

# Your BUSINESS

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### Keep your business moving

If your business is alive and growing, it will change. One change you are likely to encounter has to do with the vehicles your business uses. To keep your business moving, we need to stay ahead of these vehicle changes.

Insuring a newly acquired vehicle is not as straightforward as you might expect. For example, you may have automatic coverage for any vehicle; all owned vehicles; all owned private-passenger vehicles; all owned commercial vehicles; or just vehicles that are scheduled in your policy.

In addition to replacements or additions, we will help you make sure

you have liability coverage, which is only automatic for replacement vehicles (not additional vehicles), but only if we let the carrier know about it within 30 days.

And, a whole different set of rules applies to physical damage coverage (i.e., comprehensive and collision) for newly acquired vehicles, which may include state-specific requirements.

The point here is that insuring commercial vehicles can be a complex process. We are happy to point out that we are here to simplify that part of your business. Call our agency the

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moment you know of a pending change of vehicle, so we can help make sure you have the proper coverage in place.



# Employee or independent contractor?

There is a common mistake employers across the U.S. are making that could cost them a lot of money: Misclassifying their employees as independent contractors. It's easy to do, but the cost of doing so could be drastic.

It is not a secret that Uber is fighting several lawsuits filed by its drivers, who assert they are employees, instead of independent contractors as Uber classifies them. While Uber attempted to settle the largest of the suits with a settlement of \$100 million, the court denied it because the settlement represented roughly 10 percent of what could be owed to the plaintiffs under state and federal laws.

Did you catch that? \$100 million was only about 10 percent of what was potentially owed.

So, how do you avoid your own version of the Uber dilemma?

Remember your ABCs. The ABC Test is the most common way to determine if an individual is an employee or an independent contractor. The A, B, and C come from the statute commonly used to determine employment status.

Under the ABC Test, an individual must meet all three of the following criteria to be considered an independent contractor:

- A. The worker must be free from direction and control in the performance of the service, both under the contract of hire and in fact. (Essentially, this is the common law definition.); *and*
- B. The worker's services must be performed *either* outside the usual course of the employer's business *or* outside all of the employer's places of business; *and*

- C. The worker must be "customarily engaged" in an "independently established" trade, occupation, profession or business of the same nature as the service being provided.

Keep in mind, some of the factors may not apply to your situation. The ABC Test is just one method used to determine an individual's employment status. Almost all tests for determining employee classification ask the question: "Who has control?" If the employer maintains a large portion of control, the individual is most likely an employee. To properly classify your employees, you should check your state's Department of Labor website to determine if it uses the ABC Test and if any other factors apply to the classification.



## #MeToo claim? Your CGL probably won't protect you

Relying on your commercial general liability coverage for protection against harassment, discrimination and wrongful termination suits is not the best strategy. Proven personnel best practices are your first line of defense to protect your business and employees.

To prevent employee lawsuits, educate your managers and employees so you minimize problems in the first place:

- Create effective hiring and screening programs to avoid discrimination in hiring.
- Post corporate policies throughout the workplace and place them in employee handbooks, so policies are clear to everyone.
- Review performance evaluations and "write-up" procedures, and be vigilant in any disciplinary setting to treat employees in a similar fashion, applying the same standards to similar situations.
- Review and update exit interview procedures. Take all necessary measures to ensure that the exit interview is conducted in a fair manner.

Following good personnel practices alone doesn't insulate you from liability. Standard business policies and commercial general liability coverage provide little or no protection against employment practices claims. And, coverage for such claims has been omitted from the employers section of workers'

**"Following good personnel practices alone doesn't insulate you from liability."**

compensation forms and your general liability policies. However, there is coverage available—employment practices liability insurance.

Defending against any allegation can prove to be expensive. Discrimination and harassment suits are becoming so common that courts nationwide can barely keep up. More than 91,000 charges of wrongful termination were filed with the U.S. Equal Opportunity Commission in 2016. Settlements and award costs are

skyrocketing. And whether the jury sides with you or not, your legal costs could be staggering. These costs are covered by an EPLI policy.

EPLI offers protection against the crippling costs of wrongful termination, discrimination and sexual harassment suits. It provides defense for the company and the employees named as defendants in a lawsuit. It may include a wide range of monetary damages, including loss of wages and benefits. Most policies cover the cost of investigating, defending and settling claims.

Call our agency to discuss your company's need for employment practices liability insurance. If you already have an EPLI policy, contact us to review your policy limits and coverage.





## Builders risk policy—one size does not fit all



Before you start a new contractor job this Spring, take a moment to review your builders risk policy. Your insurance policy that was sufficient for one job may not be for the next, leaving you without proper coverage. Since not every project is the same in scope or size it is important that you advise us of any new exposures.

Consider this: If a new job requires a temporary security fence or scaffolding, does the current policy reflect those coverages or do they need to be added? What about testing? Is there currently an exclusion on the policy for hot or cold testing? Also, it is important to address power surges, boiler explosions and

mechanical breakdowns during the performance testing period. All of these need to be discussed to ensure proper coverage.

The Additional Coverages Limitations section is an overlooked aspect of the builders risk policy. Specifically, “occupancy and use” coverage could cease when the project is occupied in whole or in part or put to its intended use. In order to continue coverage, a permission to occupy endorsement could be needed. However, without a discussion with us, this may not be discovered and coverage could cease without anyone knowing it.

Call us today for peace of mind.

## News from our agency

### EPLI

Sounds like something fun but it's not if you have a claim. Employment Practices Liability Insurance is the full name of one of the more popular insurance policies. I say popular in a sarcastic manner. There has been a spike in EPLI claims for the past couple of years and it will continue. If you do not have this policy in place which can be triggered by an inclination from an employee or potential employee. If you do not have this policy or are not sure, please contact your producer and/or the office for additional information.

### Commercial Auto

Like all insurance policies, Commercial Automobile coverage has evolved over the years. Buying and selling vehicles is easy but please make sure the proper coverage is in place once you buy or lease.

If you think you have a job coming up and there are insurance requirements for the jobsite or complex, commercial auto is becoming a place that the contract looks for additional coverage on. Please check with us to make sure there are not any hidden costs that will take away from your bottom line for that job.

Employer vs Independent Contractor, another pair of phrases that gets confusing. Using the ABC test mentioned in the article is important. If you are not sure the Dept of Labor also mentioned, is an excellent resource for this and best of all it does not cost you anything to make the call or send the email.

### Builders Risk

If you are looking to build a new location for your business, add on another building in your lot, make sure either you or the contractor carries the builders risk. It is pre-property insurance coverage and can cover a lot of gray area on whether or not there is coverage. Once it is completed and the CO or TCO is given, then you can convert it over to a property policy. The property policy comes in several different forms so check with us on which way it will go.

Being properly covered is always important and reading the requirements of the build are important as well. Please make sure to use us for insurance reference. We are here to help! Enjoy the warm weather (finally) we have all earned it. No complaints about the 90+degree days.

Thank you as always for your continued business. Have a good one!