

Construction Risk Management

Presented By
Alliance West Insurance

Your Presenter:



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What we will cover:

- Types of Insurance We Will Cover:
 - General Liability
 - Professional Liability
 - Property
 - Builders Risk
 - Commercial Auto
- COVID-19 and Insurance
- Questions & Answers

General Liability Insurance

General Liability Insurance (GL) - offers liability coverage against third-party claims. A "third-party claim" is a lawsuit or a demand for compensation brought against your business by anyone who doesn't work for you.



General Liability Insurance

If your company is sued for a General Liability Insurance claim, your policy can cover attorney's fees, settlements or court-ordered compensation, docket fees, and other legal costs (up to your policy limits).

General Liability Insurance

Common Types of General Liability Coverage.

- ❑ **Premises Liability** – If someone is injured on your property or worksite.

Ex: Having a wet floor at your place of business and a client slips and injures themselves. Or you are on a job site and drop materials or tools while on a ladder and injure a passerby.

General Liability Insurance

- ❑ **Products-Completed Operations Liability** – Covers bodily injury or property damage that was caused by services that you have already completed or products you have already produced. This coverage will not cover the cost of restoring, repairing, or replacing your work that was incorrectly performed.

Ex: Six months after a roofing contractor finishes work at a bank, melting snow enters through the roof and ruins multiple network servers. It was determined that the contractor's faulty work was the cause of the snow getting through.

Note: This coverage only applies to bodily injury and property damage that occurs during the policy period. So, once you've closed your business or are uninsured, you may not have coverage.

General Liability Insurance

- ❑ **Property Damage** – if you accidentally damage someone's property while completing your work. This does not apply to damage to the work you were hired to perform.

Ex: A roofing contractor drops roofing materials or tools and equipment onto someone's car windshield.

Ex: A Landscaper is mowing and the mower kicks a large rock through the businessowners window.



General Liability Insurance

- ❑ **Advertising Liability**
 - ❑ Slander or Libel of a person or company.
 - ❑ Violation of a person's right to privacy.
 - ❑ Use of another company's advertising themes or concepts without permission.
 - ❑ Infringement of a person or firm's copyright or slogans



General Liability Insurance

❑ Personal Injury Liability

- ❑ False arrest, detention, or imprisonment.
- ❑ Malicious prosecution.
- ❑ Wrongful eviction or entry.



General Liability Insurance

Optional coverages to consider:

- ***Employment Practices Liability***- deals with claims of wrongful termination, sexual harassment, discrimination, invasion of privacy, false imprisonment, breach of contract, emotional distress, and wage and hour law violations.
- ***Employee Benefits Liability***- Provides coverage to an employer for errors or omissions in the employer's administration of its employee benefit program.
- ***Cyber Liability***- Covers financial losses that result from data breaches and other cyber events.
- ***Washington Stop Gap Employers Liability*** – provides coverage for work-related injuries arising out of exposures in which the employee has also sued the employer or in which workers comp finds the employer to be liable and is not covered on workers comp.

General Liability Insurance

Lethal exclusions and endorsements:

- ***Classification Limitation*** - Allows the insurer to provide coverage only for the classifications that are listed in the policy.
- ***Subcontracted work exclusion*** – Excludes coverage for work performed on your behalf by your subcontractors.
- ***Contractors warranty*** - This requires you to obtain certificates of insurance from all subcontractors showing minimum limits of liability, and failure to comply could cost you loss of coverage or increased premiums.

General Liability Insurance

Lethal exclusions and endorsements cont.:

- **"Your Work" exclusion** – "Property damage" to "your work" arising out of it or any part of it and included in "products-completed operations hazard"

Ex: You are an electrician who installed the wiring for a new commercial building. There winds up being a fire that takes out most of the restaurant and it is later determined that the fire was due to your wiring job. Your policy will pay for the damage that was done by the fire, except to your wiring. You will have to pay out of pocket to re-do the wiring.

General Liability Insurance

Lethal exclusions and endorsements cont.:

- ***Completed Operations*** – States there will not be coverage for any bodily injury or property damage arising after the job is completed and accepted by the owner or purchaser.
- ***Pollution Exclusion*** – Damages caused by an irritant or contaminant, whether in solid, liquid, or gaseous form, including, smoke, vapor, soot, fumes, acids, chemicals and waste.

