

Duties in the Event of a Claim: The Insured's Responsibilities

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An insurance policy is a contract. In exchange for the premium paid, the insurance company agrees to assume certain risks of the insured subject to the terms and conditions of the contract (policy). In order to be compensated for the losses transferred to the insurance company, the insured must abide by the conditions of the policy. One of the major conditions pertains to the insured's obligations in the event of an occurrence, offense, claim or suit.

If a claim or circumstance that could give rise to a claim is not reported in a timely manner to your insurance company, they can deny the claim. The chances of the insurance company using this as the reason for denial increases dramatically if the lack of timely reporting prejudiced their ability to resolve the matter.

Like any contract you sign, it is important to understand what your obligations are. Let's look at how the most common coverages deal with this issue.

Commercial General Liability

The most common General Liability policy is ISO CG 0001. The policy provision pertaining to duties in the event of a claim or circumstance reads as follows:



*Duties in the event of occurrence, offense, claim or suit:
You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim.*

"Occurrence" and "suit" are defined in the policy. However "offense" is not defined and neither is a "claim." When it comes to an "offense" and the requirements of reporting, the critical word is "may." This requires you to notify the insurance company "as soon as practicable" (which is undefined as well), of not only an "occurrence" or "suit" but anything that happens that MAY result in a claim. Needless to say, this is grey and not black and white.

Definitions

Occurrence: An accident, including continuous or repeated exposure to substantially the same general harmful conditions.

Suit: A civil proceeding in which damages because of “bodily injury”, “property damage” or “personal and advertising injury” to which this insurance applies are alleged. “Suit” includes an arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

Auto

Under the ISO Commercial Auto Policy (CA 0001) the insured, “in the event of accident, claim, suit or loss” is required to give the insurance company’s “authorized representative prompt notice of the “accident” or “loss”. “Prompt” is not defined.

Property

The ISO Property Policy (CP 0010) requires the insured to “give us prompt notice of the loss or damage.” Similar to the Auto policy, “prompt” is not defined.

On all of these policies, it is critical that timely notice be provided. If it is not, as mentioned above, the lack of timely notice adversely affects the insurance companies’ ability to settle or resolve the matter and they can decline coverage.

Professional Liability, Executive Risk and Other Policies Written With a Claims-Made Trigger

Notice requirements on policies written with a claims-made trigger are even more important to understand. If an insured is aware of a circumstance or claim that could give rise to a claim and it is not reported either timely nor during the course of renewal, the claim can subsequently be declined. By way of example, the side bar includes the Notice Requirements in XLDP’s Architects and Engineers Policy form.

NOTICE REQUIREMENTS

1. Notice

a. In the event of a CLAIM(S), prompt written notice shall be given by or for the INSURED to the Company and shall contain: particulars sufficient to identify the INSURED; reasonably obtainable information with respect to the time, place and circumstances thereof; and the names and addresses of available witnesses.

b. If a CLAIM(S) is made against the INSURED, the INSURED shall promptly forward to the Company every demand, notice, summons, order or other process received by the INSURED or the INSURED’s representative. This requirement continues throughout the life of the CLAIM(S).

c. If the INSURED becomes aware of a CIRCUMSTANCE(S) to which this Policy may apply and provides written notice to the Company during the POLICY PERIOD containing details of:

i. The alleged WRONGFUL ACT(S), POLLUTION CONDITIONS or NETWORK SECURITY COMPROMISE(S);

ii. The specific nature and extent of the injury or damage that has been sustained;

iii. How the INSURED first became aware of such CIRCUMSTANCE(S), then any CLAIM(S) that may subsequently be made against the INSURED arising out of such reported CIRCUMSTANCE(S) shall be deemed to have been made on the date first written notice of the CIRCUMSTANCE(S) was received by the Company. This right conferred upon the INSURED in this Paragraph shall terminate at the end of the POLICY PERIOD and shall not exist during the Automatic Extended Reporting Period or Optional Extended Reporting Period.

2. Definitions

a. CLAIM means a demand received by the INSURED for money or services and that alleges one or more of the following:

A WRONGFUL ACT arising from the performance of PROFESSIONAL SERVICES;

POLLUTION CONDITIONS arising from the performance of CONTRACTING SERVICES; or

CIRCUMSTANCE means an event or occurrence from which the INSURED reasonably expects that a CLAIM(S) could be made.

If you have any doubt as to whether or not a specific circumstance should be reported to your insurance company, you should call your broker and discuss it. In the event you elect to report it, and nothing ever comes of the matter, it will not affect your loss ratio and should not affect your renewal pricing. If after discussing it with your broker it is agreed that it does not fall within the definition of a “circumstance,” the broker can document the file thereby protecting your insurability if a claim arises out of the same set of circumstances.

Workers’ Compensation

Workers’ Compensation is very clear when it comes to claims reporting. “Your Duties if Injury Occurs” requires the insured to, “Tell us at once if injury occurs that may be covered by this policy.” “At once” is not defined, but it is certainly clearer than wording like “prompt” or “as soon as possible.”

The state of California specifically requires employers to report any injury within 5 days that requires medical treatment or results in lost time from work. However, the more quickly companies respond to workplace injuries through investigation, providing medical treatment, and reporting to the insurance company, the greater the likelihood of a quick and cost-effective claim resolution.

