Why You Should Report Loss: An Example of What Not To Do

It’s your second week on the job as the CFO of a mid-size nonprofit organization. Coming into work on a Monday morning, you grab your coffee and log into the computer. Within minutes, the bank sends you an alert that all of your accounts have been frozen. You receive several emails and knocks on the door from employees complaining that they did not get their paychecks, and the blinking light on your phone indicates a voicemail from your company’s president is waiting for you.

After a morning of phone calls and investigation, you uncover that your bank account was frozen due to a garnishment action and all of this chaos is stemming from an incident that occurred years prior.

Three years ago, a regular customer of yours tripped on a rug at your nonprofit. The client suffered a fractured leg and ankle, which required major surgery to repair. No one in your organization thought to report the incident to your insurance carrier because they were certain this customer had her own health insurance and a high opinion of your organization.

About a year after the incident occurred, the customer’s lawyer sent a letter of representation and subsequently served your organization a lawsuit. No one from your nonprofit responded to the suit, which led the lawyer to send a certified letter advising his intent to file a Default Judgment against your organization. Six months later, the customer’s lawyer entered a Default Judgment for $1.3M.

Over the next year, your organization received nine more court notices and answered none of them. You discover that no one ever sent notice to the Insurance Company or the agent. You decide to send notice to the insurance company right away, and they deny coverage for “Late Reporting.”

When you call to ask how this is possible, the claim representative clarifies what the requirements for filing a claim include. Under the Conditions section, she reads part 2.a, which says in part,

> “You must see to it that we are notified as soon as practicable of the occurrence of any act, error, or omission which may result in a claim or ‘suit’.”

She emphasizes the word “may,” and explains that it was the responsibility of the nonprofit to report the incident when it occurred, even if they didn’t believe it would result in a claim.

In this case, the court ruled that there was in fact late reporting and thus no coverage for the loss. The Plaintiff is foreclosing on properties owned by the nonprofit and seeking to recover the full $1.3M along with pre-judgment and post-judgment interest and costs.

Nonprofits should err on the side of over-reporting claims. Insurance is a contract and violating a condition of this contract could result in a declination of coverage. Nonprofits are strongly advised to avoid taking this chance and always contact your insurance company if you have a question.

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