers Liability policy contains a bodily injury/property damage liability exclusion



Allegation: Violation of employment contract, harassment, discrimination, failure to hire, failure to promote, wrongful termination

Source:

- Employees
- Former Employees

Insurance:

- Employment Related Practices Liability
- Union Liability

Allegation: Breach of Duty of Fair Representation

Source:

- Members

Insurance:

- Union Liability

Allegation: Improper management, improper expenditures, imprudent investments

Source:

- The Government
- Members

Insurance:

- Directors and Officers Liability
- Union Liability

Allegation: Dishonest, criminal or fraudulent acts

Source:

- The Government
- Members

Insurance:

- Individual Labor Leader Endorsement (Defense costs only)

Allegation: Personal profit, remuneration or advantage to which the defendant is not entitled

Source:

- Members
- The Government

Insurance:

- Individual Labor
Leader Endorsement
(defense costs only)

Examples of Union Liability Claims

- Breach of Duty of Fair Representation
- Discrimination or wrongful discharge
- Interference with an employee's job
- Budget overruns
- Improper documentation of funds received from U.S. government for various projects and programs
- Negligence in collective bargaining negotiations
- Libel, slander, defamation of character
- Failure to hold or attend meetings
- Improper hiring hall practices
- Election misconduct
- Unfair Labor Practices

Individual Labor Leader Endorsement



Defense coverage is available by endorsement for individual labor leaders in the event that a claim is alleged against them involving one of the policies three "dishonesty" exclusions*

Allegation: Breach of Fiduciary Duty to a Benefit Plan

Source:

- Plan Participants
- The Government

Insurance:

- Fiduciary Liability

Is the entity being asked to
pay an “insured” under the
policy?

Commercial General Liability

- Named Insured
- Officers
- Directors
- Stockholders
- Employees
- Real Estate Managers
- Newly Acquired **Corporations.....not Partnerships or Joint Ventures**

Business Auto Policy

- Named Insured
- Others using covered autos with permission except:
 - Owner of Auto
 - Employees Using own auto
 - Used in auto business

Non-Profit Association Liability

- Entity named in the declarations
- Current, Past and Future Directors and Officers, Trustees, Employees, Volunteers or Members of any duly constituted committees of the entity

Union Liability

- The Named Labor Organization
- Any person who has been, now is or shall become a duly elected or appointed director, trustee or officer
- Employees of the Union
- Board Members
- Committee Members
- Shop Stewards
- Business Agents

Publishers Liability

- Named Insured
- Any person who is a partner, officer, director, stockholder or employee of the Named Insured, but only while acting in a professional capacity

Fiduciary Liability

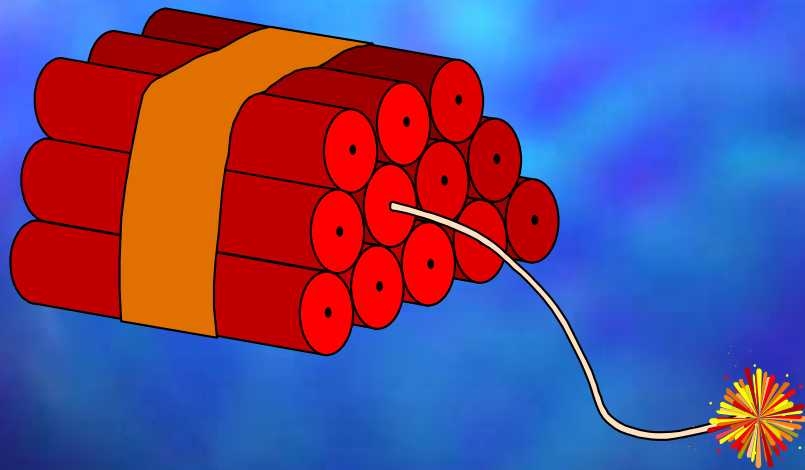
- The specific plan designated in the policy
- The plan sponsor
- Any individual serving as a trustee, director, officer or employee of the plan
- Any other person or organization specified in the policy.

Joint Ventures

Joint Ventures
present special
problems



THE PROBLEM



There is no coverage for a JOINT VENTURE unless it is specifically named on the policy

Is the loss excluded for this insured?

Our approach to evaluating insurance companies and coverages is the following, in descending order:

Decision Tree

- Claim Paying Ability, Insurer Financial Ratings
- Scope of Coverage
- Level of services by Insurer, Producer (us), TPA Services and Insured (you)
- Reasonably anticipated net cost.

Contractual Liability Exclusion

It is important to make sure your insurance coverage matches the exposures you are assuming under your contracts!

“Insured Contracts”

"Tort Liability"

Employment Related Practices Exclusion

Liquor Liability Exclusion

Have you ever.....

- hosted a fund raiser or casino night?
- sponsored a Labor Day Picnic where beer was sold?
- held an event where you were required to obtain a permit or license to serve alcohol?



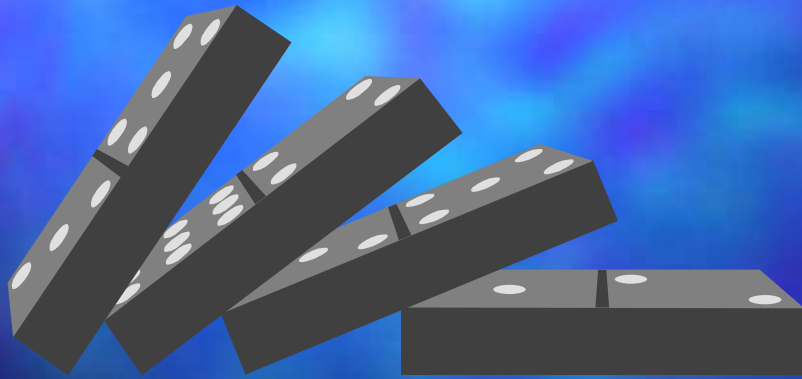
Expected or Intended Injury

What is “Reasonable Force”?

The definition of “reasonable force” will vary from state to state. A court in New York is likely to interpret this differently from a court in Oklahoma where a “Make my Day” law was recently enacted.



What is “Expected or Intended”?



The expected and intended wording is being challenged and clarified in court cases across the country