General Liability Insurance

Rule of Thumb

Not Covered under CGL Policy

- -Cost of redoing the insured contractor's faulty work
 - Warranty obligations
 - Claims based purely on breach of contract, with no accompanying "property damage"
 - Cost of removing good work to repair or replace the contractor's defective work.
 - Bodily injury to you, your employees, or sub-contractors.
 - Damage to yours and your employee's property.
 - Loss of your income.
 - Claims based on your professional errors and/or omissions.

Additional Insured & Waiver of Subrogation Endorsements.

Additional Insureds:

- *Obligates an insurer to defend and possibly pay claims of another party, such as the Project General Contractor, Homeowner, City, etc.*

Waivers of Subrogation:

- *After payment of a claim, restricts an insurer's right to collect from the responsible party*

Additional Insured & Waiver of Subrogation Endorsements.

Additional Insured and Waiver of Subrogation endorsements can be added as a blanket endorsement, so you pay a flat fee per year, to have unlimited additional insured and/or waiver of subrogations. On a blanket endorsement, you must have a contract or agreement in place that requires the additional insured status or Waiver of Subrogation in order for the coverage to be triggered.

You can also schedule a specific person or organization as an additional insured or with a waiver of subrogation. Typically for an additional premium.

Professional Liability Insurance

Professional Liability Insurance: Helps protect you from unsatisfied clients. For example, if you miss a project deadline, make a crucial clerical error, make an omission in your work, or provide ineffective business advice, don't provide adequate instructions to a client, etc.

Professional Liability insurance covers your legal costs, including:

- Lawyer's fees
- Administrative expenses
- Court Fees
- Expert Witnesses
- Settlement costs
- Court Judgements

Contractors Professional Liability



Professional Liability Claims Examples

Design Delegation — The contractor subcontracts the design of a ventilation system to a mechanical engineer. The engineer, who did not carry errors and omissions (E&O) insurance, miscalculated the cooling needs of the building and specified an inadequate ventilation system. The building owner demanded \$180,000 to replace the poorly performing system.

Construction Management — A contractor failed to detect the faulty workmanship of a masonry contractor who placed hollow concrete block without proper re-bar reinforcement as specified in the plans. Once discovered, the structure had to be torn down and rebuilt at a cost of approximately \$1 million plus resulting delays in project completion.

What is the legal basis for a professional liability lawsuit?

To make their case, the plaintiff will have to establish that:

- Your work needed to uphold certain professional standards, either loosely defined by your industry's standards, a client's reasonable expectations, or explicitly defined in a contract (completion date, use of certain materials, etc.).
- Your work did not meet these minimum standards.
- The plaintiff suffered damages.
- Your work caused these damages. If the plaintiff would have lost money regardless of what you did or didn't do, you can't be held liable.

COVID-19 & Professional Liability

What if I am sued over a project that I wasn't able to finish or a deadline that I missed due to the coronavirus?

Many policies have exclusions for communicable diseases, virus & bacteria, so as long as you do not have these exclusions, your Professional Liability insurance may provide coverage. However; if your contract has a "Force Majeure Provision", you may be excused from certain performance expectations during this time.

Property Insurance

Commercial Property Insurance:

1. Building property, as follows:
 - a. Buildings and structures identified in the declarations
 - b. Completed additions
 - c. Fixtures (indoors and outdoors)
 - d. Permanently installed machinery and equipment
2. Business personal property located on or in the described building or structure or in the open or a vehicle within 100 feet of the described premises, as follows:
 - a. Furniture and fixtures
 - b. Machinery and equipment
 - c. Stock
 - d. All other personal property owned by the insured and used in the business
3. Personal property of others in the insured's care, custody, or control, located on or in the described building or structure or in the open or a vehicle within 100 feet of the described premises

Property Insurance

Other Types Commercial Property Insurance:

- Installation Floater
- Equipment Breakdown
- Inland Marine
- Business Income

Property Insurance

Installation Floater:

Installation Floater - The installation floater is purchased by the contractor (you) and is generally designed to cover equipment, supplies, materials, etc. that have been purchased, sent to the job site, but have not been installed or accepted by the GC or project owner. Think of a large boiler or HVAC compressor that you are going to install that is sitting on the job site. Should something happen to any of these materials, such as a large crane was to fall on them, you may be able to file a claim and receive a check to replace the damaged items.

