

JULY 2016

PUBLIC LIABILITY INSURANCE



Where does the Risk lie and Who's risk is it???

Public liability Insurance, (*like most insurance covers*), is one of those nebulous, grudge purchases that lies in a drawer or filing cabinet or safe, and gathers dust: It gets reviewed from time to time, arguably when the premiums are due for increase on the anniversary dates.

Secure in the knowledge that "Insurance" is in place, we get on with the business of doing business, until the proverbial "unthinkable" happens and in spite of all efforts to fix or repair or mediate, you are compelled to reach for the keys to the drawer or the filing cabinet or safe, and then find the number of the call centre or broker that has the elixir.

It is at this juncture that inevitably some doubt begins to emerge, and because of the varied and wide diversity of the nature of our industry, you begin to wonder about the fine print, also, acronyms like CPA, (*consumer-protection-act*) and words like "Rights", "Liability", "Risk", "Cover", "Common-Law", "Authorities" and "Prosecution", start to take on a persuasion proportional to the size of the "unthinkable" that now resides in your mind-set.

The marketing ad, that you saw on television or caught your eye in the media, becomes prevalent, and subconsciously there is a search for an alignment to; sleeping peacefully, being secure and covered, a car-fire, and burning factories, floods, and fender-benders; and the increasing pressure and growing momentum of the "unthinkable", that has just landed squarely in your lap.

The fine-print is a blur, and in spite of repetitive scans, there is no keyword like "Fumigation" or "Chemical" or "Hospitalization", or "Compensation", that jumps out and rescues you, and there is a slow dawning that you may be fighting an additional battle to which you have placed your signature, in acceptance of the Terms and Conditions, and contributed financially to, over some time.

Risk exposure begins to take on a whole new dimension, and suddenly; Sole Propriety, Company-CC, Partners, Board-members, and Shareholders, become, respectively part of the melee.

If you are in the position that you; "*so wished I'd spent more time with my broker, understanding the cover and limitations*", then it's arguably: "*faite-accomplis*".

And so to the gist of this rambling:

- Insurance is critical, and the correctness of the cover even more so.
- There is a significant difference between General insurance (all-risks) and Public Liability insurance.
- There are components within Public Liability insurance that need clarification, and are sometimes unique to the Industry activity:
 - Specialisations such as Fumigation, Crop-spraying and the like, must be discussed and understood and documented.
 - Indemnity should be a consideration if specialist advice is a forte'
- Separation of cover is important within the same policy:
 - On-site, Off-site, Product application.
 - * Product manufacturers will have warranties and guarantees and liability cover for their products.
 - Our consideration is for the application and management of the usage of these products, and in the public space.
 - Workmanship
 - Transport etc.
- Insurance in the main covers negligence (Neglect) as an oversight and unintended consequence.
 - There are degrees of negligence, each with its own ramification.
 - * **Neglect** as an oversight and unintended.
 - **Ordinary negligence** means the responsible party has shown a lack of ordinary diligence;
 - * **Gross negligence** means the responsible party has shown a lack of even slight diligence.

The standing of Qualification and Registration places an additional responsibility to the public.

Under test for "*Reasonableness*" and as a Qualified and Registered authority; the information and execution of actions is at a greater responsibility level than that of the general public and by way of extrapolation, and, in relation to Public Liability Insurance, demands that we ensure that diligence is applied when securing that *peaceful sleep* and *security* of cover, as touted in our opening introduction.

Perhaps it's time to reach for the drawer and re-look at that ("possibly dusty") file ?

In good faith

Colin Jardine