

PROPERTY RISK

Sprinkler Damage from a Quake Can Be Costly

WHILE YOU might expect cracks to the foundation of your building during an earthquake, there is another threat from these events.

Earthquakes can shake a building enough to activate or damage indoor sprinklers, which in turn spray water, wreaking havoc on office fixtures, machinery and inventory. This water sprinkler damage can often far exceed the damage to the structure itself.

Napa quake case study

A number of buildings suffered water damage from broken sprinklers in the Napa earthquake in 2014, according to the Federal Emergency Management Agency.

The systems that were damaged resulted in significant water damage because the quake happened early in the morning in a business district, meaning no employees were on site to shut off water valves.

When an earthquake occurs, the majority of sprinkler system damage is from the building shaking and swaying. This movement can

cause a sprinkler system that has not been properly braced to come into contact with other building systems or structural members, damaging the sprinklers and fittings.

This damage can lead to leaking throughout the piping network.

If you have sprinklers, they should comply with the National Fire Protection Association Standard, Section 9.3 of which is designed to limit the impact of this differential movement so that the sprinkler system can function as intended after, and during, the seismic event.

To help maintain alignment of system components and prevent damage, the standard requires sway bracing and restraints for system piping.

It is critical to have fire protection systems in place before an earthquake, because:

- Gas pipes can rupture.
- Wires and cables can become exposed, creating an electrical hazard.
- Fuel may spill from ruptured tanks or broken pipes. ❖

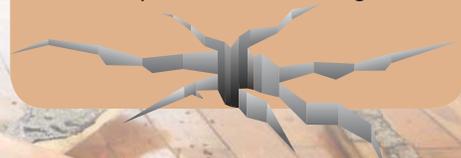
Have the right insurance

If your building is equipped with sprinklers for fire suppression, you may not have coverage if there is damage to your building, fixtures and inventory from water damage caused by earthquake damage to sprinkler pipes.

A commercial property policy will not cover this type of damage.

Earthquake sprinkler leakage (EQSL) or sprinkler leakage coverage can be added to your existing policy by endorsement, usually for an additional premium, depending on the insurance company.

An EQSL or sprinkler leakage endorsement would provide coverage for the building and/or contents inside the building should the sprinkler system leak due to an earthquake or accident. It would also provide coverage should the sprinklers become damaged.



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WORKERS' COMPENSATION

Cumulative Trauma Claims Increasing Quickly

A NEW AND costly trend is affecting workers' comp as more cases involve what's known as "cumulative trauma" – or injuries that develop over an extended period of time from repetitive or continuous motions.

Often these injuries are due to excessive wear and tear on tendons, muscles and sensitive nerve tissue that can leave a worker unable to perform their job due to pain. They can arise in any profession where a worker performs the same motion over and over again.

Interestingly though, many of the new cases are being filed after employees are fired – and they are primarily being filed in Southern California.

A report by the Workers' Compensation Insurance Rating Bureau of California, the "Analysis of Changes in Indemnity Claim Frequency – January 2016 Updated Report," found that cumulative trauma cases accounted for 18% of claims in 2014, up from less than 8% in 2005.

According to the agency, the growth in cumulative injury claims beginning in 2009 has been concentrated in claims involving more serious injuries and multiple injured body parts.

The WCIRB, in a 2015 study, noted that the median time before a claim is reported is 79 days from the date of injury. Also, 40% of cumulative trauma claims are filed after a worker is terminated. Of those cases, a whopping 98% are litigated and 90% are in Southern California.

These post-termination cumulative injury claims were much more likely to involve multiple insurers, psychiatric injuries or multiple body parts, according to the Rating Bureau.

The Bureau also noted that insurers denied 63% of cumulative trauma claims as to all issues (multiple body parts, for example), and an additional 9% were denied in part.

Most cumulative injury claims also involve attorney representation or multiple body parts.