Property Insurance

Equipment Breakdown Insurance (Boiler or Machinery Insurance)

Coverage for loss due to mechanical or electrical breakdown of nearly any type of equipment, including photocopiers and computers. Coverage applies to the cost to repair or replace the equipment and any other property damaged by the equipment breakdown.



Inland Marine Insurance

Inland Marine Coverage: AKA – tools & equipment

- *Mobile Equipment*
- *At Shop*
- *On Job-sites*
- *In Transit*
- *Hired, Borrowed and Rented*
- *Crane Overload*



Inland Marine Insurance

You'll want Inland Marine coverage if you...

- Move equipment, goods, or supplies from one location to another.
- Have off-premises risk exposures.
- Own or lease mobile equipment.

Inland Marine Insurance

Most Inland Marine policies will protect against:

- Fire
- Theft
- Wind damage
- Lightning strike
- Collision
- Earthquakes
- Can also cover property of a third party that is in your temporary care.

Business Income Coverage

Provides coverage for "direct Physical loss or damage to covered property at the premises described in the declarations caused by or resulting from any covered cause of loss shown in the property section of your insurance policy.

Ex: You have building coverage and due to a fire or other covered cause of loss, your building is under restoration. During the restoration period, you are not able to operate at full capacity, and therefore are experiencing a full or partial loss of income.

COVID-19 Business income

Can I make a claim on my business income if COVID-19 has caused me to lose all or partial sales?

The presence of covid-19 in a physical space, by itself, does not constitute direct physical loss or damage to property. Therefore the short answer is "no".

Many policies also have specific exclusions for loss or damage caused by "Virus or Bacteria", "The enforcement of any ordinance or law regulating the use of any property", "Seizure of property by any governmental authority", "acts or decisions, including the failure to act or decide, of any person, group, organization, or governmental body".

Builders Risk Coverage

What is Builders risk insurance? Builders risk insures a structure while under construction. It protects a person's or organization's insurable interest in materials, fixtures and/or equipment to be installed during the construction or renovation of a building or structure should those items sustain physical loss or damage from a covered cause.

Typically, Builders' Risk Insurance covers loss or damage due to...

- Fire.
- Lightning.
- Windstorm.
- Hail.
- Vandalism.

Builder's Risk Coverage

Common Optional Coverages:

- Materials in transit and at temporary locations.
- Back up of sewers, drains or sumps.
- Debris removal.
- Fire department service charge.
- Ordinance or Law.
- Pollution clean up.
- Scaffolding re-erection.
- Scaffolding, construction forms, etc.
- Valuable papers

Builder's Risk Coverage

Common Exclusions:

- Design
- Faulty or Defective Workmanship
- Wear and Tear

Commercial Auto Insurance

Why use commercial auto insurance instead of personal auto insurance?

- ❖ Your personal auto insurance may not cover business use.
- ❖ A commercial auto policy can offer higher liability limits, usually up to \$1,000,000 and sometimes higher.
- ❖ A commercial auto policy can include additional insured and waiver of subrogation endorsements, if required.
- ❖ A commercial auto policy can extend liability to vehicles you hire and when your employees are driving their vehicles for business purposes.

COVID-19 and insurance

- What are insurance companies doing?
 - To prevent people from losing coverage, they are waiving late fees and holding off on cancellations until a specific date. The earliest being May 9th.
 - Some are waiving hired & non-owned auto exclusions or allowing this to be added to policies that would not have otherwise been able to.

Covid-19 and insurance

It is important to know that if you have a policy that does not automatically renew. That requires a new application and or new finance plan and your current policy is going to expire on May 1st, and you do not complete a new application and do not complete a new finance plan, your coverage will end on May 1st.

Your coverage expiring on May 1st is not considered a "cancellation" and therefore is not subject to holding a cancellation. You will have a lapse in coverage until you complete the renewal application and make your premium payment. Your new policy cannot be issued without a premium payment.

Covid-19 and insurance

How can you reduce your premiums during this time?

- Talk to your agent and lower your payroll, if you have laid off employees or do not have as much work. (if your premiums are sales based)
- Lower your sales (if your premiums are sales based)
- If you have had to stop or change operations due to the covid-19, let your insurance agent know.
- Remove or reduce coverages that are not being used at this time or do not require as high of limits.

Questions and Comments

Thank you for your attendance and participation!
For additional questions please feel free to email or
call.



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