



VENABLE

Top Ten Hot-Button Insurance Issues Facing Nonprofits

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Venable LLP, Washington, DC

Moderator

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Upcoming Venable Nonprofit Events

Register Now

- **February 2, 2017: [Top Ten Cybersecurity Tips for Nonprofits: Managing Your Technical and Legal Risks](#)**
- **March 30, 2017: Dealing with Nonprofit Donors – Risks, Restrictions, and When to Say “No Thanks”**
(details and registration available soon)



What Do You Need to Do to Be an Effective Risk Management Advocate for Your Organization?

- ***It begins from within:***
 - Evaluate your liabilities and your risks
 - Understand your current activities and future goals
 - Understand your organizational structure
 - Know your contracts and when you have assumed liability
 - Don't assume that brokers know who you are
 - Directors/Officers/Employees/Volunteers



Corporate Orientation toward Risk



- Reflects organizational culture, not individual preferences
- Must be balanced with financial strength:
 - Ability to pay more/less premium
 - Ability to retain more/less risk on balance sheet
- Should inform decision making beyond insurance



What Do You Need to Do to Be an Effective Risk Management Advocate for Your Organization?

- Stay out of the fine print
- Be able to articulate the corporate culture toward risk
- Tell the broker what s/he can't see for themselves
- Broker doesn't make the decision – insured does



What Types of Policies Should You Have?

- **Legal requirement**

- Workers' Compensation
- ERISA Bond
- Automobile Liability
- Pollution

- **Contractual requirement**

- General Liability
- Property

- **Risk tolerance**

- Directors & Officers
- Workplace Violence
- Foreign
- Fiduciary Liability
- Errors & Omissions
- Specialty Policies
- Cyber
- Employee Dishonesty
- Property
- Travel Accident
- Umbrella
- Event Cancellation



How Much Insurance Is Enough?

- Objective Selection Criteria:
 - Property:
 - Make sure to include all types
 - Add it up
 - Current replacement cost – not book value
 - Liability:
 - No single right answer – typically a range of limits
 - Consider reasonably foreseeable claim scenarios
 - Peer group limits are of little value – peer group “loss” experience is of great value
 - Defense costs – inside or outside the limits
 - Corporate orientation to and tolerance for risk



Workplace Violence (WPV)

- What is WPV?

The Occupational Health and Safety Administration (OSHA) defines workplace violence as “any physical assault, threatening behavior or verbal abuse occurring in the work setting.”

- Where is your workplace?

- Office
- Offsite Meeting
- Fundraising Dinner
- Warehouse
- Shelter

- Contractual assumption of risk

...indemnify from and against any and all liability arising from or in connection with...use and occupancy of the premises.

- Are we insured?

Yes – No – Maybe



Workplace Violence (WPV)

- Are we insured?

Yes

Defense provided if nonprofit is accused of negligence that caused or contributed to the harm.

No

Absent an assertion of negligence, carrier owes neither a duty to defend nor a duty to pay sums nonprofit is legally obligated to pay (e.g., risk assumed under contract).

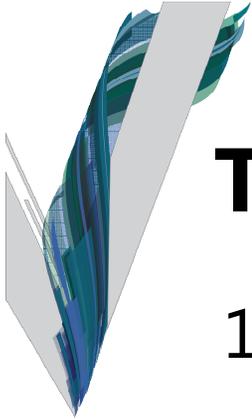
Yes and No

Carrier duty of defense is broader than duty to pay settlements and judgments. Possibility that carrier has a duty to defend but not indemnify.



Cyber Breach = \$\$\$\$

- One of the biggest risks today
 - JP Morgan, Target, Sony, Ashley Madison, etc.
- Technology is *everywhere*, and you are liable for personal/financial information breaches.
- You are one of the following organizations:
 - You've been hit and are working through it;
 - You've been hit and don't know it; or
 - You have the potential to be hit



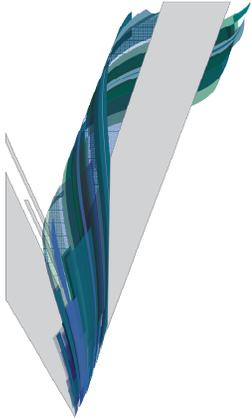
Top Five Biggest Cyber Risks

1. Contracts
 - An insured contract is not what you think it is
2. Late claim notice
 - If you think it won't cost you, think again
3. Application errors
 - They live forever
4. We're covered for everything
5. Objective decision criteria
 - Informed decisions



Volunteer Coverage

- Who are your volunteers?
- Are they covered?
- Are they eroding your policy limits?
- Should you have separate coverage for volunteers/interns?



Questions?

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