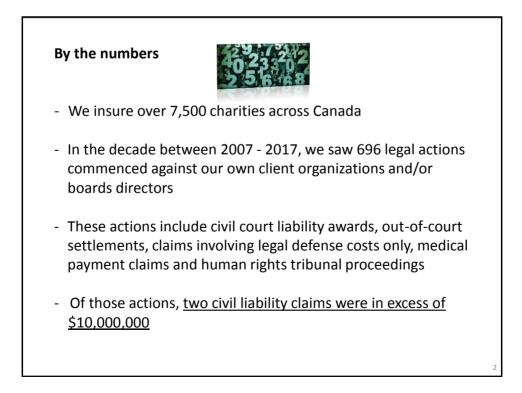
ROBERTSON # HALL INSURANCE

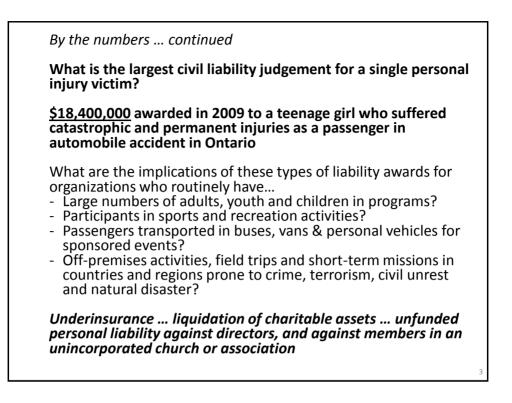
The 2019 Ottawa Region Charity & Not-for-Profit Law Seminar™ Ottawa – February 14, 2019

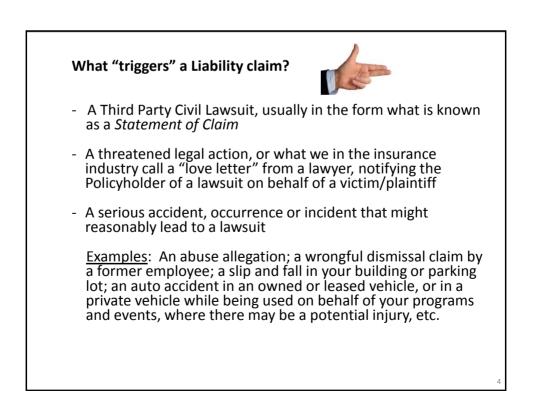
Lessons Learned from Claims to the Courtroom Part 1 – The Claims

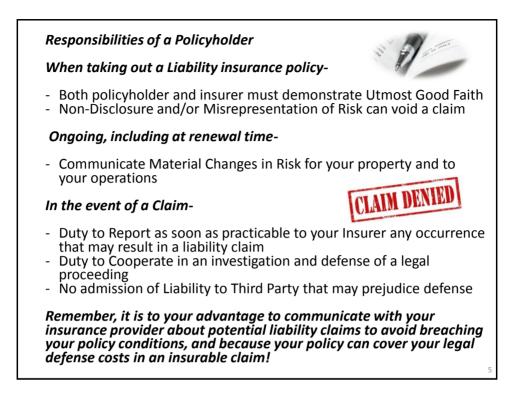
By Kenneth Hall, President - Robertson Hall Insurance