Approximately 10% of claims that involve some time away from work are estimated to be reported late (up to 18 months after an insurance policy inception), compared to less than 2% for 2007. A significant proportion of these late-reported claims are for cumulative injury claims, which are approximately four times as likely to be reported late as non-cumulative injury claims.

What you can do

Ergonomics – the science of adjusting the job to fit the body's needs – can prevent cumulative trauma, also known as repetitive stress injuries (RSIs) in workplace safety parlance.

While in some cases redesigning the workplace is the best way to prevent RSIs, often many simple and inexpensive remedies will eliminate a significant portion of the problem.

For instance, providing knives with curved handles to poultry workers, so they won't have to unnaturally bend their wrists; taking more frequent short breaks to rest muscles; providing lifting equipment, so nursing home workers won't strain their backs lifting patients by themselves; or varying tasks to break up the routine of activities.

CUMULATIVE TRAUMA'S EFFECTS

- 30% of cumulative trauma claims involve multiple body parts
- 9.7% involve the lower back
- 6.2% involve body systems
- 5.7% involve the wrist
- 5.1% involve a shoulder
- 3.9% involve multiple upper extremities
- 3.9% involve the hand
- 3.4% involve hand and wrist
- 2.6% involve knees

One large airline's flight reservation facility, with 650 employees, had 250 cases of RSIs over a two-year period. An alarming 30% of these cases resulted in surgery.

The company took some simple steps to reduce the number of RSIs, including hiring an ergonomist to redesign the workstations, developing work/rest regimens, and eliminating electronic monitoring that included disciplinary action based on productivity, among other actions. Since then, the incidence of RSIs has dropped, underscoring the lesson that ergonomics can prevent RSIs.

A nationally known poultry producer instituted an ergonomics program and after two years its workers' compensation claims had fallen to \$1 million a year, compared to \$4 million prior to the program.

In one facility, days missed due to cumulative trauma disorders declined from 552 to 24 per year, and days of restricted work went from 1,717 per year to just 48. ❖



RISK MANAGEMENT

How to Avoid Having Your Cyber Claim Denied

YOU NO doubt have seen our admonitions about the need for businesses to secure cyber insurance policies that can help defray the costs of an attack on your network or a theft of your employees' or clients' personally identifiable information.

Businesses are faced with increasing threats and cyber criminals are working to devise new ways to infiltrate organizations' databases and extract information or find some way to monetize their hacks.

Cyber insurance can help your business recover from these events, but as with all insurance, there are risks that are covered and those that aren't – and you often will have a certain amount of time to file a claim once you've incurred damage.

Your claim may be denied for a number of reasons, according to the news website *PropertyCasualty 360*, which recommends that you:

1. File your claim on time

Most cyber policies are written on a "claims made" basis, meaning they will only cover claims that are made when the policy is in effect. If someone files a claim against your company after the policy expiration, it would likely be rejected.

Some policies may include language that allows claims to be made for a few months after the policy expires.

Also, if your organization experiences a cyber event that may eventually lead to a claim, it's important that you notify your insurer during the policy period. If you fail to alert the insurer about it early in the process, they may deny the claim.

You should communicate to your staff that they need to alert management about any suspicious activity on your networks. Create a policy for staff to report all suspicious activity immediately.

2. Understand the depth of your coverage

Because cyber policies are a relatively new phenomenon and continuously evolving, coverage will often vary from insurer to insurer.

When purchasing a policy, sit down with us to discuss your exposures (such as if you store client credit card information on your servers). This can help us find the right coverage for your organization.

Coverage will vary depending on the type of business you are running, the technology you are using and what data or company intellectual property you want to protect.

Some policies will also require that you have specific protocols and software in place to reduce the chances of your data being hacked. For example, they will require that the policyholder applies security patches, uses encryption technology and has a secure-socket layer to protect credit card data.

If you fail to have this in place when your policy is in effect, the insurer may reject your claim if your systems are breached.

Other areas that cyber policies will often differ on include:

- Paying for any potential legal costs after a breach.
- Paying for tools to remediate any exposure.

