



Loss Control TIPS

Technical Information Paper Series

Innovative Safety and Health SolutionsSM

Handling General Liability Incidents

Introduction

Any business that receives visitors faces a risk of premises liability. Visitors may include solicitors, sales people, customers, or independent contractors who are performing some agreed-upon service (e.g., snow removal, sprinkler system testing, window washing, grounds maintenance, computer maintenance, etc.). Slips and falls tend to be the primary type of incident involving visitors. Unsafe conditions that pose a risk to visitors also threaten the safety of employees.

Naturally, the best way to eliminate general liability claims is to take steps to reduce hazards, such as:

- Controlling the flow of visitors to restricted areas, and allowing visitors access only when they are accompanied by a representative of the company
- Ensuring that visitors are issued—and wear—protective equipment necessary for the area of the operation
- Maintaining floors, stairways, parking lots and exterior walkways properly, and providing adequate lighting, both inside and outside

For outside services you employ, be sure your contractual agreement covers issues such as

- a policy requiring that they adhere to company safety rules
- a restriction on borrowing company equipment
- a requirement that contractors have their own Workers' Compensation and General Liability insurance.

Since incidents involving visitors can happen even when these safeguards are in place, be sure to have specific guidelines in place for how your employees should respond to reports of injuries to visitors or damage to visitors' property.

Respond Effectively To Visitor Incidents

When responding to an alleged visitor incident, it is critical that you and your employees remain professional at all times, and show genuine concern for the person's injury or damages. Put yourself in the other person's place: He or she may be embarrassed and upset following the incident. Make the visitor as comfortable as possible. Arrange for prompt first aid or medical care. (Be sure that a copy of emergency numbers for ambulance, fire and police are prominently displayed for easy reference by all employees.) If injuries allow, take the customer off to the side so that others don't stare, or crowd around, or otherwise make the situation more stressful and upsetting.



Ask the customer or visitor what happened, but try not to be judgmental or enter into any disputes over the alleged cause of the incident. Just observe and report the facts of the event, and let the claim adjuster worry about whether the claim is justified.

It is absolutely critical to avoid making any admissions of negligence or responsibility, or even to hold discussions that would *imply* negligence or responsibility. For example:

- Never reprimand an employee at the scene of the incident
- Never make statements about how management will handle future costs for medical treatments or property damages for affected parties
- Never discuss insurance coverage with the visitor
- Do not discuss facts of the incident with strangers at the scene, or any time after the incident.

Report All Incidents

Employees should promptly report to management, in writing, all customer incidents, accidents, or claims. A properly completed incident report will alert management to a potential problem, and management can then immediately notify its insurance carrier of any pending liability matters. Calling Hartford's 24 hour Teleclaim number immediately after a visitor incident is a great way to ensure that visitor incidents are investigated quickly.

Handle and investigate all incidents promptly to help control future liability claim costs. For example, a customer or visitor who, immediately after an incident, states that no injury or damage has been sustained, may discover problems later, or may change his or her story. A well-documented incident report will help to defend against fraudulent liability allegations that omit or alter the real facts of the incident.

If a customer refuses to give his or her name, or declines to provide information for completion of an incident report, then complete a "John Doe" report, using whatever information is available. In writing a visitor incident report, avoid using the word "victim;" this term may be used later by a plaintiff as an admission of wrong doing on the part of your company. Discuss any suspicions about the validity of the incident with The Hartford's Teleclaim operator. Describe suspicions on a separate sheet of paper that is attached to the official incident report.

Record Accident Facts

The specific information recorded at the scene of a visitor incident can be critical to the ultimate outcome of any liability claim that may be generated. In addition to recording the time and date of the incident, be sure to document this additional key information:

Exact Location

Be as specific as possible in describing exactly where the incident took place. For example, rather than stating that "the visitor fell at the front of the building," it is better to say that "the visitor fell while walking across the rubber mat outside the main entrance on the north side of the building." Describe locations of incidents inside of the building with references to specific areas, such as a specific aisle number, production area, office number, product display, or other identifying point where the alleged incident took place.

Record Witness' Statements

Always write down any statements made by the customer or witnesses. For example, the visitor may state “the reason I fell was that the heel of my shoe broke causing me to fall.” Or a witness may say that he saw the customer first drop a bottle of juice, and then slip in the spilled liquid. These documented comments can play a significant role in providing a defense should the customer later allege that he or she was injured due to some negligence. If the visitor states that they he or she was not hurt, or if he or she refuses any medical assistance, document this as well.

Identify Witnesses

Record the names and addresses of all witnesses. Employees who saw what happened should fill out a witness report immediately.

Investigate the Scene

At the site of the incident, make a complete inspection of the immediate area and gather as much information as possible that may have a bearing on the claim.

- Note the type and condition of the floor, including if it is clean and dry.
- Document the type and condition of the visitor's shoes (for example, high heels, smooth leather soles, untied sneakers), especially if the incident involved a slip, trip, or fall.
- Document pertinent weather and lighting conditions, if the alleged incident occurred outside.
- Describe the lighting in the area.
- Document if the visitor was wearing glasses or using an assistive device (cane, walker, etc.).
- Document whether the visitor was using any equipment at the time of the alleged incident, and note to whom the equipment belonged and the apparent condition of this equipment. Remove any defective equipment from service immediately, tag it with an “out of service” sticker, and retain it as possible evidence in the defense of a claim.
- If there are any objects or debris on the floor, try to determine if they were dropped by the visitor or if they came from another source.
- Ask the visitor if he or she had been feeling ill or had been using medications just before the incident.

Photograph the Scene

Finally, take photographs of the area in question in order to document the exact conditions at the time of the alleged incident.

- Try to take pictures from a number of angles or reference points.
- For close ups, put a ruler or other familiar object in the picture to provide a reference of scale.
- To capture the time and date, one can place a watch and the front page of a newspaper in the scene.
- Do not permit anyone other than company representatives to take photographs of the scene.
- Do not take pictures of injured people, especially if injuries are severe.

For more information, contact your local Hartford agent or your Hartford Loss Control Consultant. Visit The Hartford's Loss Control web site at <http://www.thehartford.com/corporate/losscontrol/>

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