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IN THE WRONG PLACE AT THE WRONG TIME

All types of businesses no matter the area of speciality have the potential to harm people or property. We find ourselves in an extremely litigious society and thus it is paramount that a business understands it's risks and ensures it has adequate public liability insurance in place.

As a business you have a "duty of care" to clients. In recent times we have noticed many claims brought against companies who are contracted to provide cleaning services. Claims stem from death, bodily injury or damage to the property of a third party as a result of the activities of the cleaning company.

There is a misconception that businesses in the cleaning industry are somewhat benign to claims, however recent times have proved contrary and thus there should be a deep introspection into their businesses to ensure that inter alia public liability insurance is in place to provide adequate cover.

"There is no such thing as an accident, only a failure to recognize the hand of fate." – Napoleon

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A cleaning business needs to ensure that an analysis is done of the scope and area of work which would include considering the following:



- What type of work forms part of their business activities;
- What type of cleaning company are they;
- Which companies / persons are the services rendered to;
- The type of premises where the cleaning service is provided;
- An understanding of the number of people that frequent the area being cleaned and /or the ages / health of the people;
- What type of cleaning tools and materials are used.

After considering inter alia the above it is vital that a detailed contract is in place that would specify the terms of the contract and the scope of work being carried out.

Importantly the contract entered into with the service provider (cleaning company) should provide a specific provision relating to the process and procedure to be followed when an incident occurs.

CASE STUDIES

In a recent case an insured (cleaning company) found themselves with a claim formulated against them for an amount R 3 000 000.00. The insured was contracted by a packaging company to clean the underside of the roof.

The cleaners on site used electric boom lifts to manoeuvre and to reach all areas to clean. Whilst cleaning, the platform cage of the boom lift inadvertently bumped against the main supply feed pipe of the overhead sprinkler system causing the store floor to flood. This caused water damage to numerous reels of paper.

Many claims are reported after cleaning apparatus causes damage to the owner's property. A recent incident was reported where the cleaner's apparatus bumped into the front shop window and shattered the entire window. A new shop window had to be fitted.

In another claim an insured was sued after a patron at a casino slipped and fell on a wet floor. It was alleged that the insured failed to maintain the premises in a proper and safe manner and failed to ensure that areas used by patrons were not slippery.

Similarly in another claim reported, a man slipped outside a shop at an airport that sold drinks. The man alleged that the cleaning company ought to have been alive to the fact that fluids messing the floor was foreseeable and should have ensured that the floor was always kept dry. An amount of R 10 million rand was claimed from the insured. The quantum claimed was due to the severe back injury sustained by the Plaintiff after his fall which allegedly caused him to retire early from his occupation.

Slip and Trip claims are extremely common and many cleaning companies are unfortunately susceptible to these types of claims. Sometimes many of these claims lack merit however poor record keeping or contractual terms make it difficult for insurers to successfully defend these claims. It is thus imperative that there are provisions in the contract regarding the processes to be followed when an incident occurs and it is further vital that proper records and documentary proof are retained by the cleaning companies including video footage, photographs, statements, occurrence books etc. The contracts should also be specific with regards to the frequency of cleaning and record all activities.

The above are just examples of claims that can arise from being *IN THE WRONG PLACE AT THE WRONG TIME* and factors that ought to be considered in minimising risk and ensuring adequate insurance cover is in place.

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