Final Comments

Timely reporting of claims is critically important on all lines of coverage. Whether coverage is provided on an occurrence or a claims-made basis, it is imperative that you educate anyone in your company who may be involved in claim situations of their responsibilities under the policy. Additional claims reporting information specific to each line of coverage can be found on our website, www.cavignac.com. ■

2018 Risk Management Seminar Series



Accommodating Injured Employees

Wednesday, January 10th

7:30am Registration

8:00am - 10:00am Program

Safety Update for 2018

Wednesday, February 7th

7:30am Registration

8:00am - 10:00am Program

Sexual Harassment Prevention Training

Wednesday, March 7th

7:30am Registration

8:00am - 10:00am Program

Reserve Early, Seating is Limited!

To register, click on the ‘register now’ button in the announcement email, or contact Nicole Laforteza at nlaforteza@cavignac.com or call 619-234-6848.

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Safety First: Holiday Decorations

Although decorative lights are great for getting your home ready for the holidays, they can also present a safety risk if they aren't displayed and maintained properly. Here are a few things to keep in mind to ensure that your home is safe during the holidays:

- When you're buying decorations, always check to see if the product has a label that indicates that it has been independently tested by an organization like Underwriters Laboratories.
- Inspect all lights before you use them. If you notice any damaged cords or plugs, discard those lights immediately. Also, if you need to replace any bulbs, make sure that the lights are unplugged first.
- Use a ladder made of nonconductive materials when you hang lights outside to reduce the risk of electrocution.
- Check to see if your lights were designed for indoor or outdoor use. Although most decorative lights have basic waterproofing, indoor lights can present a serious risk of electrocution or fire if they're used outside.

3 Charitable Giving Ideas for This Holiday Season

For some, the holiday season is synonymous with charitable giving and showing kindness to your friends, family and even strangers. With that season once again upon us, here are three best practices for charitable giving:

1. **Consider what charity you want to help.** Choosing a charity can be a daunting task, but it doesn't have to be. Think about what is important to you. Once you've identified the type of charity you want to help, you can use [GuideStar](#), a website that provides as much information as possible about IRS-registered charities, to find nonprofits that support the causes that are important to you. You can enter in your location as well to find charities that are close to where you live or work.
2. **Conduct a little research before you donate.** Unfortunately, despite the fact that there are numerous charitable organizations, not all of them are as reputable as they may claim. In addition to researching the charity on GuideStar, you can also look up your chosen charity on a website called [Charity Navigator](#) to see how the charity spends its money and uses donations.
3. **Consider how you want to give.** There are many ways for you to donate. Regardless of how you give or how many charities you donate to, you should keep in mind that there are processing costs associated with every donation that you make.

This article is intended for informational purposes only and is not intended to be exhaustive, nor should any discussion or opinions be construed as professional advice. Readers should contact a health professional for appropriate advice.

OLD FASHIONED BREAD PUDDING

5 slices of bread
2 Tbsp. butter
¼ tsp. cinnamon
⅓ cup brown sugar
½ cup raisins
3 large eggs
2 cups nonfat milk
¼ tsp. salt
1 tsp. pure vanilla extract

PREPARATIONS

1. Heat oven to 350 F. Spray the bottom and sides of a 9-by-9-inch pan.
2. Spread butter on one side of bread slices. Sprinkle slices with cinnamon. Cut bread into 1-inch cubes.
3. Dump bread, sugar and raisins into prepared pan.
4. Blend eggs, milk, salt and vanilla together in a bowl. Pour over bread mixture in pan.
5. Bake uncovered for one hour. Pudding will be done when a table knife inserted in the pudding comes out clean.

Makes: 6 servings

Nutritional Information (per serving)

Total Calories	230
Total Fat	7 g
Protein	8 g
Carbohydrates	36 g
Dietary Fiber	1 g
Saturated Fat	2 g
Sodium	300 mg

Source: USDA

Tips for Sticking to Your Diet During the Holidays

With so many social gatherings during this time, it can be difficult to avoid treating yourself when you're offered good food and drinks. Whether you're dieting or just trying to maintain your healthy lifestyle, fear not—you can survive the holidays and wake up on Jan. 1 without feeling remorse or guilt. Consider the following tips:

- Eat before attending a party so you don't arrive on an empty stomach and devour everything in sight.
- Pace yourself when drinking. Alcohol can be dangerous at holiday parties, as overindulgence cannot only cause embarrassment, but also pack on the pounds.
- Eat slowly. Be mindful of every chew. It takes your body 20 minutes to realize when it is full.
- Don't feel pressure to eat leftovers. If you have an abundance of leftovers after hosting a party, don't feel like you have to eat them just because you don't want them to go to waste.
- Practice self-control. For example, allow yourself one plate of food at a party, and promise yourself that you won't go back for seconds.

Think Before You Drink: Holiday Drinks



Hot Buttered Rum:
418 calories per serving



Brandy Alexander:
246 calories per serving



White Russian:
355 calories per serving



Alcoholic Eggnog:
406 calories per serving

Source: WebMD



Spotlight On



Cavignac & Associates is proud to support local and non-profit civic organizations, including SAY San Diego



MISSION

SAY San Diego's mission is to partner with youth, adults, families, and communities to reach their full potential. Their vision is opportunity, equity and well-being for all San Diegans.

WHAT THEY DO

SAY San Diego partnerships and services address the comprehensive needs of the entire individual or family rather than focusing on one symptom or problem. SAY engages the community to work collaboratively and works with systems such as law enforcement, schools, and local government to create positive change. SAY San Diego's holistic approach enriches youth, empowers individuals and families, and engages communities.

For more information, go to www.saysandiego.org