

Protect Your Company from Nuisance Lawsuits

A March 2007 study from the Pacific Research Institute titled *Jackpot Justice: The True Cost of America's Tort System*, stated that lawsuits in the U.S. cost the American Public an estimated \$865 billion dollars per year. Much of this litigation was needless or stemmed from nuisance lawsuits which could have been largely avoided. In these litigious times, business owners need to sit down and analyze their risk exposure.

Here are 6 proactive steps that every business owner can implement to reduce their liability resulting from nuisance lawsuits:

- **Form an asset protection plan** by designing a list of all the potential assets you stand to lose from a lawsuit. Take a hard look at your current insurance coverage. Make a point to sit down with both your insurance agent and lawyer to limit your exposure from both an insurance and legal perspective.
- **Separate your personal assets from business assets** by setting up a C or S corporation or else consider a Limited Liability partnership or even a Limited Liability company. Although this action does nothing to limit lawsuits, you may be able to remove your personal assets from a lawsuit settlement. Consider setting up a qualified retirement plan as federal laws offer protection from creditors for such accounts. However, remember that some states may not include IRA's so seek qualified advice.
- **Purchase the right liability insurance for your business** as this can be the best investment you can make. Seriously consider buying excess or umbrella coverage as you can easily get additional \$1,000,000 coverage for a very cheap rate. Today, almost every business which has employees should seriously consider **Employment Practices Liability Coverage (EPL)** This form of insurance covers current employees, past employees, potential employees, customers or clients from employment related civil actions of discrimination such as gender, age, race or disability, sexual harassment litigation, wrongful dismissal actions, breach of contract, retaliation and other claims brought against your company. Due to the significant rise in such claims, this relatively new insurance coverage has taken on significant importance for companies of any size in recent years.
- **Form your own risk management plan** to eliminate unnecessary risk in your workplace. Be proactive in the house cleaning for your company and eliminate hazards by performing repairs or maintenance as they arise. Instill strict and enforceable policies to protect the safety of workers and the public from harmful situations that can quickly translate into a needless lawsuit.
- **Specify your policies** to clarify everything and anything that could result in a lawsuit. An employee handbook should be issued to all staff. Have them read the handbook before they start work and sign an appropriate form stating they have read and understood the material. Ensure any policies directed to your customers or general public are clearly visible and explicit. Incorporate your customer policies in all your promotional material. Don't trip yourself up by making promises which can't be kept. Train all your staff so they clearly understand any policies which apply to customers or other relevant third parties.
- **Consider taping phone conversations** so you have a record of what your caller is inquiring or complaining about. This also provides you with a record of how staff are responding or stating to the caller. Remember that if you decide to take this approach, you must initiate the call with a notice that the call is being recorded. Clear this with your legal advisor first.

These are but a few simple steps that any company can take to reduce their liability exposure from a host of costly yet nuisance lawsuits.