

# When Liability Risk Gets Personal: Protecting Yourself In *And* Out Of The Office

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*A work colleague, also a friend, asks you to review the Contract of Sale on a condo he is purchasing. Because of your role as in-house counsel, your colleague trusts your legal opinion over someone he would hire independently. You review the contract quickly and give a "looks good to me" opinion; your colleague proceeds with his purchase.*

*Later, your colleague sues you for improper counsel. He was hit with a "surprise" fee that was embedded in the contract and contends that you are at fault for not alerting him to its financial impact.*

In the wake of highly publicized corporate scandals, courts, legislators and regulators alike are imposing more rigorous standards by which corporate counsels are judged. As a result, many attorneys face an increased risk of personally being named in a civil, administrative or criminal proceeding. Claims can originate from regulators and agencies; licensing actions by state bar associations; legal services provided to employers; and more.

While you may be mindful of personal liability exposures stemming from your day job, it's easy to overlook potential threats that loom outside of that scope. Scenarios like the one described above are not uncommon. In addition, accidents resulting in personal injury happen every day; it only takes one to put personal assets at risk. For example:

*A teen driving to school struck a cyclist, an executive with an annual income of \$2 million. The cyclist sustained a head injury, punctured lung and internal bleeding. He sued for medical bills and loss of his executive income. A settlement ultimately was reached for \$3 million.*

Many assume that their homeowners, automobile or boat insurance policies will provide adequate liability protection should they need it. However, each of these policies typically has a maximum claim pay-out of between \$300,000 and \$500,000. If the judgment exceeds your coverage limits, you can be on the hook for the remainder. Educating yourself on personal liability risks – and the solutions available in the marketplace – can help you secure your personal assets in the event of an unfortunate incident.

## Know The Players

Generally there's a vast difference in quality and service between mass-market and luxury goods. The same is true for insurance, yet one doesn't need to be

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a billionaire to benefit from a specialized program.

There are three key players that specialize in property and casualty insurance for the successful person: AIG Private Client Group; Chubb; and Fireman's Fund (Allianz AG). Other options can be found in the Lloyd's of London markets, one of which is Hiscox PLC. Most U.S. consumers, however, buy insurance from mass-market carriers. The agents who represent these carriers are not in a position to offer the breadth of coverage, high limits or pre/post-event service of a specialist provider. Further, agents who represent one carrier only are not in a position to discuss solutions they themselves cannot offer.

Consult with an independent insurance agent or broker who specializes in this niche. These professionals can customize an insurance program that fully protects your assets.

In addition, you may have access to liability coverage through a group plan offered by your employer. More companies are looking for ways to protect their executives and other valued employees. Group Personal Excess Liability typically provides the same coverage features as an individual personal excess liability policy you would purchase on your own. However, since the coverage is purchased on a group basis, companies and organizations can offer employees and members an enticing benefit option at group discounted pricing.

## What To Look For

Insurers who cater to successful individuals can offer up to \$100 million in liability coverage on a single policy to safeguard against claims of property damage and personal injury. Some carriers also facilitate background checks on domestic staff to further enhance protection.

When entering into a discussion about personal excess liability insurance, there are three key considerations:

### Coverage Breadth

Make sure the policy provides broad, worldwide protection. One desirable example is "drop down" coverage. If a particular coverage feature on the excess policy is excluded from the primary policy, the excess limits can "drop down" to cover the loss. This feature helps elimi-

nate potential gaps in insurance protection. In addition, be sure to confirm that personal injury is covered as many carriers restrict this important coverage feature.

### Legal Representation

Many insurance providers typically assign a lawyer to defend a liability lawsuit; the policyholder is left out of the process entirely. Look for a provider that allows you to weigh in on the choice of legal representation. Equally important, of course, is to ensure that the pool of attorneys is a reputable one.

### Defense Costs

Some insurance providers include defense costs within the policy limits, which can quickly deplete coverage. Be sure that defense costs are covered *outside* of the limits, so legal fees won't erode protection.

## Frequently Overlooked Exposures

You may not realize liability exposures can exist on the home front, too. Your lifestyles may open the door to less common liability exposures.

### Private Staff

Many households include private staff to help with tasks such as dependent care, cleaning, driving and more. Unfortunately, it's not uncommon for nannies, housekeepers, private assistants, gardeners and others to take their employers to court citing claims of wrongful termination.

Employment Practices Liability Insurance (EPLI) can help protect against allegations of employment-related offenses such as sexual harassment, wrongful termination and discrim-

ination. Often this coverage can be added onto a personal excess liability policy. Employing more than five private staff members may require the purchase of a distinct EPLI policy.

### Not-for-Profit Board Participation

You may sit on the boards of not-for-profit organizations. While the work may be rewarding on a personal level, board participation can come with substantial risk. Not-for-profit organizations typically operate on tight budgets; many carry the minimal amount of liability insurance required to satisfy statutory requirements. If the organization is sued, board members could be named individually and be forced to pay settlements out of pocket.

Remember that organizations other than charities fall under the "not-for-profit" umbrella. For example:

*The board of a residential cooperative building was sued by an applicant who was denied approval to purchase a unit. The applicant claimed the board discriminated against him based on his sexual orientation. The applicant later added a defamation count to the lawsuit.*

Personal property and liability insurance are vehicles to protect both physical and financial assets from a myriad of risk exposures that you may face. An annual review of placed insurance can help identify changes in exposure and gaps in coverage. The review should be administered by a trusted insurance advisor who can identify when one's needs have outgrown the capabilities of the current carrier, and then deliver more meaningful solutions.

## Real-life Examples

All of the following incidents led to personal liability lawsuits:

- An errant golf ball struck a pedestrian, causing severe injuries.
- An interior decorator fell through a rotted board on a guest house porch and fractured her ankle.
- A New Year's Eve party guest was severely injured while dancing.
- A delivery man tripped and fell over a dog resting on the steps.
- An individual was accused of making slanderous remarks in a speech during a political campaign.
- A defamation suit was filed against someone who forwarded an e-mail containing disparaging comments about the plaintiff.
- A former domestic employee sued over allegations of discrimination and wrongful termination.
- The host of a private house party was sued for negligence after a guest sexually assaulted another attendee.
- A farm animal escaped from one's property, wandered into the road and caused a fatal car accident.
- A large tree branch fell onto a neighbor's greenhouse, causing extensive damage.
- The drainage system from a swimming pool caused flooding and water damage to a neighbor's property.
- As a result of remodeling a penthouse balcony, rainwater entered the building and damaged neighboring units.
- The playmate of a homeowner's daughter allegedly struck a domestic employee who was babysitting the children.
- An ex sued with an allegation of wrongful eviction after ending a relationship with a domestic partner who forced the individual to move out of the home.

### Dog bites

- Fido escaped from a closed bedroom and bit a party guest.
- Rover bit a contractor working on his owner's property.
- During her daily walk, Fluffy bit a passing skateboarder.

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