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ISU

Curry Insurance Agency

RISK MANAGEMENT

Supply Chain Risk Lessons from the Ports Strike

THE NINE-MONTH West Coast ports strike that recently came to an end crippled many businesses in California and beyond.

The fallout for companies of all types illustrates the fragility of most companies' supply chains. Retailers waiting for shipments had empty shelf space, carmakers suspended operations because key parts were sitting on the docks or waiting to be unloaded, and some companies were forced to lay people off.

Whenever there is a supply chain disruption, companies suffer as products and key parts deliveries are delayed indefinitely.

Prudent companies address these challenges by building safeguards and contingencies into their supply chains.

They enhance those risk management efforts by purchasing contingent business interruption insurance, which will cover lost profits if an event shuts down critical suppliers or major customers.

And while it's typically the woes of big companies that make the news, the impact is felt far and wide – and small companies are especially vulnerable. That's why it's important that you create a solid plan for dealing with disruptions to your supply chain, as most every company has one to some extent.

Understanding your supply chain

You'll be best able to reduce the effects of supply chain disruptions on your business by identifying the risks within your supply chain and developing ways to mitigate them.

You should document this process in your risk management plan, which is part of your overall business continuity plan.

There are four main types of external supply chain risks, which are largely out of a business's control:

- **Flow interruptions.** Problems caused by interruptions to the movement of products, like finished goods, raw material or parts.
- **Environmental risks**. Economic, social, political, terrorism threat and climate factors that can affect the supply chain.
- **Business risks.** Problems caused by factors like a supplier's poor financial or general stability, or the purchase or sale of supplier companies by other entities.
- **Physical plant risks**. Problems caused by issues at a supplier's facility or regulatory compliance. For example, your key supplier could have a machinery breakdown and/or regulators may shut the facility down,

Developing a plan

The best way to manage a supply chain disruption is to prepare for it. Start by undertaking a business impact analysis to prepare your company.

Form a team of key personnel that should include shipping and receiving, and management and supervisors involved in your key processes. The team should:

- Identify alternatives to key suppliers in advance. You don't want to be scrambling in the midst of a crisis. One option is to contract with an alternative supplier in advance, so you can certify them and ensure they can ramp up if you lose a critical supplier.
- Model the impact of disruptions on your sourcing and inventory strategies for the four supply chain risks listed above. Under each of the scenarios, think about how non-delivery of a key part or material would affect your operations.

See 'Interruption' on page 2

CONTACT US

ISU Curry Insurance Agency

If you have any questions regarding any of these articles or have a coverage question, please call us at:

ISU Curry Insurance Agency
489 E. Colorado
Pasadena, CA 91101
Phone: 626-449-3870
Fax: 626 449-5268

License No. : 0588757

WORKERS' COMP

Are Injuries on Commute or in Parking Lot Covered?

WHEN EMPLOYEES are injured on the job they are eligible for workers' comp benefits, but not if the accident occurs on their commute to or from work – in most cases, at least.

But how about if an employee is injured in your parking lot, or while running an errand for you after work? There are two rules that govern at which point a worker is eligible for benefits if they sustain an injury:

The 'coming and going' rule

Typically, workers' comp benefits won't be paid for injuries sustained on a commute. This is known as the "coming and going" rule.

There are exceptions like whether the worker's travel was a benefit to the employer or related to their job duties. There are four exceptions:

1. No fixed work site – The employee travels to multiple job sites. If a worker travels to multiple sites in one day and gets injured en route even to the first one, injuries would typically be compensable.

2. Off-site work – This could include if the employee is injured while on a business trip. The worker is deemed to be acting in the scope of his employment the whole time while away on business, even at the hotel.

3. Special assignment – If during his regular commute the employee also is performing a special errand or "mission" for his employer.

4. Traveling worker – When an employee must travel in order to accomplish job duties, the coming and going rule does not apply.

The 'premises' rule

If an employee is injured on the premises of your place of employment, they are more or less "at work" and should qualify for benefits.

Premises are not limited to areas owned or leased by the employer, but also to areas under their control. Various courts have held that employment starts when an employee arrives at a parking lot owned, maintained or used by the employer.

The takeaway

One recent case dealt with both of these issues when an employee for a private military contractor was injured while driving to work. He crashed his car after entering an Air Force base where his employer had mulitiple worksites. He was injured one mile from the base entrance inside the base, but still three to five miles away from his worksite.

A California appellate court ruled that he was eligible for benefits under the workers' comp premises rule.

The lesson for employers here is that there are some instances where even the best workplace safety regimen can't prevent an employee from sustaining a workplace injury. If they have an accident in the parking lot of the business building where you have an office, there is a good chance they could file a workers' comp claim and receive benefits.

On the other hand, other dangers on your premises – think icy walkways – can be minimized with proper risk management, by alerting your landlord (if you rent), or fixing it yourself if you own the property. ❖

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A Business Interruption Policy Can Cover Your Costs

Examine the likely fallout and build contingencies:

- Outline how you would respond to all of the "what if" scenarios that could affect your operations. Be realistic about assessing your capacity to respond to these scenarios.
- Create a contingency plan for failure of any supply chain pillars. Identify the points at which you would need to execute risk-mitigating measures, like sourcing from other vendors or using new distribution channels.
- During disruptions there is often a lack of alignment and communication between departments. In advance, amass a contingency management team that will bridge the divide between your departments during disruptions. This team must include senior people who can exercise influence over other company decision makers.
- Make sure your supply chain is flexible enough to deal with risks. Look at opportunities to address current supply chain bottlenecks, investigate alternative transportation network configurations or alternative production systems.

The insurance backstop

You can address supply chain risks through business interruption insurance or contingent business interruption insurance.

