

ProNetwork News

Risk Management Tools for the Design Professional

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Barbara Sable is Assistant Vice President for RLI's Professional Services Group. Barb is responsible for developing the content of RLI's risk management programs and addressing the day-to-day needs of policyholders. She provides face-to-face seminars, webinars, contract reviews, policy analysis and insurance program guidance to RLI's insureds and brokers. Before joining the company, Barb was an equity partner in a national insurance brokerage firm, serving the needs of that firm's largest architecture and engineering clients. Prior to that time, she was an executive at an insurance underwriting company that specializes in design professional liability, where she was responsible for underwriting and risk management for numerous architectural and engineering firms worldwide. She began her career with a major property and casualty insurer as an actuarial and financial analyst.

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Your Company's Auto Liability – What's Covered? What's Not?

by Barbara Sable, Assistant Vice President for RLI's Professional Services Group

If you own a small to midsized design firm, at insurance renewal time, your broker usually discusses various options with you and you often come to the conclusion that a standard BOP (Business Owner's Policy) is sufficient to meet your firm's property and casualty coverage needs. A BOP combines the basic coverage requirements a small to medium sized business owner would need in a package. If your firm does not own any autos, the BOP can usually include "Hired and Non-Owned" auto liability coverage. This would pay for damages to a third party, on behalf of your company, if an employee causes an accident while using a rented car or the employee's own car while on company business. This addresses liability to others, but what about damage to the rented car? Some but not all insurers will provide this protection in a BOP; it's usually referred to as Hired Physical Damage coverage.

So what happens when one of your star employees requests your permission to attend a conference that is being hosted by your state professional society? The conference is about 200 miles away, but you and your employee agree that exposure for your firm at this event is a good idea. Public transportation isn't an option; therefore, with an eye toward keeping expenses down, your employee decides to rent a car to drive to and from the event in one day. He asks you about taking out the rental car company's insurance coverage. You mean to call your insurance broker, but, pressed for time, you decide that the BOP *must* cover this and you know that the extra insurance from the rental company would cost anywhere between \$15 and \$50 for the day.

Tragically, on the way home, your employee swerves to avoid some large debris in the roadway and inadvertently hits an oncoming car with a young adult driver and three co-workers who were headed home from a client's golf outing. No one is killed, and fortunately your employee walks away unharmed. The other four, however, are not as lucky. All four are hospitalized, miss time from work, and require significant rehabilitation. Both vehicles suffer total loss.

Other than a professional liability claim, this is, for most design firms, the largest exposure you face.



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Your Company's Auto Liability - *Continued*

In the aftermath of the crash, damages and injuries are assessed. The rental car company elects to sell the damaged car at auction instead of repairing it. The car was valued at \$23,700 beforehand and they recover \$11,300 from the sale. Assuming that Hired and Non-Owned Auto Physical Damage coverage is in place, your BOP insurer pays \$8,200 to cover:

- what it would have cost to repair the vehicle,
- some of the loss of income suffered by the rental company, and
- the cost of the appraisal.

That leaves you with a \$4,200 gap in coverage that the rental car company expects you, your firm, or your employee to pay. *And we haven't even begun yet to address coverage for the injuries to the four passengers in the other car.*

How could that gap in coverage happen? And aren't there other sources for you to recover that money?

One way for you to help avoid this gap is to accept the Loss Damage Waiver (LDW) or Collision Damage Waiver (CDW) offered by the rental company. It's important to know that many BOPs don't cover diminution in value or the loss of rental income on "hired and non-owned autos," which includes rental cars. Some basic BOPs don't cover hired and non-owned autos at all. Yet many rental car agreements stipulate that the renter is responsible for these costs should they occur. After an accident, the \$7 to \$25 that you could have spent for the LDW or CDW pales in comparison with the costs typically not covered elsewhere.

Another coverage that might come into play in this "doomsday scenario" is supplemental liability protection. Without this additional coverage, what does the rental company provide to the injured parties in the other car? Often, it's only the minimum limits required by the state in which the vehicles are registered and/or driven. So, in this case, if the state-mandated limits are \$25,000 per person/\$50,000 per accident (a common threshold for state requirements), that would be likely be insufficient to cover the injuries suffered by the four passengers in the other car.

Since your employee didn't suffer any injuries nor lose any personal effects, the personal accident insurance and personal effects coverage typically offered by rental companies don't come into play.

So, other than taking out the LDW or CDW and the supplemental liability protection from the rental company, how could the outcome of this situation be a little less gloomy?

- **Check out the options available from property and casualty insurers.** Can coverage be structured to include the physical damage described here? Can this coverage be primary coverage? If your employee rents the car in his or her own name, is there coverage? Some insurers offer primary hired auto physical damage coverage in varying limits as an optional endorsement to the BOP policy; others may not offer it on the BOP. It's a good idea to make certain that the available limits are sufficient to cover the value of vehicles typically rented by your firm.

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- **Know what your employees carry in the way of personal auto coverage.** If you live in a city, it may be the case that some of your employees don't carry it at all. Or, if they are trying to save money and are driving older vehicles, they may carry only the minimum required coverages and may have dropped physical damage coverage altogether.
- **See what the various credit card companies offer.** Keep in mind, though, that the credit card companies often limit the coverage available. For example, many credit card companies only reimburse you for your deductible after your other insurance pays. Some have limits on the rental term during which coverage applies or on the types of vehicles that are covered. And most don't cover liability claims for people who are injured in an accident.

Many design firms pay a lot of attention to their professional liability insurance renewals because professional liability insurance tends to be a "big ticket item." BOP insurance, on the other hand—which may cost as little as \$500 annually—is often renewed with little discussion or fanfare. That approach typically works—until an accident occurs, and then, too often, it *doesn't* work. Talk to your broker, do your homework, and establish a policy for your firm that incorporates in a cost effective manner the coverage that's available from:

- commercial lines insurers,
- personal lines insurers,
- credit card companies, and
- rental car companies.

Broker's Notes



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