

# SPECIAL REPORT

## 100 INSURANCE MYTHS

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### PROPERTY INSURANCE LOSSES

**1. *100% coinsurance is better than 80% or 90% coinsurance.***

Actually, the reverse is true. In the event you must have a coinsurance clause, 80% coinsurance is better because in that case you have only promised to insure 80% of the replacement cost of your building (or personal property as the case may be) which gives you more leeway than if you had promised to insure 100%. Under coinsurance clauses, which are present on most property insurance policies, you are penalized in a loss adjustment if you have not insured the values that you promised to insure. If you promised to insure 100% and insured only 50%, you receive 50% less than your actual loss. You should avoid coinsurance provisions through negotiation of agreed value endorsements.

**2. *Replacement cost means new.***

Actually, replacement cost means comparable material and quality, which means that the insurance company can replace the personal property item with something that is used if available and comparable.

**3. *Actual loss sustained under business interruption is good.***

Actually, actual loss sustained is not preferred. Under the actual loss sustained business interruption form you are covered for your actual losses without a limit up to the period of time it takes you to rebuild the building with due diligence. If it takes you six months to rebuild the

building with due diligence you will be covered for up to six months of your losses.

Although this appears to be attractive because there is no limit, it is limited to only 12 months maximum reconstruction time. Reconstruction time could extend well beyond 12 months and even after reconstruction is completed. After reconstruction is completed, your losses could continue because you may have lost customers during reconstruction and it may take you several years to recover those customers. The actual loss sustained form should be avoided, and instead you should have a specific limit which will cover you without any 12-month limitation as long as you are using due diligence to repair or replace the building.

Furthermore, you should have an extended recovery period endorsement which will extend recovery after reconstruction is completed by an additional period of time, preferably at least one year. Under the better forms it would be unlimited until the policy limit is depleted. Be careful in establishing a limit. Remember that coverage extends beyond 12 months and your limit should reflect this.

**4. *Business interruption will cover the period of time it takes to rebuild.***

This is not necessarily true. Insurance companies cover the period of time it takes to rebuild with due diligence; however, there is no coverage for any excessive delays, there is no coverage for delays as a result of zoning ordinances, and there may not be coverage if you are able to relocate without rebuilding. Furthermore, as we indicated, if the time to rebuild exceeds 12 months and you have an actual loss sustained policy, coverage is provided only for 12 months. Also, your business interruption may continue well beyond the period of time it takes to rebuild or relocate and business interruption insurance will only cover the period of time it takes to rebuild or relocate. An extension is required to cover loss of sales after the rebuilding period is completed.

**5. *Since I do not have steam boilers, I do not need boiler and machinery coverage.***

While it is true that you only are mandated to have boiler and machinery coverage if you have a steam boiler (because otherwise there is no coverage for explosion that takes down the building), the modern boiler and machinery policy (also known as equipment breakdown insurance) will cover many other mechanical breakdown risks, such as electrical arcing within your electrical panels, breakdown of compressors, transformers, mechanical systems, and machinery including computers. Power surges can also wreak havoc with equipment and equipment breakdown insurance is needed to cover this.

**6. *I don't need to insure personal property owned by others – they have their own insurance.***

While it is true that the owner of personal property in your custody may have some insurance, that insurance will not protect you and, in fact, that insurance company will sue to recover its losses cause by your negligence. If you have personal property of others in your possession, your insurance policy typically will automatically cover only a very small amount. Coverage needs to be specifically identified under the policy and a limit needs to be negotiated.

**7. *I don't need to insure my personal property that may be located at another company's location because they have insurance.***

That company may be only liable for their negligence to your property and not for other losses that may damage the property. You need to have personal property coverage on your policy covering other locations.

**8. *Power failure that interrupts my business will always be covered under business interruption coverage.***

This is not true because power failure must be as a result of a covered cause of loss that occurs on your premises and if you have off premises power failure coverage, there has to be a covered cause of loss to the utility company property off premises, such as a power

substation or transformer. During the recent major blackout on the East Coast, including Michigan, insurance companies have not provided coverage because there has not been established a covered cause of loss, such as a fire, to a utility substation.

**9. *Valuable papers coverage extends to storage sites.***

This is not correct. When you have valuable papers coverage which protects you for the reconstruction of valuable documents up to a specified limit, it covers only on premises losses and off premises coverage is only provided with a low limit. Off premises storage should be scheduled on your policy for valuable papers.