Business interruption insurance covers lost profits after a company's own facility is damaged by an insured peril.

Contingent business interruption insurance covers lost profits if an insured peril shuts down a critical supplier, part of the transportation or distribution chain or a major customer. Contingent business interruption coverage is triggered if there is:

1. Damage to property that prevents one of your suppliers from making products or delivering them.
2. Damage to property that prevents your customers from receiving your products. ❖

INJURED WORKERS

Malingering, the Gray Area in Workers' Comp Fraud

NEARLY 25% of all lost-time workers' compensation claims are exaggerated, according to the National Insurance Crime Bureau.

While only a small percentage of workers' comp claims are fraudulent, quite a few claims include employees staying away from work even after they've been cleared to return by their doctor and when they feel able to work. The term for this is malingering.

When injured workers malinger, the claim lasts longer than the medical disability. The employee has recovered enough to return to work, but has not. This can be due to employee intent, medical provider lack of knowledge about the job requirements, employer disinterest, or other reasons. As you can see, it's not always the employee's fault.

That said, some unscrupulous employees can take advantage of the system by:

- Staging accidents.
- Faking injuries.
- Claiming that an injury sustained while not at work occurred on the job.
- Inflating the degree of an injury to get more time off from work.
- Claiming that an old injury is a new work-related one.
- Pretending they are injured more seriously than they are.
- Staying on benefits and away from work even after the worker has healed (malingering).

20 Indicators of Malingering or Fraud

1. Tips from neighbors, relatives, friends or co-workers that a claimant is actually more active than alleged.
2. The injury coincided with a company's reduction of the workforce.
3. Nurse case manager, doctor and therapist report a healthier and more active claimant than what is alleged.
4. The lack of organic basis for the disability; most of the complaints and allegations are subjective.
5. Premature or excessive demands for compensation.
6. The claimant works in a seasonal occupation.
7. The claimant often misses their therapy and/or doctor appointments.
8. Having "dueling doctors," with one physician stating that the claimant is disabled while another reports a completely different prognosis indicating they are not disabled.
9. No witnesses to the reported accident.
10. The claim was reported after the claimant was terminated, suspended or had resigned.
11. The claimant had only been employed for a short while when the alleged accident occurred.
12. The claimant is not home when you try to contact them.
13. The claimant is disabled longer than is normally associated with the reported injury.
14. The claimant has a history of workers' comp claims or short-term employment.
15. The claimant's job performance has been below average, or they were disciplined at some point.
16. The claimant's Facebook or other social media page shows they are more active than they claim they can be.
17. The claimant has financial problems.
18. The course of treatment seems to be too much for the injury, like extensive treatment and testing for a minor injury.
19. If it was a car accident, the damage to the vehicle is inconsistent with the claimed injuries.
20. Documentation of treatment is suspect – for example, photocopies of bills, no record of dates of treatment, no itemisation.

While some of these red flags don't necessarily mean that there is fraud or malingering, if you do suspect it, you should contact the claims administrator handling your employee's case.

If you can provide evidence to back up your suspicions, the insurance company may initiate an investigation that could include surveillance. All workers' comp carriers are required to have fraud units, as per state regulations. ❖

LIABILITY ISSUES

How to Prevent Violence in the Workplace

WORKPLACE VIOLENCE refers to an act or threat of physical intimidation, harassment or violence that occurs in the workplace.

The perpetrator of workplace violence may be an employee, contractor, customer or visitor. Because workplace violence can disrupt the operations of your business and cause trauma to customers and employees, it is essential that you take steps to prevent it from occurring.

While there is no perfect method for predicting workplace violence, there are often warning signs.

One of the best ways to prevent such violence is to screen potential employees prior to hiring them.

Through interview questions, drug testing and thorough background checks, you might be able to gauge the risk of a new hire's potential to commit violence.

Also, inform staff that they must treat co-workers, supervisors, customers and visitors with respect. If any violent or potentially violent situation does occur, employees must report the problem to management immediately, even if the problem doesn't directly involve them.

Employees must also take all threats of violence seriously and avoid confrontation with threatening individuals.

Outsider threat

To reduce the likelihood of violence by an outsider, develop a high-quality security system for each of your buildings.

For areas that aren't open to the public, consider using a security guard service, installing coded key card readers, and issuing photo identification cards to all employees. In public areas, consider installing security cameras or stationing a security guard in the building.

No matter how great your prevention methods are, there is still potential for the development of a threatening situation. All employees and supervisors should know how to recognize and deal with any problem that occurs.

Warning signs

Indicators of impending workplace violence include aggressive behavior, belligerence, bullying, harassment and intimidation. Individuals who have multiple conflicts with co-workers, supervisors or customers may also pose a risk.

An employeee who brings weapons to work, shows evidence of substance abuse, or makes statements that indicate desperation over personal problems, may become involved in workplace violence.

If a worker notices indications of possible violence from a customer, co-worker or subordinate, they should notify a supervisor immediately.

If an employee notices indications of possible violence from a supervisor, they should notify management.

The manager informed of the situation must be careful to take it seriously, but not overreact.

If a violent incident does occur, an appropriate response from management is essential. Be sure to offer support to the victim of the violence and administer the proper consequences to the perpetrator, including firing, after an investigation of the incident

Insurance

If you're a business owner, workplace violence insurance can protect your company in the unfortunate event of an incident where someone attacks or even kills another person at your workplace.

The insurance reimburses expenses for:

- Crisis management and public relations consultants.
- Crisis mental health specialists.
- Independent forensic analysts.
- Victim employees' and replacement employees' salaries.
- Rewards paid to informants who provide information leading to the arrest and conviction of responsible parties.
- Medical, cosmetic, mental health treatment for victims.
- Expenses related to dealing with a stalking threat. ❖