3. Understand what's not covered

All insurance policies have exclusions, and cyber policies are no different. There are many exclusions in cyber policies, but again, they vary from insurer to insurer. Examples of exclusions include:

- If your data is compromised when sharing it with a vendor, such as a payroll provider.
- If you have a system pipeline into a client's network and the network is hacked.
- Fraudulent entry into certain parts of your network systems.
- Patent or copyright infringement.

Again, it's crucial that you read your policy before signing and that you evaluate whether any existing or future contracts with vendors or clients fall outside the policy's coverage area.

4. Get the insurer involved early

Reach out to us or the insurance carrier if you think you've had a breach. Even if it's just asking questions or trying to clear up your uncertainty, it's better to contact the insurance company so that the event rises to its radar.

If you do this, it will give the insurer a chance to investigate the matter and determine if there has been any exposure.

The worst thing you can do is to wait until after you've started receiving complaints from customers, vendors or regulators. At that point your insurer will have a much more difficult task on its hands.

Getting the insurer involved early will let it get ahead of the claim, making it easier to manage – and it can limit the amount of fallout. ❖

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TREATING INJURED WORKERS

New Law Aims to Cut Workers' Comp Drug Costs

A NEW LAW that took effect this year goes after drug costs and is expected to further reduce workers' comp claims costs in California.

The new law establishes a drug formulary that would limit the types of medications that can be used to treat injured workers. The law is seen as vital to controlling costs as the cost of some medications – particularly off-label, compound medications and specialty drugs – continues to rise at a quickening pace.

Also, because California's workers' comp system lacks a drug formulary, there have been allegations of price-gouging for certain pharmaceuticals, like compound medications.

Over the past decade, the workers' comp spending on prescription drugs has boomed more than 250% and accounts for some 13% of a claim's overall medical costs, according to the California Workers' Compensation Institute. But as claims age, drugs can account for as much as 20% of a claim's medical costs.

The institute's research suggests that a formulary could save California employers anywhere from \$124 million to \$420 million a year.

Another concern for employers is highly addictive opioid medica-

tions. While the drugs are not particularly expensive, overuse and abuse can lead to worse workers' comp outcomes, such as longer times away from work, and addiction.

Mark Pew, senior vice president for Prium Medical Cost Management, told the news website workcompcentral.com that many patients receiving powerful narcotic painkillers don't report any improvement in function or quality of life, and they are still reporting pain at a six, seven or eight on a 10-point scale. The medications are not doing anything to address the root causes of the pain, the injured worker doesn't return to work, dosages increase and new drugs are required to deal with side effects.

Pew said there might be some situations in which a strong opioid is appropriate for non-malignant cancer pain, and a formulary would still allow injured workers access to these drugs in such situations.

The law requires the Division of Workers' Compensation to include in the formulary guidance on how an injured worker can access drugs for off-label use "when evidence-based and medically necessary." ❖



Protecting Your Secrets when Employees Defect

LOSING A worker to a competitor will obviously raise concerns about your firm's trade secrets being leaked or losing customers who may be loyal to that employee.

When an employee leaves you to go work for a competitor, it's likely that they've been planning the move for weeks, if not months. During that time, they could have been collecting important company information, like customer lists and detailed product information.

Fortunately, there are steps you can take to reduce the chances of any negative fallout. The law firm of Fisher & Phillips LLP in a recent blog recommended that you:

- **Discontinue remote electronic access.** This limits the ability of a former employee to electronically misappropriate key information
- **Ensure they return all records and property.** Get written confirmation from departing employees that they have returned it all.
- **Freeze usage of employee's computer.** This preserves evidence of any potential misconduct on the part.
- **Conduct exit interview.** Ask about their next job plans and if they are staying in the same industry.
- **Check computers.** Check for unusual e-mails or bulk transfers of information
- **Transition clients.** This will enhance your chances of solidifying and maintaining existing client relationships.
- **Notify them of contractual obligations.** Do this if your employees signed non-compete and non-disclosure agreements with you. ❖