**10. *Computers are personal property and additional computer coverage is not necessary.***

While it is true that computers are personal property, the standard personal property coverage form will not provide insurance for power surges or loss of media. A specialized form is necessary to cover those perils as well as business interruption.

**11. *The debris removal expense limit under my policy is in addition to the limit provided for building insurance.***

This is incorrect. In the event there is a loss to your building, the insurance company will pay for the removal of the debris; however, that expense is within your policy limit except for a small add-on of typically \$5,000. Always factor in debris removal expense in the limits you insure. As a rule of thumb, increasing the replacement cost value of your building by 25% is a good idea.

**12. *The lower deductible the better on property insurance.***

Actually, the highest deductible is better. If you turn in small claims, the insurance company will end up charging you for those claims by way of higher rates in the future or may cancel you. The property insurance policy is not a maintenance policy; it is a policy to cover catastrophic losses. It is better to take a lower premium because of a higher deductible and to self-insure smaller maintenance losses. Certainly any deductible less than \$1,000 is not appropriate and in today's hard

insurance market, a deductible of \$10,000 to \$50,000 should be considered.

**13. *Fire coverage includes damage to money.***

This is a fallacy. The basic insurance policy has very low limits on fire damage or other theft of money. A money and securities policy is necessary.

**14. *If I have a blanket limit I don't have to worry about individual limits on my policy.***

This is generally not true because the insurance company will require that you sign a statement of values form indicating that the individual values used to determine the blanket limit are correct. If you deliberately underestimate individual values in order to achieve a blanket limit and to reduce your insurance costs, the insurance company can charge you with fraud and this will negate the blanket limit. Furthermore, some property policies may look like they have blanket limits but they actually provide only an increase of, let's say, 15% over the individual limits indicated on the schedule of values.

**15. *Computer viruses are covered.***

Many insurance policies today are excluding or limiting computer virus coverage.

**16. *In the event of a power surge destroying my telephone system, I will be covered for the replacement of that system.***

This is not necessarily true. Under the replacement cost endorsement, the insurance company will replace the telephone system with like kind and quality; however, that system may not be available. If you cannot replace it with like kind and quality, the insurance company will take depreciation. This could be a small amount of money on an old phone system. Where possible, coverage should be on a functional replacement cost basis which will allow you to replace with something that is different but that performs the same function.

**17. *Electrical arcing within my electrical panels is covered under the basic property insurance form.***

No. In the event you have electrical arcing within electrical panels that requires those panels to be replaced, there is no coverage unless you have equipment breakdown insurance.

**18. *Fire damage to lawns and shrubs, including damage done by fire-fighting apparatus, is covered.***

This is not true. Fire damage to lawns, shrubs, trees and other similar items is very limited under most insurance policies.

**19. *I need not worry about damage to underground pipes or flues.***

Actually, damage to underground pipes and flues by fire and by other hazards can be considerable and is typically not covered.

**20. *Fences on my property are automatically covered.***

This is untrue. You have to specifically add coverage for fences to insurance policies. Also, there is a difference between fences and retaining walls. Even with specific fence coverage, retaining walls are not covered.

**21. *Communication towers on my premises are automatically covered.***

No coverage is typically provided and these need to be added separately to be insured.

**22. *Signs are covered automatically.***

Signs attached to the building are typically covered for \$1,000. Unattached signs need to be specifically insured.

**23. Spoilage of food in my store or manufacturing plant is always covered.**

This is incorrect. Spoilage of food as a result of change in temperature needs to be specifically insured, and even then not every spoilage is covered.

**24. If my building was occupied when the policy was written, and is now vacant, I have no coverage limitations.**

This is untrue. The standard insurance policy severely limits coverage after 60 days of consecutive vacancy. Vacancy is defined under most policies as more than 30% vacant. If this occurs after 60 days there is no coverage for vandalism, bursting of water pipes, theft and other perils. Even covered perils, such as fire, have a reduced recovery of 15%.

**25. Expense to prove my loss is covered.**

This is not true. Expense to prove your loss is generally not covered except some insurance companies will provide a small limit where they require you to secure an appraisal to prove your loss.

**26. If the city requires upgrades of my building after a loss, that upgrade will be covered because I have replacement cost coverage.**

This is untrue. Insurance policies cover the cost to replace the building as it stood before the loss and not as is required after the loss. Increased cost of construction coverage is required.

**27. If the city delays my rebuilding because of building codes and I have to get a variance, coverage is provided under business interruption.**

Not true. There is no coverage for delays because of building codes. This coverage has to be added.

