

Welcome to the first edition of M&A Risk Report, our semi-annual commercial insurance newsletter. Our aim is to educate and enlighten you with tips, tactics and wisdom we have learned in our 90 years of providing commercial insurance cover and service to Canadian businesses.

Preventing Slips, Trips and Falls

When people fall down, your rates go up!

Is your business accident-proof? Each year an average of 1 million injuries are caused by slips and falls. In fact, it's second only to auto accidents when it comes to personal injury suits—and something we see a great deal of these days. Some of these claims are staged by unscrupulous patrons; others are a result of poor housekeeping and maintenance. Whether fraudulent or real, chances are that if one occurs on your premises, you will get sued.

Even though you may be covered through your commercial liability policies, your insurance rates and overall insurability will be negatively impacted. Now is the time to take steps to prevent these claims and also vigorously defend against such lawsuits if and when they arise.

Step One: Identify and Eliminate Hazards

Create a supervised system to promptly remove exposures caused by:

- Puddles of water on the floor
- Cracked curbs or sidewalks
- Loose hand railings or broken tables

But what can be done to defend against a fraudster who spills some water on purpose and then stages a slip or fall? Let's look at this in more detail:

Typical Scenario: A customer walks up to you and advises that he/she slipped on a puddle of water in the washroom and feels a little sore. The customer leaves. About 20-22 months later, you receive a writ in the mail. Low and behold, that same customer is asking for \$25,000 to cover his/her

medical expenses and pain & suffering. (The customer has 2 years to put you on notice). You notify your insurance company and leave them to do their thing.

Be forewarned: Your insurance company now has the power. They—not you—will choose between two options of how to proceed;

- a. Settle the claim via negotiation (avoiding expensive court proceedings)
- b. Fight the lawsuit.

Should you go to court, be prepared. Your business will be under the microscope to determine culpability. You could be found legally liable for damages caused because you failed to keep your premises safe. There is, however, something you can do to protect yourself against such liability:

Step 2: Bolster your Defense Against Slip & Fall Litigation

Keep updated records, including:

- Sweep and mop logs
- Records of repairs and maintenance
- Data/paper trail to convince the judge you keep a clean shop

Liability issues all revolve around negligent acts or omissions of one party causing loss to another party. If you, the business owner, can demonstrate to the court that reasonable steps were taken to keep the premises safe, it is likely the court action will fail. And if you are wary of this very real risk... and begin to take smart preventative steps as described above, you will keep your slips to a minimum, your court defenses watertight—and your premiums down.

Did you Know? In the US alone, \$3 billion dollars are paid annually for slip & fall claims. Every year, hundreds of fraudulent claims in the US and Canada go unseen, resulting in huge settlements.





Defending your Drive-through

How to Keep Your Loss Ratios Low When Crashes Happen

In 2008, a Wichita boy was run over in a McDonald's drive-through. The family sued the franchise owner for wrongful death claiming the restaurant's design created a blind spot, making it impossible for drivers and pedestrians to see each other.

Do you offer your customers "Drive Through" Service? If you do, it should come as no surprise that vehicle impact claims are becoming a serious issue for insurers and insureds alike. Damages caused by collisions on site can be significant, including damage to expensive electronic LCD signs.

Help your insurer go after damages:

Be aware that while your insurer pays for the damage, they will try to recoup some or all of the claim payout by subrogating against (or "going after") the guilty driver. After all, the driver (or his/her insurer) is liable for damages caused. As the owner of the damaged drive-through location, you can and should assist your insurer in this subrogation process. After all, the less your insurance company pays out on your behalf, the better.

Here are four ways you can keep the guilty driver accountable:

- 1) Record the time, date and circumstances
- 2) Obtain driver info. Including, name, address, driver's license number, plate number, make & model of the car, insurance company name and policy number.
- 3) Save all surveillance photos or videos and back them up onto a CD.
- 4) Obtain the names and telephone numbers of any witnesses.

With your assistance, your insurance company will be better able to get some of the claim payout back. Remember that your commercial insurance policy rate is set based on your loss ratio: how much premium was paid by you, versus how much was paid out for claims. Therefore, the lower the claims payout, the better your prospects are for stable insurance rates going forward.

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