



Topics Concerning Buyers of Commercial Insurance

MSP PL -04/2011 "Extraterritorial Workers Compensation"

April, 2011

Commercial Insurance Update Newsletter

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Extraterritorial Workers Compensation

Or When Do You Need Foreign Workers Compensation Coverage

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"I believe that if a person retains their California residence and travels abroad up to 3-4 months, then the California policy would still extend coverage; but once again that is my opinion. There could be unique circumstances and evidence that overrides the extension of coverage. Because of the ambiguity, our company does not have a set defined period of time. This remains a decidedly gray area, and because of that it makes sense for employers with known foreign travelers to clearly understand their employees' travel duties/responsibilities and

Extraterritorial Workers Compensation (continued on page 2)

The world is getting smaller, and business now more than ever, is becoming global. It is not uncommon for our clients to travel to foreign countries and in some cases set up operations in those countries. They may hire local citizens in those countries or send their American employees overseas— sometimes for extended periods of time.

So, let's say that one of your key employees has an extended engagement in China. He is going to be stationed there for 6 months. Unfortunately, he gets involved in a work related accident and is seriously injured...you turn the claim in to your domestic Workers Compensation company...they begin asking questions...you begin to wonder: is my employee covered?

Most domestic Workers Compensation insurers extend coverage to covered employees for "temporary" travel outside of the United States. If an employee is injured in a foreign country and coverage applies, the employee would receive "state of hire" benefits. The problem is that "temporary" is not defined. Nor has there been any case law to help clarify just how long temporary is.

We discussed this with several Workers Compensation underwriters. The following comment is reflective of how insurance companies view this exposure:

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duration of time abroad, and consider the purchase of foreign coverage to make the issue black & white vs. gray."

Despite the fact that there is not a clear consensus, we can deduce some basic guidelines:

- **If an employee occasionally travels abroad**—a week or two at a time, even up to 3 months you should be able to rely on your domestic Workers Compensation Policy. Note that when you have an exposure it still makes sense to supplement this with a Foreign Voluntary Workers Compensation Policy. This is included in most foreign programs offered by standard carriers and is relatively inexpensive (minimums start at about \$2,500 a year). It basically fills any gaps the domestic policy may have, most obviously endemic disease and repatriation.
- An **endemic disease** is one that is particular to a country. The endemic disease coverage language of a foreign Workers Compensation endorsement establishes that coverage applies to injury or death arising out of endemic disease even if the disease is not covered under the workers compensation or occupational disease law of the designated state.
- **Repatriation expense** coverage reimburses the insured for expenses over and above normal transportation costs when it is necessary to bring an injured, sick, or deceased employee back to the United States. Some foreign Workers Compensation coverage endorsements impose a sublimit on repatriation expense coverage; the adequacy of any such sublimit should be carefully evaluated. The extra transportation costs under such circumstances can be enormous.
- **If an employee is going to locate overseas for more than 3 months** you should specifically schedule them on the foreign policy. They will be charged a rate just like they would under the domestic policy (albeit higher) and they will receive state of hire benefits.



Risk Management Seminars

2011 Series

450 B Tower, 450 B Street, Suite 1800, San Diego, CA 92101-8005

- **New Estate Tax Law Seminar**
Tuesday, May 3, 2011 — 7:30-10:00 a.m.
- **HR 101: What You Really Need to Know**
Friday, May 13, 2011 — 7:30-10:00 a.m.
- **Sexual Harassment Prevention Training**
Friday, June 4, 2011 — 7:30-10:00 a.m.
- **Workplace Violence Prevention**
Friday, June 10, 2011 — 7:30-10:00 a.m.

All training sessions available to our clients
Reserve early / seating is limited! *

For more information about upcoming seminars
Contact **Darcee Nichols** at dnichols@cavignac.com
or **619-744-0596**

* **NOTE:** Due to the popularity of our seminars and limited seating, we regret we cannot provide refunds or credits with less than 72 hours advance notice of cancellation.

If your company is going to establish a foreign corporation with foreign employees working in that country you will in all likelihood be covered by that country's compulsory insurance program, but you should verify this as each country is different.

In simple terms, if you have employees traveling overseas you should buy Foreign Workers Compensation Insurance. The coverage is relatively inexpensive, and spending small dollars to protect

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against potentially big losses makes good risk management sense.

Conclusion: Many countries have strict insurance laws as it pertains to liability, property and workers compensation. While the focus of this article is Workers Compensation, it is important to bear in mind

that if you have exposure in a foreign country, all of your exposures should be carefully evaluated and understood. Where appropriate, local legal counsel (or domestic counsel familiar with the country in question) should be engaged, and a foreign insurance program should be implemented. The expertise of an insurance broker familiar with constructing a foreign insurance portfolio should not be underestimated. ✨

Disclaimer: This article is written from an insurance perspective and is meant to be used for informational purposes only. It is not the intent of this article to provide legal advice, or advice for any specific fact, situation or circumstance. Contact legal counsel for specific advice.

99 Strategies for Avoiding Employee Lawsuits Strategies 14 — 19 Wage and Hour Regulations

By Don Phin, Esq., President/CEO of
Employer Advisors Network, Inc.