**28. *If the city requires that I tear down the undamaged portion of my building because more than 50% of my building was damaged, I will be covered for the loss of the undamaged portion of the building.***

This is not true. You have to have ordinance or law coverage for this to be covered.

**29. *If my stock is damaged I will be paid invoice cost because coverage is on a replacement cost basis.***

This is incorrect. If stock is damaged, the insurance company will pay replacement cost which does not include a profit. You need to have a selling price endorsement for products manufactured in order to obtain a selling price.

**30. *My policy has an ordinary payroll exclusion which excludes coverage for any so-called ordinary employees. This is in my best interest.***

This is not true. When you exclude ordinary payroll you exclude not only important people, such as supervisors, but you also exclude most office people. These office people, bookkeepers, accountants and others, can be very difficult to replace if they seek employment elsewhere because coverage for the payroll is not provided under business interruption. Ordinary payroll exclusions should be utilized very sparingly.

**31. *I don't have to worry about fires at a supplier's or customer's location.***

While you may not have any personal property at a supplier's or customer's location, the inability of that supplier or customer to provide supplies to you may interrupt your business. The standard business interruption form does not cover losses at other than your location. Contingent business interruption coverage needs to be negotiated.



**32. *“All risk” contents is the broadest form of coverage that I can buy.***

While the words “all risk” would suggest that this is the case, this is not correct. For example, the standard so-called “all risk” form excludes coverage for earthquake, flood, off premises utility failure, sewer backups, surface water, steam boiler explosion, mechanical breakdown, electrical arcing, food spoilage, many environmental claims, and mold to name a few. The coverage form that is utilized on your account should be carefully evaluated because many of the exclusions can be bought back.

**33. *A protective safeguards endorsement is good.***

Although protective safeguards sounds like an innocuous phrase, it can spell disaster. Under this endorsement, the policy requires that any burglar alarm or fire sprinkler systems be maintained in good working order. In the event they aren't, and a fire or other loss occurs, you would not have coverage.

**34. *If I lease my building from others, I don't need building coverage.***

This is a major fallacy. In the event you lease a building from someone else, you could be liable for any building damage caused by your negligence. This building damage is not covered with the exception of a small limit for fire and explosion that is provided under the general liability form. You should have a waiver of subrogation in your lease that blocks this type of claim and/or you should have broad form coverage under your policy for damage to the building arising out of fire and other perils caused by tenant negligence.

**35. *I don't need terrorism coverage.***

Actually, your mortgagee will require that you have terrorism coverage.

**36. *Equipment insurance, covering tools and contractor's equipment, is always provided on a replacement cost basis.***

Typically coverage is not provided on a replacement cost basis but is provided on an actual cash value basis which contemplates market value and depreciation.

**37. *If molds or dies are stolen from my manufacturing plant, I should have unlimited coverage.***

Actually, the standard Insurance Services Office property insurance policy has a special limit of liability for patterns, dies, molds and forms in the amount of \$2,500 for theft. Also, it is important to note that the mysterious disappearance of these items would not be covered under most insurance policies.

**38. *If my building is destroyed by fire, the insurer will pay the replacement cost if I do not rebuild or buy another building.***

Under the standard liability policy, the insurance company is obligated to pay the actual cash value or the depreciated value of the building until it is actually replaced. It typically does not have to be replaced on the same site but the building must be for the same purpose if it is built elsewhere, in which case after the rebuilding is complete the insurance company will pay the difference between the replacement cost on the original site and the actual cash value paid in the initial settlement. It is also important to note that in the standard policy language, the language indicates that you have 180 days after the loss to indicate to the insurance company your intent to replace the building.

**39. *If I lease my building to someone else, it is best to have them insure the building.***

Actually, as a general rule you never want to have someone else responsible for insuring your assets. In virtually every case, this will not be done correctly. The tenant, for example, insuring the landlord's building will be less concerned about the appropriate limits, having ordinance or law coverage, having the coinsurance clause waived, and having replacement cost coverage provided.

Moreover, the tenant in the building is unlikely to have a separate policy issued for the landlord which means that in the event of a loss the loss to the building will be on a check made payable to the tenant and, therefore, if the tenant happens to go bankrupt, that amount will be part of the tenant's bankruptcy estate and not necessarily available to the landlord.

Worse yet, if the tenant destroys your building through an act of arson, you the landlord will not be covered.

Avoid having someone else insure your assets to avoid the problem of inadequate insurance and the loss payment being paid to an unrelated party.

