



Basics of Municipal Insurance

MIA Property and Casualty Group, Inc.

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Liability Insurance Coverage Through MIA

- u Auto Liability
- u General Liability
- u Public Officials Liability
- u School Board Liability
- u Law Enforcement Liability



What and Who Are Insured?

- u All insurance contracts contain a specific section which clearly identifies exactly what persons, groups or entities the insurance intends to protect
- u The section is referred to, simply enough, as “Who Is An Insured?”

Sample “Who Is An Insured” Language

SECTION II - WHO IS AN INSURED

1. You, and any other organization or entity qualifying as a Named Insured, are an insured.
2. Each of the following is also an insured:
 - a. Your “executive officer(s),” while acting within the scope of their duties as such.
 - b. Your other elective or appointive officers or commissioners, or members of any of your boards or committees or agencies, while acting within the scope of their duties as such.
 - c. Any of your other “employees,” but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.....

Who are “Employees?”

- u 6. “*Employee*” means any compensated or non-compensated employee, **including volunteer workers** and student teachers teaching as part of their educational requirements, so long as such a person is considered a “public employee” as defined by Massachusetts General Laws ch. 258. “Employee” includes a “temporary worker”, but does not include a “leased worker”. The term volunteer worker includes volunteer or call firefighter or police officer.

Personal Liability for General Negligence

MGL Chapter 258 Section 1 provides:

“.....no such public employee or the estate of such public employee shall be liable for any injury or loss of property or personal injury or death caused by his negligent or wrongful act or omission while acting within the scope of his office or employment;”

UNLESS:

“...provided, however, that a public employee shall provide reasonable cooperation to the public employer in the defense of any action brought under this chapter. Failure to provide such reasonable cooperation on the part of a public employee shall cause the public employee to be jointly liable with the public employer, to the extent that the failure to provide reasonable cooperation prejudiced the defense of the action.”

So, What Does That Mean?

- u In a situation in which someone is acting within the scope of their employment/assignment for a municipality and an event of general negligence occurs, that person may NOT be sued for damages resulting from the negligent act.
- u MIA often receives litigation in which the town employee has been named for general negligence. MIA always moves to have the person dismissed.

When May Someone Be Personally Liable?

- u Acting outside the course and scope of municipal role
- u Failure to cooperate with the town in defense or investigation of a claim
- u As a result of a so-called “intentional tort”
- u Intentional Torts are things other than negligent actions
- u Most common examples include civil rights violations, libel, slander



How Is Personal Liability Addressed?

- u If outside the course and scope, look to homeowners or personal excess policy
- u If Town accepts MGL Chapter 258 Sec 13, the Town may defend and indemnify up to \$1,000,000 for alleged “intentional torts.”
- u Insurance placement in which the individual is also an “insured.”

“Separation of Insureds”

- u An insurer has an obligation to treat each party who is identified as an “insured” within the contract as if that party is the only “insured.”
- u If someone is an “insured,” the insurance provider has an obligation to defend and indemnify that person up to the full available limits of insurance.
- u Even if the Town, the “named insured” is dismissed, the insurer still has the obligation to defend and indemnify any other “insured” remaining in the litigation.

Insurance For Carlisle

- u Carlisle has secured insurance coverage for its employees, volunteers, elected and appointed officials.
- u Under each contract, Carlisle has selected a primary insurance limit of \$1,000,000.
- u Carlisle has also purchased an Umbrella contract which would provide additional coverage if the primary insurance limit is insufficient.
- u Carlisle carries an Umbrella limit of \$3,000,000
- u While by statute Carlisle must carry \$1,000,000, it chooses to protect its employees, volunteers, elected and appointed officials by securing an additional \$3,000,000 in coverage.

A Word About Mass Auto.....

- u Often the question is asked, if I am driving my own car and am in an accident, does the town's insurance respond.
- u The answer is generally "NO."
- u Massachusetts is a mandatory insurance state. The construct of Mass Auto Law requires that auto insurance follows the **VEHICLE** - not the driver or the purpose for which the vehicle is being used.
- u This isn't a position taken by the town or the insurer. It is the design of Mass Auto.
- u The town's insurer would respond as "excess" after your own insurance in the event a liability claim were made against you while you were driving on town business.

Claim Handling Basics

- u In the event of a claim or lawsuit, report any contact or received documents to the Town or to the insurer
- u The insurer will investigate the claim, including contacting you
- u If litigation is involved, the insurer will provide defense counsel, at the insurer's expense.
- u The insurer may act to settle claims on a compromise basis.
- u For some lines of business, (auto, general liability) the insurers does not need your consent to settle.
- u For other lines of business, (public officials, school board, law enforcement) the insurer requires the consent of the town to settle.

Questions?

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