

Don't Let This Be You!

A Case Study in Mitigating the Largest and Most Common Liabilities Facing Festivals Today.

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Convention, Expo & Retreat**

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Claims Facing Festivals Today

- » Amusement Ride Incidents/Bounce House
- » Performer Claims
- » Fights/Assaults
- » Athletic Participants

Amusement Ride Incidents

Carnivals, Rock Walls and Bounce Houses

- Who is running the rides, who is insuring and what are their limits?
- Do you have the contractual clauses needed to protect your event?
- Whats the worst that can happen?

Bounce House Claim

Festival hired a local bounce house contractor to come setup the bounce houses on the festival grounds. Day 2 of the festival a child fell out the velcro entry door and suffered a severe head injury.

The contractor had provided the festival with a certificate showing they had General Liability coverage in the amount of \$1 million dollars. They did not name the festival as Additional Insured.

In the contract the festival unknowingly signed a hold harmless and indemnification clause that took all liability for the bounce houses. The contract was not reviewed prior to the event and in clause was only found after the incident.

Bounce House Claim

The claim was first reported to the carrier who immediately requested the contract. The carrier has now began defense of the claim on behalf of the festival and the contractor. The carrier has set the reserve at \$350,000 for the medical and defense costs. ***This is not the case with every insurance policy.***

What could have been done differently?

Review of the contract prior to signing, the hold harmless and indemnification could have been reversed putting the liability back on the contractor as it should.

Confirmation of the certificate of insurance showing additional insured for the festival.

Bounce House Claim

This type of claim is not always covered under generally liability policies. There are many endorsements out there that can either exclude or severely limit coverage in the event of an amusement claim.

Endorsements to be aware of:

Amusement Device Exclusion

Contingent Coverage- Excludes ownership, operation, maintenance or use of any amusement device. For the purpose of this exclusion, amusement device means any device or equipment a person rides for enjoyment.

If the festival had either of these exclusions on their policy they would have not only been responsible for their portion of the claim but that of the contractor as well, due to the wording of the agreement.

Performer/Participant Related Claims

Concert performers, Strolling Performers,
Parade Participants and Entertainers

Definition of a performer: Any person who entertains an audience.

- What exposures do Performers bring to the festival?
- “Whos Covering Who?”
- Why are contracts so important?

Performer Claim

A regional classic rock band was performing and upon completion of their set they went to exit the stage and the lead singer slipped on the steps leading down from the stage injuring their knee severely. They were not able to continue on with their tour and have had to cancel 5 dates due to the injury.

The performers had required in contract that they were to be named as Additional Insured under the festival policy. They also had stated that they were to be covered for all claims related to their performance.

The festival has now been served by the entertainers with a claim for not only the cost of all medical bills but also the loss of revenue from the missed tour dates.

Will this be covered by your current liability insurance policy?

What could have been done differently?

Make sure that in the policy you purchase you have full coverage for performers. Make sure that in your contract you ensure that at a minimum they are responsible for their own actions. If possible have them sign your contract.

Performer Claim

A Performer Claim is often excluded under some event liability policies. There are many endorsements out there that will exclude coverage for not only injury to a performer but also claims caused by these entertainers.

Endorsements to be aware of:

Exclusion of Performers:

It is agreed this insurance does not apply to “bodily injury” to ***any person while practicing for or performing*** in any concert, show or theatrical event, sporting event or exhibition insured under this policy.

If the festival had a policy excluding the coverage of performers or their actions they would be fully responsible for the claim and the loss of revenue from missed tour dates. This could result in a very large uncovered claim!

WHAT COULD HAVE BEEN DONE DIFFERENTLY?

Assault and Battery Claim

Fights, Assaults, Altercations:

Definition: Any intentional act that is meant to cause a “reasonable apprehension of imminent and harmful contact.”

- Where are exposures for Assaults?
- What are you doing to protect your patrons?
- How can we be responsible for a fight at our event or festival?

Assault and Battery Claim

The festival had a large beer tent that was sold beer throughout the event. On the Saturday night of the event a fight broke out between two men in the tent. During the fight a woman standing nearby was knocked to the ground hitting her eye on a table. The two men fighting also sustained injuries from the altercation.

The festival was solely responsible for the operations of the beer tent as well as the security at the event. As soon as the festival was over all three parties filed claims against the festival for their injuries. Even though both men were ejected they still filed claims for injury. The woman and her family are filing due to the permanent damage to the eye.

Currently the carrier is defending the festival on all three claims and will be paying out a large sum to the woman injured in the altercation. The other two claimants are being fought in court for their role in the fight.

Assault and Battery Claim

Assault and Battery is often excluded under many general liability policies. It takes a special event policy to properly cover this type of exposure for events, especially those that serve liquor on their sites.

Endorsements/Exclusions to be aware of:

Assault and Battery Exclusion:

Excludes assault and battery committed by any insured, any employee of any insured, or **ANY OTHER PERSON**.

The failure to suppress or prevent assault and battery by any person.

Assault and battery resulting from or allegedly related to the negligent hiring, supervision, or training of any employee of the insured.

If the festival had a policy excluding the coverage for Assault and Battery they would be responsible for all medical claims and all LEGAL COSTS associated with defending the festival.

WHAT COULD HAVE BEEN DONE DIFFERENTLY?

Athletic Participant Claim

Claims involving athletic participants of any activities associated with the event.

- Who is an Athletic Participant?
- What types of activities are considered “athletic activities”?
- Wait, they signed a waiver, how are we responsible?

Athletic Participant Claim

The festival holds an annual 5k Run that ends at the festival grounds. The runners all signed up online through a runners portal and signed the waiver online. One of the runners was rounding the last corner on the city streets when they stepped in a large pothole blowing out their knee. They were unable to continue and taken immediately to the hospital for surgery to repair the knee.

The festival was the promoter of the event and had contracted with the city to utilize the city streets for the event. In their permit they took sole responsibility for the race and agreed to defend the city in the event of a claim. The event went to rely on the waiver only to find out that the online portal did not include them on the waiver and therefore they had no defense from the waiver.

Currently the carrier is paying a medical claim to the person who was injured as well as a large sum due to the time they were off their feet and unable to work and earn a paycheck. The carrier is also incurring bills due to having to defend the city from their liability.

Athletic Participant Claim

Athletic Participants are often excluded under many general liability policies. It takes a special event policy to properly cover athletic events and especially those that are promoted/endorsed by the festival.

Endorsements/Exclusions to be aware of:

Sports/ Athletic Participant Exclusion:

Excludes bodily injury to any person while practicing for or participating in ANY sports or athletic contest or exhibition that you sponsor.

Look carefully as many policies are specific as to what types of “athletic activities” are excluded. (Sky diving, Rodeo, Bungee Jumping, etc.)

If the festival had a policy excluding ATHLETIC PARTICIPANTS they would have no coverage for this runners injuries or the subsequent defense needed once they are sued.

What could have been done differently?

Thank You for Attending

Should you have any further questions or if you need any clarification on the presentation please don't hesitate to contact me.

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