## **LIABILITY INSURANCE**

### ***40. I don't have to report people that are injured on my premises until they make a claim against me.***

This is not true. The liability policy requires that all injuries be reported, whether or not you think that they could result in a claim. If you fail to do so, the insurance company could try to deny a later claim arising out of that event.

### ***41. I need not list every location that I own or occupy as long as I list my primary location.***

This is not true. The policy requires that you list every location that you own or occupy, including vacant land, as of the inception date.

### ***42. Liability insurance covers any location or any activity anywhere in the world.***

The liability policy will cover injuries that occur in the United States, Canada, Puerto Rico or the Virgin Islands arising out of locations that were owned or leased as of the policy inception date or acquired thereafter or arising out of products that were manufactured. Coverage for undeclared locations would not be covered if they existed as of the inception date of the policy nor would coverage be provided for locations outside the policy territory except for short business visits.

- 43. *If I have a low potential exposure product that in itself cannot cause injury, I do not need to purchase products liability coverage.***

This is not a safe bet. The liability claim might not arise out of the product itself, it could arise out of packaging. A claim occurred once where metal bearings, which by themselves would be unlikely to cause an injury, were spilled on a loading dock during delivery causing someone to fall. This is a products liability claim and would not be covered without products liability coverage.

- 44. *I should settle any minor injury claims in order to avoid a claim on my policy.***

This actually would violate a policy condition that does not allow you to prejudice the interest of the insurance company.

- 45. *If I charter a party boat to entertain my customers, this would be covered.***

Under the standard liability form, if the boat exceeds 25 feet and is non-owned and results in an injury, there would be no coverage. You need non-owned watercraft coverage with a footage limit that exceeds the watercraft being used.

- 46. *If I use my personal boat for business entertaining, it will be covered.***

Again, if the boat exceeds 25 feet there would be no coverage.

- 47. *If I fly my personal aircraft and take a client with me on business, it will be covered.***

This is not correct inasmuch as aircraft liability claims are excluded from the standard commercial liability policy.

**48. *If my employees utilize their own automobile on company time and have an accident, they will be covered under the company policy.***

This is not correct. The company will be covered for acts of employees using their own personal automobiles if non-owned automobile coverage was purchased; however, the employee would not be covered unless the policy extended this coverage to employees as additional insureds. In fact, without this extension the business owner's insurance company could, in fact, sue the employee for any losses that they pay because of the employee's accident and subsequently could garnish the employee's wages.

**49. *My general liability policy will always cover liquor-related claims.***

The general liability policy will cover claims arising out of events that involve liquor as long as you are not in the business of selling or serving alcoholic beverages. Some carriers will carry this a step further by indicating there is no coverage if you make any type of a charge for the alcoholic beverages. For example, if you have a company picnic and people reimburse you for the cost of beer, this may be excluded under certain commercial liability forms.

**50. *I have contractual liability insurance and it covers all hold harmless agreements.***

Actually, most contractual liability coverage only covers bodily injury and property damage. The typical hold harmless agreement is usually far broader than this. You can expand the coverage for contractual liability to cover certain other situations; however, this is not typically automatically provided.

**51. *The general liability policy I have will cover employee benefit claims involving my mistakes in handling employee benefits such as a failure to send a COBRA letter.***

This is not correct. You need to have employee benefit legal liability coverage or as a fiduciary liability policy.

**52. *I have employee benefit legal liability coverage and it will extend to protect me for all claims arising out my employee benefit obligations.***

This is not correct. Employee benefit legal liability coverage will cover certain administrative errors but will not cover fiduciary liability arising out of your responsibilities under the ERISA law.

**53. *If fumes escape from a defective furnace and injure people, this will be covered under my general liability form.***

This is not necessarily the case inasmuch as many insurance companies attach absolute pollution exclusions which will exclude coverage for fumes from furnaces or smoke from a hostile fire.

**54. *Employees of the neighboring building injured as a result of smoke from a fire at my building will be covered under my commercial liability form.***

This is covered only if your insurance company provides an exception to the pollution exclusion for fumes or smoke from a hostile fire. This is a common exclusion usually referenced to as an “absolute pollution exclusion.”

**55. *I have products recall coverage under my commercial liability form.***

No. The general liability form will not provide any products recall even if the recall is for the purpose of preventing injury. Do not confuse products liability coverage that covers bodily injury or property damage liability with products recall that covers the expense of recalling defective products.