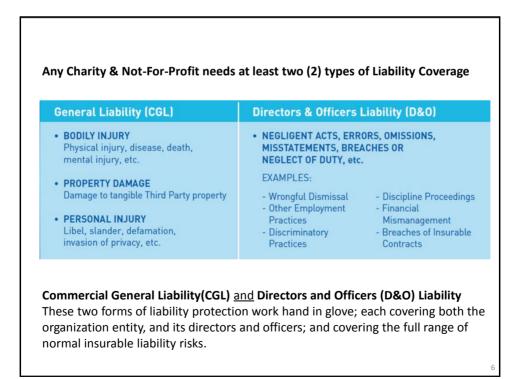
khall@robertsonhall.com 1-800-640-0933

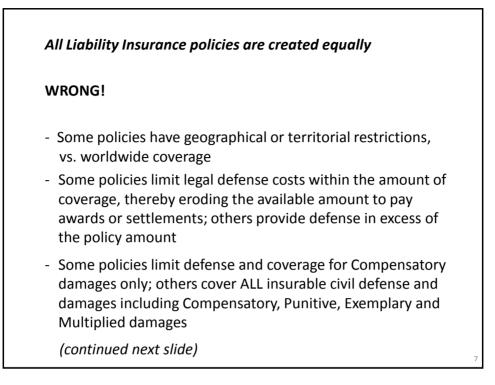


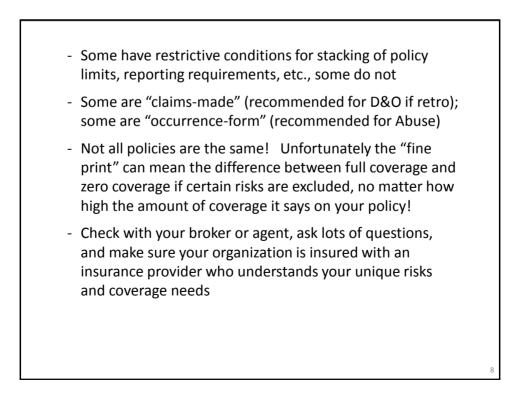




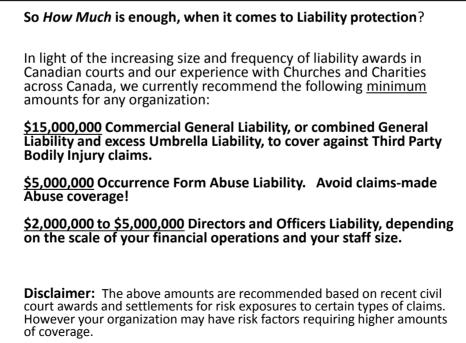








Based on unique risks and types of programs, operations and ministries, some organizations may require <u>additional</u> types of important liability protection, including:
Professional Liability; for Medical, Legal, Financial and other professional services
Fiduciary Liability; if the organization/trustees sponsor Pension Plan
Media Liability; if the main object is Broadcasting, Telecasting, Publishing or Internet Streaming
Privacy Breach Liability and/or full Cyber Liability; including privacy breaches (electronic or hard copy) disclosing *Personal Information* held by the organization
Worldwide Liability; for Short-Term Mission Trips and for Missions, Relief and Development Operations
Auto, Aircraft or Watercraft Liability; if owned or leased
Liability Insurance 101 newsletter available upon on request



Umbrella Liability Coverage

Most Property & Casualty insurance companies in Canada have maximum Commercial General Liability coverage capacity of between \$2,000,000 to \$5,000,000 per claim occurrence and annual aggregate, regardless of number of claims in a policy period

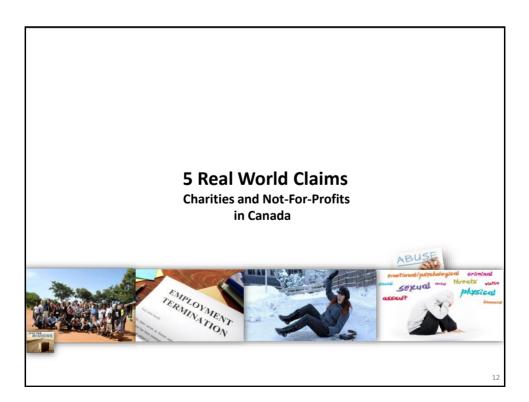


A separate "*excess*" policy known as Umbrella Liability may be available to "top up" your primary General Liability coverage (and Auto Liability coverage, if any)

Umbrella policy wordings are on a "follow form" meaning that they provide excess protection in excess of most risks covered in organization's primary General Liability policy wordings and limit of coverage

For example, a \$10,000,000 Umbrella Liability policy in excess of an organization's \$5,000,000 General Liability policy, now provides the organization with \$15,000,000 combined protection for insurable Bodily and Personal Injury awards and settlements

The single biggest and most practical step any organization and board can take to address insurable risk, is to purchase optional Umbrella Liability protection!





