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## NEWSLETTER

DEALERSHIP ISSUE – SUMMER 2009

*Lloyd Sadd* has been providing Risk Management and Insurance services to Alberta based Auto, RV, and Powersport dealerships for over thirty years.

As an integral part of our commitment to reduce our client's Total Cost of Risk, we are proud to launch our first Auto Dealership Risk Management Newsletter.

In today's changing economy, controlling risks and avoiding losses are more critical than ever. We hope you find this content informative and, more importantly, useful in assisting the evolution of risk management in your organization.

In the past 24 months, there have been at least 4 major fire losses at auto dealerships in our region. With this in mind, we felt it important to discuss Business Interruption insurance, and how this coverage should be one of the cornerstones of your insurance program.

We have also included an article about Employment Practices Liability, and corresponding claims examples. This is a widely misunderstood area of risk to your organization, and a coverage many dealerships do not currently purchase.

Please do not hesitate to contact one of our risk management specialists for further discussion on these or any other risk management issues.



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### THIS ISSUE

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We Listen. We Think. We Deliver

# AUTO DEALERSHIPS AND EMPLOYMENT PRACTICES LIABILITY

## THE RISK IS REAL!

Employment practices liability (EPL) encompasses a vast array of issues, many of which are widely misunderstood in the auto dealership world. In an industry steeped in heritage and tradition, this emerging trend of liability exposures often flies under the radar, putting your company finances unnecessarily at risk. Gender, race and age discrimination; wrongful termination; violation of disability rights; the list goes on....

## INCREASING MONETARY EXPOSURES

Unfortunately, those who suffer the most are the very ones who can't afford the debilitating financial devastation that can result from even a single employment practices liability lawsuit. Consider the facts:

Some auto dealerships may consider going without EPL coverage to save money. Others mistakenly assume they are covered under their general liability policies, which most often have a standard exclusion for employment practices liability exposures. Going without EPL insurance can be a costly decision. Even if you only have a few employees, you need EPL coverage.

### DID YOU KNOW?

- The Equal Employment Opportunity Commission (EEOC) recorded nearly 83,000 charges in 2007 alone.
- Small to medium sized businesses are the most frequent defendants in EPL related lawsuits.
- Defense costs alone averaged in excess of \$140,000 per lawsuit.



## STRATEGIES TO REDUCE EXPOSURES

The risk for your dealership is real and significant. The best way to avoid financial loss due to an EPL claim is twofold:

1. Focus on improving your dealership's Human Resource policies and practices.
2. Purchase EPL Insurance coverage.

There are many ways to reduce the exposures created through your HR practices; in fact too many to discuss thoroughly in this medium. Just be aware EPL exposures arise from all of the following areas of your business:

- Recruitment, Interviewing, Applications for Employment, Employment Offers, Hiring, Employee Orientation, Annual Reviews, Discipline, Termination.

These are on top of the EPL exposures created by the day to day management of your dealership and its staff.

A properly structured EPL policy will cover the defense costs of any EPL lawsuit brought against your dealership, as well as compensatory damages awarded to claimants which your dealership becomes legally liable to pay.

**Not sure if you need this coverage?**

**Check on these claims examples before deciding:**

**COLORADO DEALERSHIP PAYS \$500,000 TO SETTLE SAME-SEX HARASSMENT SUIT**

***Hostile Work Environment/Sexual Harassment***

An Equal Employment Opportunity Commission (EEOC) lawsuit filed on behalf of 10 former salesmen charged a Colorado Chevrolet dealership with creating a hostile work environment. According to the suit, male managers subjected the group of male salesmen to severe and repeated sexual harassment, including touching and grabbing of genitals, exposing of a manager's genitals and referring to male employees in sexually obscene and derogatory terms.

Although the dealership had a written policy in place prohibiting sexual harassment, the suit alleged that management ignored complaints made by the salesmen for nearly a year. Management allegedly dismissed the offensive conduct as "locker room antics". The managers involved in the unlawful conduct had not been terminated or demoted; one supervisor was given a written warning.

The EEOC settled this lawsuit for **\$500,000**. The settlement also requires the dealership to provide mandatory training on sexual harassment to its executive and sales staff and report complaints to the EEOC for three years.

**AUTO DEALERS PAY \$2.3 MILLION TO SETTLE BIAS LAWSUIT**

***Sex Discrimination***

Thirty-nine female job applicants claimed they were rejected for sales positions at a group of auto dealerships in Ohio because they were women. In the lawsuit the EEOC alleged that the auto group and 10 group-owned dealerships discriminated against the 39 qualified women job candidates.

In settling the lawsuit, the auto dealerships denied the allegations but agreed to pay **\$2.3 million** to the 39 class members who had sought employment. The dealerships also will be required to extend job offers to women and train managers about the antidiscrimination requirements of Title VII of the Civil Rights Acts



**To discuss ways of improving the HR practices of your dealership, and to discuss the coverage available for EPL exposures through the **PREFERRED DEALER PROGRAM**, please contact your Lloyd Sadd Insurance Brokers Ltd. representative today.**

# Are You Covered in Case of a Business Interruption?

More than 25% of all businesses that close down following a disaster never open their doors again.

-Insurance Information Institute

If a fire causes your business to be temporarily unusable, what would you do next? Ideally, you would move to a temporary location while your permanent place of business is being repaired. Yet, traditional Property Insurance does not cover this move or a loss of income when a business must temporarily close. With Business Interruption Insurance, this setback can be minimized, as your insurer becomes responsible for replacing your disrupted flow of business income

## WHAT IS INCLUDED IN A BUSINESS INTERRUPTION INSURANCE POLICY?

- Compensation for lost income if your company has to vacate its premises as a result of disaster-related damage covered under a Property Insurance policy.
- Covers the profits that would have been earned based on previous financial records, had the disaster not occurred.
- Covers operating expenses, such as utilities, that must be paid even though business temporarily ceased.
- Covers expenses of operating in a temporary location while repairs to the permanent location are completed.

## CONSIDERATIONS FOR BUSINESS INTERRUPTION INSURANCE

- A Business Interruption loss is widely recognized as the most difficult type of loss to

adequately plan for, as choosing sufficient limits can be very complicated.

- Policy limits and indemnity periods should be enough to last well past the completed reconstruction of the damaged property, essentially providing income replacement until your business is operating at 100% capacity again.
- Did you know the Preferred Dealer Program, available exclusively through Lloyd Sadd, offers the best Business Interruption coverage in the industry? Actual Loss Sustained; which essentially means every substantiated dollar lost up until the expiry of the indemnity period is fully insured.

## WHAT IS EXTRA EXPENSE INSURANCE?

Extra Expense Insurance is also a viable inclusion to cover the amount needed to avoid having to shut down a business while the permanent location is being repaired. This coverage reimburses for expenses that arise on top of normal business expenses and will be paid to decrease business interruption costs. Depending on the disaster, Extra Expense Insurance may be sufficient to provide financial relief without having to utilize Business Interruption Insurance.

Insurance experts estimate Business Interruption Insurance as one of the most valuable coverages available. Yet, it is often overlooked by business owners as a secondary issue. Since Property Insurance only covers the cost of physical loss or damage and contents of a business in the event of a disaster, Business Interruption coverage is invaluable in covering the loss of income while the permanent business location is being repaired.

For more information on Lloyd Sadd Insurance please visit our website:

[www.lloydsadd.com](http://www.lloydsadd.com)