**56. *I never travel on business and don't need foreign liability coverage.***

Actually, if your business sells to someone in the United States and they, in turn, sell the product to Mexico or to some European country, there would be no coverage under your policy for those products claims. Foreign liability coverage is needed.

**57. *Claimants will only sue you for the amount of insurance that you have.***

Actually, the claimant's attorney is professionally obligated to seek a judgment for the actual amount of damages and after securing the judgment to look for all sources of recovery. If an insured has assets above and beyond the amount of insurance that is carried, the attorney is professionally responsible for going after those assets and failure to do so can impose liability upon that attorney.

**58. *I do not need high limits of liability insurance because I have a corporation or LLC that protects me.***

While it is true that having a corporate or limited liability company does provide some protection against shareholders of those entities, it does not shield individuals that are involved in the wrong doing. For example, if a shareholder of a corporation is driving a corporate owned automobile and has a negligent accident, both the corporation and the individual driving the automobile will be sued.

If the corporation does not have adequate insurance, the plaintiff's attorney can attach or garnish the corporate assets and, furthermore, the driver of the automobile, the corporate shareholder, will be independently liable and that person's assets can also be seized. The entity's liability policy will protect the driver in most cases; however, there will be the only one liability limit that can be used to protect both the corporation and the driver, and the driver's personal assets may be at stake.

**59. *Claims-made coverage is never acceptable.***

Actually, claims-made coverage is very acceptable and, in fact, is typical for directors and officers liability, professional liability, and other types of coverage. The initial cost on a claims-made policy is lower than on an occurrence policy where the insurance company has a greater ability to predict its losses because it covers claims that are made during the policy period whereas under an occurrence form the policy covers occurrences during the policy period regardless of when the claim is made.

**60. *I can destroy my policies after they expire.***

Property insurance policies, automobile policies and Workers' Compensation policies probably can be discarded three years after expiration; however, liability policies should be maintained for at least 20 years. The reason for this is that under property insurance, Workers' Compensation, and automobile insurance you know if you have a claim in most cases. Furthermore, regarding Workers' Compensation coverage, there is a centralized filing source in Michigan that can always prove that coverage was in effect as of a certain date. With liability insurance, the insurance companies may purge their files after several years. In the event you have an occurrence policy and someone alleges in the year 2004 that they were injured in 1995 on your premises, you may not be able to establish that you had insurance and it would be your obligation to do so.

**61. *If I am sued for mental injury or psychological injury with no bodily injury, I am covered.***

Actually, the standard insurance form covers only bodily injury and property damage liability as well as personal injury. Bodily injury is defined as bodily injury, sickness or disease sustained by a person including death resulting from any of these at any time. Bodily injury, therefore, does not cover any type of mental injuries. Obviously property damage liability will not cover mental injuries as well. There may be some coverage under the definition of personal injury. Personal injury is defined to include false arrest, detention or imprisonment, malicious prosecution, wrongful eviction from wrongful entry into or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies committed by or on behalf of its owner, landlord or lessor, oral or written publication in any manner of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, or oral or written publication in any manner of material that violates a person's right of privacy.

Although the personal injury definition is fairly broad, it does not cover claims such as discrimination, mental anguish, mental injury,



humiliation. Furthermore, you will notice that while wrongful eviction coverage is provided, wrongful eviction from a restaurant, for example, or any other premises not occupied by that person would not be covered under personal injury.

**62. *I don't need professional liability because I have an iron-clad customer contract.***

Actually, even if the contract that you have with a customer holds you harmless from any professional liability claims suffered by the parties to the contract, this does not prevent third parties from suing you for professional liability, which is most often the case.

**63. *An employee manual will get us into trouble.***

Actually, not having an employee manual could get you into serious difficulty. An employee manual will set forth the standards for employee behavior and, in particular, procedures for sexual harassment and other matters. An employee manual will prevent misunderstandings that can result in lawsuits.

**64. *Employment practices liability insurance is too expensive.***

Actually, the legal fees alone to defend an employment practices case for sexual harassment, discrimination, or wrongful discharge can run into the hundreds of thousands of dollars and in the event the employer loses in this litigation, the judgment could be enormous. The cost of an employment practices liability policy can be as low as \$1,500 per year and even for larger organizations, high deductibles can reduce the cost of this insurance so that it will cover catastrophic type claims.

**65. *We are not trustees under our 401(k) plan and have no liability.***

This is absolutely not true inasmuch as anyone that has discretion over a 401(k) plan or employee benefits will have personal liability under the ERISA law and this requires fiduciary liability insurance.