1 - Slip and Fall Claim

Most common form of liability claim - 70% of all claims

Most claims settled in the tens or hundreds of thousands of \$\$\$

Under Occupiers Liability Acts, owner or tenant has responsibility at law for safe condition and supervision of building premises and property

FACTS: New immigrant to Canada falls in icy church parking lot after Sunday morning service, is taken by ambulance to hospital, suffers subsequent stroke, sues church and settles out of court of \$2,900,000

Sources of Insurance Coverage:

Commercial General Liability (and Umbrella Liability) covering Bodily Injury

Or alternatively if no lawsuit, a First Party no-fault Medical Payment Rider or Group Accident Policy, covering Medical Expense, Loss of Income, etc.

2 - Abuse Liability Claim

Our client organizations are primarily from the evangelical Christian faith community

Over 85 cases of individual or multiple victims, representing hundreds of total victims

90% of our client organizations have an approved abuse prevention plan

FACTS: Organization receives Statement of Claim from victim's lawyer alleging childhood abuse perpetrated by leader at church-run camp in the 1970's and 1980's.

Organization unable to locate General Liability or Abuse Liability policy in place at time of the alleged abuse

Currently defending this uninsured claim

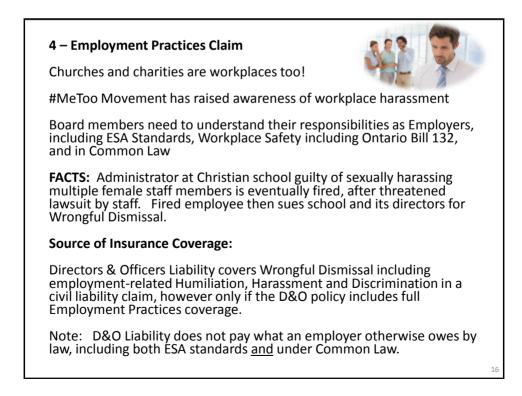
No Statute of Limitation for claim. Importance of keeping insurance policy documentation in perpetuity!

Source of Insurance Coverage:

Commercial General Liability with no Abuse Exclusion; or stand-alone Abuse Liability coverage, preferably Occurrence-Form coverage

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3 – Social Media Claim Rise of use of social media in Charities and NFP's including examples of the "good, the bad and the ugly" FACTS: Teenaged youth leader at a summer camp (themselves under 18 years of age) posts on Instagram picture of child in their camp group cropped from camp's Instagram account, with a caption containing profane language and extremely derogatory of the child and their behaviour The organization did have a Social Media Policy in place \checkmark signed by the vouth leader and has subsequently placed them on notice legally. The camp did not have a <u>Photo /Video Permission Form</u> X signed by parents/guardians to place the images of minors (or adults) on their website or social media accounts. Legal action has been threatened by the parents against both the camp organization and leader on behalf of their child Source of Insurance Coverage: Commercial General Liability policy under Personal Injury assuming no exclusions in policy with respect to website or other electronic content.



5 – Short Term Mission Trip Claim Significant trend in short term mission trip sponsorship from national denominations and missionary societies, to local churches and smaller special purpose charities - less than 24,200 in 1979 to over 1,760,000 travellers in 2006! Importance for charities sponsoring expat missionaries or short-term mission trips to require several types of concurrent insurance for participants and the organization for full protection, including: Worldwide Third Party Liability coverage (General Liability and D&O Liability) Mandatory individual or group Travel Emergency Medical Insurance Special Risk coverage for Kidnap, Ransom & Evacuation, depending on area of travel **FACTS:** Both a church and mission-sending organization as co-sponsors of a short-term mission trip are sued for lack of supervision for injury to a youth who suffers quadriplegia, as result of a fall from a balcony where group is staying. Source of Insurance Coverage: Commercial General Liability (and excess Umbrella Liability) policy under Bodily Injury, assuming the policy has Worldwide Coverage Territory.



