

Johnstone Trial Law, LLC

Know Your Business Insurance Policies

Many of us are familiar with our personal insurance policies. We have automobile insurance, homeowner's insurance, life insurance, disability insurance, and health insurance. In the insurance industry, these are called personal lines. However, few of us are familiar with the more complicated world of business insurance policies that the insurance people call commercial lines. Here is a quick commercial lines primer for businesses and attorneys that represent them. However, please note that this list cannot substitute for a knowledgeable insurance commercial lines broker. This document also provides some very important information about claims reporting so that in the event you do have a claim, you or your client will be covered.

Directors and Officer Policies

This type of policy protects the members of the board of directors and sometimes the company from claims made against the company alleging "wrongful acts" by the company or its directors. These claims can include shareholder suits, breach of fiduciary duty claims and other business suits.

Commercial Property Policies

Like the property part of your homeowner's policy, a commercial property policy covers damage to commercial property in the event of an accidental event that damages the property. Fires, storm damage, plumbing and machinery failures, and lightning strikes are some examples of the types of perils that are covered.

Commercial General Liability Policies

Commercial General Liability Policies provide coverage for claims by third parties against the company. Generally, these claims are claims for personal injury or property damage caused by some "accidental" act by the company, including negligence. However, CGL policies also include coverage for advertising injury which protects against suits for libel, slander, invasion of privacy, copyright infringement, and misappropriation of advertising ideas that arise out from the company's advertising. These policies generally do not cover defective work by a company.

Commercial Auto Policies

Similar to a personal auto policy, these policies provide liability and property damage protection to the vehicles owned by a company. They also contain uninsured and underinsured motorist protection in the event that a person insured by the policy is injured in an accident where there is either no liability insurance coverage or insufficient liability coverage.

Errors and Omissions Policies

Errors and Omissions policies cover claims that a service provider, such as a real estate agent, has committed a breach of the proper standard of care that has damaged another person. A professional liability policy or malpractice policy is a type of E & O policy that applies to certain professionals including doctors, lawyers, accountants, and pharmacists.

Worker's Compensation Policies

A worker's compensation policy covers on the job injuries by employees and provides benefits for the payment of medical expenses and lost wages in the event an employee is injured on the job.

Aviation Policies

These policies cover a host of risks relating to planes and helicopters owned by a company.

Employment Policies

These policies provide protection to companies from suits by employees alleging improper employment practices including discrimination on the basis of race or gender.

Fiduciary Policies

Fiduciary policies provide protection in connection with an employee benefit protection program. For example, such a policy potentially would cover an ERISA suit alleging that a company or its employee breached its fiduciary obligations in connection with the investing of employee pension funds.

Health Insurance Policies

These policies are usually part of a benefit package and provide health insurance to employees. However, individual health insurance policies are available through the health insurance marketplace or as short term policies. Short term policies exclude coverage for pre-existing conditions and can often provide only illusory coverage.

Short Term Disability Policies

These types of policies provide temporary wage replacement for employees who become disabled while covered by the policy.

Long Term Disability Policies

These policies typically take over where the short term disability policy leaves off and provide wage replacement for a much longer period of time than a short term policy. They do not take effect until any short term policy has been exhausted.

Title Insurance Policies

Title Insurance Policies protect the buyers and sellers of land for title problems that come up during the title process, such as undisclosed liens.

A Word About Claims Reporting

You or your client should report any potential claim as soon as possible to avoid any possibility that a claim will not be covered due to a lack of notice. In the liability context a claim does not have to be a lawsuit but can include a written or oral demand for money or for the taking or not taking of some action, for example, a cease and desist letter.

Policies, in general, contain two types of claims triggers. The first is an “occurrence” based policy. An occurrence based policy will provide that a claim must be reported “as soon as practicable” after a given occurrence, for instance storm damage. This notice requirement is a condition of coverage and if the claim is reported too late, the insurer may attempt to deny coverage. The other type of trigger is a “claims made” policy, which provides that a claim must be reported to the company within the same policy period in which it arose or sometimes within 60 or 90 days of the end of that period depending on the wording of the policy. If you do nothing else, become familiar with the claims reporting requirements of each policy that you or your clients have and keep a cheat sheet. Your insurance broker can help you put this together, but ask to see the wording in each policy yourself.

A Word About Choosing a Broker

You generally should look for a person or company that holds himself or herself out as a broker or independent agent. This means that they work for you and not for any one insurance company. You also want to make sure that you find a company or agent that specializes in commercial lines. Since these coverages differ greatly from personal lines, you should not assume that your neighborhood insurance agent is qualified. Finally, it is also helpful to deal with a broker that has insurance industry designations such as CPCU (Certified Property Casualty Underwriter) and CIC (Certified Insurance Counselor). These designations demonstrate that the broker has complete an extensive curriculum that includes commercial coverage. Finally, make sure that your broker has

read any policy that they propose to sell you and that they are actually reviewing your applications and asking you, at least annually, about whether you have an unreported claims.

Inge Johnstone, The Insurance Trial Lawyer

I enjoy helping individual and business policyholders in insurance matters. I have represented individuals in cases involving homeowner's policies, renters policies, life insurance policies, health insurance policies, long term disability policies, and accidental death and dismemberment policies. I have represented companies in cases involving commercial property, commercial general liability, directors & officers liability, boiler & machinery, errors & omissions, and worker's compensation. .Please let me know if there is any way that I can help you.

My drive to represent people in this area likely comes from my granddad, who lost his business after a fire. He was my hero and I don't want other policyholders to have to go through the same thing.

Contact Johnstone Trial Law, LLC for your free case evaluation today at 205-894-8900.