**66. *I do not need fiduciary liability coverage because the individuals in my 401(k) plan make decisions as to where they want to invest the money.***

Actually, the employees can sue the fiduciaries under the plan, personally, for not providing adequate investment opportunities and mismanagement of the plan as well as not providing appropriate information regarding other employee benefits.

## **WORKERS' COMPENSATION**

**67. *I can self-insure Workers' Compensation coverage for my employees.***

Although this is technically correct, very few companies are approved to self-insure Workers' Compensation. Where they are approved, they must have a bond as well as excess insurance that will guarantee payment of Workers' Compensation claims.

In Michigan, the statute requires that anyone with one full-time employee or three part time employees have Workers' Compensation coverage. If you do not secure the coverage as required, there can be penalties imposed by the state as well as liability for injury to the employees that will not be covered under other insurance.

Even if you are not required by law to have Workers' Compensation insurance, if you have any employees you should provide the coverage in order to avail yourself of the protection under the law.

**68. *I do not need Workers' Compensation coverage because I own my own corporation and I am the only employee.***

You own your own corporation; however, you are still presumably a full time employee which requires that the corporation purchase this insurance. It is possible to exclude yourself from the policy; however, in the event you do so there is no coverage by your health insurance carrier for employment related claims and this creates a serious gap in coverage.

**69. *I am changing insurance carriers and I assume that Workers' Compensation liability audits will be handled in the same way as my prior carrier.***

This is not necessarily the case. Every insurance company has different auditors with different standards and different viewpoints. It is always best when changing insurance companies to have an up-front understanding about audit issues.

**70. *I can save a lot of money by excluding officers in Workers' Compensation policies.***

While it is true in some cases, you can exclude shareholders and some officers from Workers' Compensation policies, you will be doing yourself a disservice because in the event an officer is, for example, injured as a result of an on-the-job accident, the health insurance carrier is unlikely to pay the claim because it was employment related and should have been covered by Workers' Compensation. As a general rule, no one should ever be excluded under a Workers' Compensation policy because of the coverage gap that is created. The cost to cover officers that are primarily involved in administrative duties is typically in the area of \$200 per year.

**71. *I have employees in Ohio. Because Ohio provides Workers' Compensation insurance for these employees directly and not through an insurance company, I do not need any special coverage.***

First of all, the Ohio Workers' Compensation Fund must be contacted and you must arrange for coverage. Second of all, the coverage that is provided does not include employers liability coverage. This needs to be secured through a separate company. This is called Ohio Stop Gap coverage.

**72. *Workers' Compensation insurance covers all states where I have employees.***

No. You must be very careful if you have employees that work on a regular basis in other states. The standard Workers' Compensation

policy allows a limited number of days after you begin operations in other states to add coverage to an existing Michigan policy.

**73. *The age of an employee is not important as respects Workers' Compensation.***

Actually, it is a critical consideration if you hire minors under the age of 17 and they are injured and you have either employed that person without working papers or they are injured performing tasks outside the scope of the Youth Employment Law. The claim is automatically doubled under Michigan law and the employer has to pay 50% of the claim with the insurance carrier paying the other half.

## **AUTOMOBILE INSURANCE**

**74. *All automobile policies always cover newly acquired vehicles.***

No. Automobile policies will cover newly acquired replacement vehicles for a short period of time but will not cover additional vehicles unless the policy is specifically coded to provide automatic pickup coverage.

**75. *If my employees should use their own personal vehicles and have an accident on company time, my policy will provide physical damage coverage to their cars or will cover their deductible.***

This is not true. Your insurance company has no responsibility for damage to an employee's automobile.

**76. *My insurance company does not provide any underinsured motorist coverage. This should not be of concern to me.***

Actually, underinsured motorist coverage (especially for officers of the corporation) is critical and is purchased in conjunction with uninsured motorist coverage. In the event of a major claim in Michigan your insurance company is responsible for paying lifetime medical expenses but not pain and suffering. You will have to sue the other driver to collect those expenses and also excess wage loss benefits. If the other driver does not have insurance there will be a substantial coverage gap. If the other driver has some insurance but not enough, there also could be a coverage gap.

**77. *I have hired car physical damage coverage under my commercial policy covering damage to rental cars. I don't need to purchase the collision damage waiver from the rental car company.***

We suggest that you do purchase the collision damage waiver because in the event of a loss to the rental car, the rental car company will place the entire value of the loss on your personal credit card and often there is a dispute between insurance companies as to the amount of damages. In the event of a short-term rental situation it is probably better to purchase the collision damage waiver.