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Introduction

"Don't fall prey to disloyal employees, greedy lawyers and power hungry bureaucrats."

Gary Halbert

This special report is born of experience—the collective experience of lawyers, business owners, human resource executives, employees, insurers and agencies.

As many clients have learned, some compliance lessons come harder than others. Our risk management approach is focused on mastering today's most critical risks using front-end strategies and tools. The following strategies have proven to save tons of wasted time, money and unnecessary drama for a wide range of clientele.

Documents in bold are part of the HR That Works series of online compliance and management tools. If you are not yet a member... you should be!

Refer to this report frequently. If you check off one or two ideas a week, by the end of the year, your company's risk exposure will be significantly reduced and its profitability proportionately enhanced. If you run into a problem or simply want to ask a question, don't hesitate to email or give us a call.

The information in these articles have been accumulated from years of legal and management experience. As with any publication, the contents are not to be considered as legal advice. Should you have

a legal question, please do not hesitate to contact our office or the attorneys at www.worklaw.com. If we can't help you, we'll find somebody who will.

As stated at the outset, this booklet was derived from materials, published as part of the HR That Works library of compliance and management materials. You can learn more about HR That Works and our services by going to our Web site or by giving us a call.

For additional information please contact us at (800) 234-3304 or email don@hrthatworks.com.

Comply with Wage and Hour Regulations

"There are billions in uncollected wage and hour obligations. Expect this to be a fertile area for claims."

— Don Phin, Esq.

- All exempt employees should meet the requirements of the Fair Labor Standards Act and various state regulations. Be particularly careful to avoid exempt status misclassifications when it comes to managerial and administrative employees.
- Be careful not to destroy the exempt status when docking pay. As a general rule, an exempt employee must be paid for the entire week they worked, if they worked any portion of that week.
- Have a clearly written vacation policy. Note that many states define vacation as an "accrued benefit," which means it may not be forfeited if unused. Consider placing a "cap" on its accumulation.
- Consider using Paid Time Off (PTO) in lieu of vacation and sick pay policies. Sick-pay policies are abused 74% of the time according to a major study. Don't reward what you don't want to reinforce.
- Require pre-authorization for working overtime. Use the Overtime Authorization form and analyze overtime usage on a quarterly basis. ✨



Articles courtesy of Cavignac & Associates Employee Benefits Department

LIVE WELL, WORK WELL

Alcohol Awareness Month

April is Alcohol Awareness Month, and although talking with your kids about the dangers of drugs and alcohol can be very difficult, there are strategies that can help.

Following the five suggestions below can help you develop regular communication with your children, if you haven't already. Talking with them about their day-to-day lives will make it much easier to bring up the harder topics, such as drugs and alcohol, when the time is right.



Listen. Make eye contact with your child, and let them know you're paying attention. If it's the end of a long day and you need time to relax, say so. Explain that you need a few minutes to unwind, and

then you'll be ready to give your full attention.

Do activities together. Do chores together and talk while you're working. Or, run to the grocery store together—car rides can be a great time to spark up conversation.

Set up regular family meetings. Use this time to let every member of your family discuss what's on their mind.

Role-play with your child and teach them how to say no. Simulate a situation where a friend is pressuring your child into drinking or smoking. Explain how to think through a situation like this and emphasize the potential consequences of their choices.

Support your child in everything they do. Regularly encouraging and supporting your child in school, sports and extracurricular activities shows them that you support them should peer pressure come into play. ✨

Donate Life

April is National Donate Life Month. With over 110,000 people on the national organ transplant waiting list, there's no better time to become an organ and tissue donor. One donor can save up to eight lives.

How to become a donor:

- Register with your state donor registry at your state's Department of Transportation Website.
- Designate that you are an organ donor on your driver's license. You can do this when you obtain or renew your license.
- Download a donor card at organdonor.gov to fill out and carry with you until you can designate your donation decision on your driver's license or join a donor registry.
- Talk to your family about your donation decision. Help them understand your wish to be an organ and tissue donor before a crisis occurs. ✨

Community Bulletin Board

"Neighbors helping neighbors in San Diego"



Monarch Schools

✧ Web Site



Senior Community Centers

Mission:

To provide quality and compassionate services for the survival, health and independence of seniors living in poverty

✧ Web Site



✧ Web Site



The San Diego Police Foundation supports the men and women who "protect and serve" by raising community awareness of important

unbudgeted or "discretionary" needs that will improve crime-prevention and law enforcement efficiency. The Foundation puts your tax-deductible contributions to measurable work in local communities.

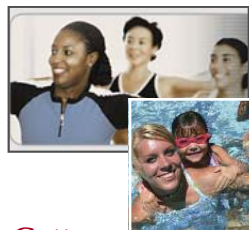
✧ Web site

✧ For more information, contact info@sdpolicefoundation.org



✧ Web Site

✧ Questions? Contact **Alicia Gettys** by phone at **619-232-7451** or e-mail agettys@ymca.org



✧ Web Site

✧ Questions? E-mail info@SDArchitecture.org



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The Society for Design Administration advances management and administrative professionals in the A/E/C industry through education, networking and resources.

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