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President's Message



MARY PAT KELLER

"Don't Forget to Wear Your Risk Management Hat!" by Mary Pat Keller

Running a small business is a big challenge. You wear so many hats and have so little time. Purchasing, collecting, bidding, sales—how are you expected to understand the finer points of your legal risk? That is something for the bigger guys to

worry about, right? Unfortunately this isn't the case. There are so many pitfalls in society today, if you haven't already been sued, chances are you will be. Workers' compensation, sexual harassment, hostile work environment and wrongful discharge are just a few of the issues that can keep you awake at night.

The sad fact is that anyone with 250 dollars and a typewriter can file a lawsuit against you. However, your typewriter is not an effective weapon to battle this claim. You must call an attorney. And at that moment, the dollars begin adding up. Even if the lawsuit goes away, it will take some time and correspondence on the attorney's part. In addition, the amount of time you spend thinking about the lawsuit instead of running your company, though difficult to measure, will have a major cost impact on your business that is not as obvious as writing someone a check.

Editor's Note: Articles published in *WOODWORDS* may oftentimes address topics that could have varying legal ramifications. These articles are not meant, however, to be a substitute for legal advice. They are intended only to inform the reader, not to advise as to how the law might be applied in individual circumstances. The ideas presented are the opinions of the authors who have written them, are of a general business nature, derived from the authors' personal experiences, and should not form the basis of any action that concerns a legal question. In situations described in this and all other issues of *WOODWORDS*, legal advice should always be sought from an attorney licensed to practice in your jurisdiction.

CONTINGENCY SUITS

The more dangerous lawsuits for companies are contingency suits. The attorney in a contingency suit doesn't charge the plaintiff a fee for filing the lawsuit; instead they take a cut of the award. Usually this involves not only the claimant but also the spouse of the claimant and anyone else who can be tacked on to increase the penalties.

I imagine a plaintiff's attorney (I apologize in advance, Kent) sitting in the town bar waiting for the first shift to finish work. After a few beers, the conversation turns to the disgruntled employee who earlier in the day was passed over for a raise. He tells the attorney that he shows up to work as often as the next guy and that he works harder too. Soon your mail brings tidings

of a lawsuit that your employee is filing against you. Many times this is the first and only indication that something was wrong with your employee. You think you can win the suit. After all, this guy is always goofing around and usually misses work two or three days a month. Here comes the fun part: You pull the employee's file for documentation to support this and realize that with all your other hats, you forgot your paperwork hat. It's at this very moment that you realize that you're in deep trouble.

The "paperless office" is a myth. My desk is a testament to this. However, one area that you don't want to scrimp with paper is documentation. If you have disciplinary meetings with employees, document them. When you keep good records, you reduce your chances of losing in court. Notice I said reduce. Sometimes it comes down to who the jury or the judge "believes" more. This puts all verdicts at risk due to the bias that is part of the process. Too often in today's courts, it is no longer a search for the truth and coming to a fair resolution based on the facts; it is about how much money can be earned through litigation.

What kind of trouble can you get into transacting business? Here are a few examples of some that may come up at the office or the plant.

- The purchase order or contract that you signed but did not read carefully can come back to haunt you. For instance, you may have just signed off on the fact that you will indemnify your customer of any litigation regarding construction defects involving the roof system.
- The claim for a cracked driveway or a damaged tree is hard to fight.
- You terminate an employee because of chronic absenteeism or abusive behavior and find yourself paying unemployment benefits and subsequently fighting a lawsuit over wrongful termination.
- You lay a person off for a brief period of time and are intending to put the person back to work as soon as business picks up again. During the layoff period you are served with papers saying that the reason for the layoff was due to some kind of discrimination.

Many times, the first indication that there is a problem comes in the form of legal communication from the disgruntled party's attorney when a claim is made against your business.

Run—don't walk—to the next available Risk Management Course. WTCA puts on an excellent seminar that is tailored to the component industry. At some point during this course, rational business people will break out in a sweat wondering why they ever wanted to be in business for themselves. The risk management seminar provides real solutions to real problems in this industry. Ignorance is not bliss. What you will learn will help you to prepare for the eventuality that you will be sued, and assist you in reducing your risk and the costs you will have to incur in defending your company—all of which will aid in protecting the hard-earned revenue your company and your employees have made.

Mary Pat Keller, 2001 President of WTCA, is President of Truss Components, a family-owned component manufacturing facility in Valley Park, Missouri. Prior to her current position, Mary Pat served Truss Components for six years as Vice

President.

RISK MANAGEMENT SEMINAR

What risks and liabilities should concern us the most?
How can we keep a lawsuit from putting us out of business?
What are the steps for effective loss prevention?

There has never been a better time to be prepared. Learn what you need to know before you're faced with legal action!

WTCA's Risk Management Seminars are designed to help truss manufacturers control or limit liability in the design, manufacturing, sales, and delivery (and sometimes erection) processes. The seminar provides truss manufacturers with an understanding of the liabilities of conducting business, and it shows the methods for minimizing exposure to loss. Topics include: Components of Risk Management & Liability Avoidance, Insurance Policies, Scope of Work/Design Responsibilities, Safety, Prevention & Loss Control, and much more! Each seminar is conducted by WTCA Attorney Kent Pagel. Mr. Pagel is president and senior shareholder of the Houston, Texas law firm of Pagel, Davis & Hill, P.C. Mr. Pagel is well versed in the particular issues and concerns of our industry. Plus, spending the day at this seminar is much more affordable than hiring your own attorney to try to discuss these issues. We are also happy to include your particular concerns in a customized seminar! Ask about the questionnaires that are given to registrants so that we can speak on the issues that matter the most to you.

For more information on Risk Management Seminars, contact Anna L. Stamm at 608/274-4849 or astamm@qaltim.com.

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