**78. *When I purchase the collision damage waiver I am always covered for loss to the rental car.***

Actually, this is not true. The rental car company will only cover you in the event the car is driven by an assigned driver and no coverage is provided for use by valets in restaurants, nor is there coverage for any use of the vehicle while the driver has had any type of alcoholic beverages or drugs (illegal or not) nor is there coverage for any off-road use of the vehicle.

**79. *In the event my new car is totaled, my lease will be paid off by my insurance company.***

This is not usually the case. The insurance company is obligated to pay the replacement cost of the vehicle up to the market value. If you purchase a new vehicle for \$50,000 or you lease a vehicle that has a \$50,000 cost new, the day you drive it out of the dealership it becomes a used vehicle and the insurance company has a maximum liability of the market value of that used vehicle whereas the loan or lease obligation may be more. Coverage should be secured to reimburse you in this type of situation. Occasionally the lease agreement may also provide this coverage at an additional expense.

## **EMPLOYEE THEFT**

**80. *Employee dishonesty extends to theft of client property.***

This is not true. Employee dishonesty covers the theft of employer property only. Separate coverage needs to be negotiated to cover theft of third party property by your employees.

**81. *Employee dishonesty covers my ERISA obligations.***

This is inaccurate. Employee dishonesty will cover losses relating to the entity that is listed. If you have listed an ERISA entity such as a 401(k) plan and have an ERISA compliance endorsement on the policy and have insured 10% of the plan assets, then your insurance policy will provide coverage.

### **UMBRELLA EXCESS LIABILITY**

**82. *An umbrella policy is a “catch-all” policy covering mistakes in property insurance and liability insurance policies.***

This is not true. An umbrella policy is a tort liability policy covering liability claims for amounts over and above your primary general liability and auto liability insurance policies. It does not cover any first party or property insurance.

**83. *An umbrella policy is always excess of whatever I have in my primary insurance.***

This is typically not true. An umbrella policy is a stand-alone contract and may have exclusions that are greater than your primary insurance.

### **DIRECTORS AND OFFICERS LIABILITY**

**84. *I do not need directors and officers liability coverage because we are not a public company.***

Directors and officers of private corporations can be sued by banks, by customers, by suppliers and by employees, and directors and officers liability coverage should be purchased as well as employment practices liability coverage.

## **INTELLECTUAL PROPERTY**

***85. If I am sued for infringement of copyright or trademark, my liability insurance coverage will protect me.***

This is not correct. Standard liability insurance policies have an exclusion for infringement of copyright, patent, trademark or trade secret. The policy indicates there is no coverage for personal and advertising injury arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights and the only exception in the exclusion is that it does not apply to infringement in your advertisement of copyright, trademark or slogan. A separate intellectual property type policy is required.

## **NAMED INSURED CLAUSES**

***86. The named insured on my policy extends to my subsidiaries and related entities and they need not be listed.***

This is a dangerous myth. Subsidiaries are not covered unless they are stated under most property and liability policies. Some directors and officers liability and employment practices policies will cover subsidiaries; however, it is still best to list those subsidiaries or any other entity in order to avoid any misunderstanding of what is a subsidiary under those policies, and under the property and liability policy you absolutely need to list all entities.

***87. Prior entities that are now active do not have to be listed.***

This is not true. In the event you had a sole proprietorship or a partnership in previous years and you are now doing business with a corporation or an LLC entity, you still need to list the prior entities because there could be a current injury arising out of that previous operation and unless you list the prior entities there is no insurance.

## **EMPLOYEE LEASING OR PEO**

***88. My employees are leased employees. I do business with a professional employer organization and because these are not my***

***employees I do not need to have Workers' Compensation coverage.***

This is not correct. You need Workers' Compensation coverage in the event these employees indicate that they are actually working for you. You also need this coverage to protect you for uninsured independent contractors and to cover people that are not within the employee leasing agreement.

**89. *Employee leasing is always a good tool for businesses.***

Actually, employee leasing can create severe problems. Typically the agreements with the employee leasing companies impose requirements that an employer cannot comply with, such as adding the employee leasing company as an additional insured on the employer's policy, failure to provide loss information and many other matters. Employee leasing should be entered into very carefully.

