



By Susan Greitz

How To Protect Your Company With Media Liability Insurance

There are often news reports about a company or person being sued for defamation, libel, copyright or trademark infringement, and invasion of privacy. What you might not know is Media Liability (a.k.a. Communications Liability) insurance can help protect your company from those types of lawsuits. Media Liability can be defined as errors and omissions in the written or spoken word or visual image resulting in claims alleging financial loss and/or defamation and invasion of privacy claims.

What type of companies need media liability insurance? Anyone who distributes information to others via a means of communication (website, TV, radio, newspaper, magazine, email and other electronic medium) is potentially liable. That means if your webmaster posts customer service advice on your website that includes someone else's copyrighted information, you could be facing a lawsuit. Likewise, if your electronic brochure includes a testimonial from an industry heavyweight - only your sales department neglected to get that individual's permission to use their name, words or image, that is a potential problem as well. These errors or omissions by your firm can result in an expensive lawsuit, a sizeable judgment and a damaging hit to your firm's pocketbook and reputation. Media Liability insurance is designed to protect from claims or lawsuits due to copyright and trademark infringement, defamation of character or product, personal disparagement, and invasion of privacy. There are many examples of media liability cases, but the following examples demonstrate the scope of events this type of coverage would protect against.

Copyright Infringement

Two employees of a large U.S. bank using the music but not the lyrics from a famous song drew allegations of copyright infringement, instead of rave reviews. During a company meeting the two performed their version of "One" by U2 and received a cease and desist letter from the lawyers for the music publisher.

In another example, a magazine was sued for its own advertisement that ran in a magazine. The advertisement contained

a photograph of a well-known outdoor sculpture, but they didn't have permission to use the sculpture in the ad. The cost to end the case was significant. Roughly two thirds of the money paid on the claim was for defense costs and one third was for the settlement payment to the plaintiff.

Trademark

A famous rock star and a famous department store met in court when the musician filed a right-of-publicity lawsuit against the store. The suit alleged that the store was selling tee shirts with his name and his picture but without his permission.

Libel and Invasion of Privacy

A regional magazine in the East was sued concerning a photograph it ran in conjunction with a story detailing illegal immigrants. Plaintiffs alleged libel and invasion of privacy, and maintained that the photograph had no relationship to the story or the photograph's caption. While the case was eventually dismissed on summary judgment, legal fees were significant.

Another magazine publisher was sued in California for its use of a picture of two individuals in an advertisement for the magazine that was contained in the magazine. The plaintiffs alleged that their likeness had been appropriated without their permission. After a long protracted litigation, the case was eventually settled between the parties with a walk-away settlement (no payments to either party). Legal fees to defend the case were sizable.

To illustrate a different type of privacy invasion, a major retail company was the target of hackers. The hackers got into the company's database and stole private in-

formation on millions of customers. They used the information to create fake credit cards and rang up millions in charges. The company has been sued by their customers and a group of banks. The banks sued the retailer for the money they had to pay as a result of the fraudulent charges. This type of event would also be reason to have Internet insurance.

Defamation

A battle between two competing waste disposal companies ended up in court in Texas. The two waged a court battle for more than six years that involved charges of defamation and interference with business relations. Neither of those charges would be covered by the standard GL policy.

In another example, one of the leading beer makers was sued by one of their distributors for defamation. The distributor had sued the brewer for breach of contract; it was during that litigation that the alleged defamation occurred. The brewer said they were simply defending themselves when they talked to clients of the distributor and answered questions by the media. The suit was reportedly settled for more than \$50 million dollars.

According to Carol Porter, CPCU, Account Executive with Haas & Wilkerson Insurance, you can check with your insurance broker for more information about Media Liability insurance.

For 70 years **Haas & Wilkerson Insurance** has been one of the argest providers of insurance representation to the entertainment industry. The agency is national in scope, with approximately 100 associates providing technical expertise and quality insurance representation at a competitive price. Beyond the standard price quotation, services include coverage analysis and recommendations at no additional cost. Our clients include fairs, festivals, carnivals, amusement parks, rodeos and special events throughout the United States.