**PERSONAL INSURANCE**

**90. *My homeowners policy has guaranteed replacement cost coverage which waives the limit in the event the limit was not sufficient.***

This is not an absolute. A guaranteed replacement cost endorsement, where available, will waive the limit; however, there are requirements that you report improvements done to your home within a certain period of time or the specific limit under the policy will apply.

**INSURANCE CARRIERS AND AGENTS**

**91. *It is good to put insurance "out to bid" every year to keep our insurance agent "honest."***

Actually, this could be detrimental to competitive pricing. The first reason for this is that insurance companies will quickly tire of quoting on your account without getting the business. Second, insurance companies avoid clients known as "shoppers." Third, judgments regarding insurance programs should not be made solely on the basis of price. What the client should do is select a competent insurance



advisor that will make decisions on placing the insurance with an appropriate insurance company based upon coverages, price, and financial stability.

**92. *All insurance policies are alike anyway.***

This is absolutely untrue. Insurance policies are all different, even on the same risk for the same line of coverage. A property insurance policy with one company could have 10,000 words and with another company 5,000 words. More or less words may be better depending on the risk and all of the circumstances. The truth is no two insurance policies are ever alike on a given risk.

**93. *My agent said it was covered and that's enough for me.***

This also is a fallacy. As an ordinary rule, insurance agents in Michigan do not represent the insurance companies that they are utilizing. In fact, they represent the insured, and statements made by agents may not bind the insurance company.

**94. *My insurance company has insured me for a long time and I am sure they will take care of all of my claims.***

The general rule is that there is no good will with insurance companies. The insurance policy is a contract that says what they will insure and what is excluded. An insurance adjuster that overpays on a claim or pays a claim that is excluded might be liable to his or her employer. In the case of minor claims, it is true that if it is a questionable claim the insurance company may pay for it rather than face complaints with state insurance departments or lawsuits; however, in the case of a major claim the insurance company will stick to the policy language.

**95. *A red stamp on an insurance policy is always bad.***

This is not necessarily true. In Michigan, if an insurance carrier is an approved non-admitted surplus lines carrier as opposed to an admitted or licensed insurance carrier, a red stamp must be affixed to the front of the policy indicating that in the event of insolvency the Michigan Insolvency Fund will not apply.

Although this is a true statement, insurance companies that are not admitted or licensed are occasionally more appropriate than insurance companies that are admitted or licensed. The non-admitted carrier will insure a wider range of risks and sometimes have broader policy forms than admitted carriers.

The non-admitted carrier may be rated as an "A++" carrier by A. M. Best, the nationally recognized rating organization, and the admitted carrier may be rated "C". If you have a choice, you would want to have an "A++" non-admitted carrier as opposed to a "C" rated admitted carrier.

Even though the insolvency fund does apply to admitted carriers, the amount of coverage that is available may not protect you in the event of a serious loss.

**96. *My policy has a cross liability endorsement. This should not be of concern to me.***

This should be of concern. A cross liability endorsement excludes claims from one entity to another entity on the same policy. The standard general liability form without this endorsement does not have a cross liability endorsement and, in fact, one entity can sue another entity. Cross liability endorsements should be avoided. This is important because in the event a third party takes over an entity, such as a bankruptcy trustee, that entity may sue other entities under the policy.

**97. *Additional insureds required under my general liability and automobile policy are automatic.***

No. You must specifically add additional insureds to most policies or negotiate an endorsement that will provide some coverage for automatic additional insureds.

**98. *An additional insured under a liability policy is just as good as a named insured.***

Actually, insureds must be very careful in how their entities are protected under their insurance programs. A named insured has

broader coverage than an additional insured. On the other hand, an additional insured should not be listed as a named insured unless necessary. For example, if the owners of a corporation own a building in a partnership or LLC name and lease it back to the corporation, the lessor should be added as a full named insured which provides broader protection. If, however, you are leasing the building from an unrelated entity, that entity should be added as additional insured so as not to pick up other exposures of that entity.

**99. *I have no obligation to read my insurance policy. I assume it is being read by my insurance agent.***

This is not a good assumption. You cannot count on your insurance agent to read policies and in the event your insurance agent does not read the policy and coverage is not what it should be, there would be no coverage.

**100. *I buy insurance and I do not need a safety plan.***

It is critical to avoid losses because you may not have sufficient insurance to cover the losses and if the insurance company continually pays more in claims than it receives in premiums, you may find it difficult to buy insurance at a reasonable cost. The objective is to minimize your insurance cost by not having any claims, leaving you in a good bargaining position with your present insurance companies or others that may want to write your business.

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