

 **SOCIUS**
sentinel
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**MESSAGE FROM SOCIUS PRESIDENT,
PATRICK E. HANLEY, SR.**

WELCOME TO THE PREMIER EDITION OF THE SOCIUS SENTINEL NEWSLETTER. The goal of this newsletter is to keep you, our valued partner, up to date on the latest developments in the E&S marketplace.

Why 'The Socius Sentinel?' 'Socius' is a derivative of the Latin word for "partner." The dictionary defines 'sentinel' as "to watch over as a guard." Your team at Socius is here to keep you up to speed on the rapid changes taking place in the industry. Delivering helpful industry tips and facts, consider Socius your partner and watchdog for the insurance marketplace.

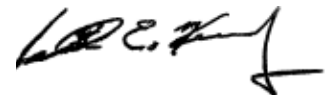
As many of you know, Socius has had an exciting year. First and foremost was our successful name change from ECM to Socius. The name change, which coincided with our tenth anniversary, was intended to better reflect the position we hold with our retail partners. Also, despite a difficult and softening market, Socius achieved our goal of continuing to grow the organization while at the same time remaining a vibrant, profitable enterprise. We have some of the very best people in the industry and I believe our results are a reflection of that.

Please enjoy the first edition of the Socius Sentinel. We are proud of it, and have included what you need to know in quick, easy to find sections as follows:

- >> **POINT OF VIEW** // Articles from our contributing brokers or industry resources focusing on current issues and trends in coverage reflecting the market today.
- >> **RECENT SUCCESSES** // Hit list of recent unique accounts, or claims examples for which our team has helped place coverage.
- >> **PROGRAM SPOTLIGHT** // Each volume will focus on one of Socius's exclusive programs either from the P&C or Management Liability side.
- >> **CE CLASSES** // Update on classes Socius Insurance Services is offering to you.
- >> **ANNOUNCEMENTS** // Broadcasting internal Socius updates.

We hope you find this information beneficial. Please let us know if you have any comments, questions or suggestions on anything related to the Socius Sentinel. Please direct them to either myself at phanley@sociusinsurance.com or our Business Development Manager, Shannon Mahoney at smahoney@sociusinsurance.com.

Sincerely,





Please contact Kevin Kershnik or your local Socius P&C broker to discuss this coverage further and if you are interested in obtaining a quote.

Kevin Kershnik heads Socius's Southern California branch in Los Angeles, CA. Kershnik specializes in writing coverage not only for Management Liability, but also Property & Casualty as well. He can be reached at (213) 243-1226 x106, and also kkershnik@sociusinsurance.com

Product Recall Liability – The Unrealized Exposure

by
KEVIN KERSHNIK

In recent months product recall has become an often discussed topic in the press, around the water cooler and in the highest levels of national product regulation and the federal government. The most publicized cases have focused on spinach, lettuce, ground beef and children's toys. But just how vulnerable is a firm to product recall exposure?

Let's say you are a food manufacturer and your firm has an outstanding quality control program. Throughout the years you have refined your QC program to include more than one redundancy in the inspection process. Your business model utilizes only ISO9000 certified suppliers and your QC team is recognized as a model for the industry. It appears that your firm has done everything possible to prevent a recall. As part of your marketing and packaging process, you decide to put an eye-catching label on the front cover to help sell your product during the holiday season. There is only one slight problem – the marketing label on the front doesn't make mention of an ingredient that can cause severe allergic reactions in some individuals – just such a situation recently happened to a manufacturer in Bellingham, WA as detailed on the U.S Food and Drug Administration's recall website, http://www.fda.gov/oc/po/firmrecalls/qualityplus11_07.html

A Product recall cannot only be costly to undertake, as the effects of a recall can also damage a firm's reputation and subsequently impart extreme financial harm. The example above is vastly different from what people often see as product recall exposure. Product recalls commonly revolve around a breakdown in the manufacturing process such as the failure of a supplier or contract manufacturer to follow well established guidelines.

More commonly, product recall coverages are focused on an error in the manufacturing process but can include malicious tampering as well as accidental tampering. A by-product of the recall is damage to public reputation which also can be a coverage grant in the form of crisis management. In some instances extortion can also be negotiated into the recall insurance contract. Third party recall coverage is a common grant if the recalled product is a component part of another product or is distributed or sold by another entity.

THE KEY COMPONENTS TO LOOK FOR IN PRODUCT RECALL INSURANCE ARE:

- >> Product recall and replacement costs.
- >> Business interruption costs related to the recall.
- >> Third party recall and contamination liability expenses.
- >> Crisis Response – Public relations and associated consulting costs.
- >> Defense costs.

The limited list of insurance facilities willing to quote product recall insurance recently was shortened by QBE International departure from the contaminated products marketplace. The carriers providing coverage have highly specialized underwriting departments that focus on the product recall exposures. Most carriers will require that the insured have established a thorough quality control process in addition to a product recall program. If the applicant is deficient in one or both requirements, most carriers have relationships with firms that can assist the applicant in developing effective QC and recall programs.

A very useful website that searches government databases for recall postings is www.recall.gov.

INSURANCE FOR WAGE AND HOUR DEFENSE?

BY KATHERINE S. CATLOS, ESQ.



Katherine S. Catlos is the managing partner of the San Francisco office of Kaufman Dolowich & Voluck, a firm that specializes in defending EPL and other professional liability claims. Ms. Catlos received her B.A. degree with honors from the University of California, Berkeley and her J.D. degree from the University of San Francisco. She can be reached at (415) 402-0059 or by email at kcatlos@kdvlaw.com

Employers throughout the United States are being bombarded with lawsuits alleging wage and hour violations and the employees are certainly coming out as winners.

Recently, Staples paid \$38 million—more than \$22,000 to each “assistant manager”—who allegedly was misclassified as an exempt employee under overtime laws. Starbucks is also in “hot water,” having just lost a class certification ruling to 900 “managers” who claim to have been improperly classified as “executives.” But wage and hour lawsuits are not limited to large employers or even to class actions. Their impact upon smaller companies may be far greater. One employee recovered a six figure settlement because he meticulously documented the time he spent “on call,” as a result of his employer’s failure to properly utilize time cards. There can be no doubt that wage and hour violations are the single largest exposure for employers today, far exceeding that from discrimination claims.

Insurance Coverage to the Rescue

Given the risks caused by this onerous exposure, employers have been looking to their brokers and insurance carriers to obtain coverage for FLSA /wage and hour claims. In response to this need, creative underwriting professionals, such as Socius Insurance Services, Inc. in San Francisco, California have developed markets for placing appropriate coverage.

More specifically, they now offer employment practices liability insurance (EPLI) policies that provide defense coverage for wage and hour claims. Coverage is available as a sub-limit to

the policy’s aggregate limit, in increments of either \$100,000 or \$250,000. The new product is a boon to employers—especially smaller ones—previously left to defend against this costly litigation without the benefit of insurance.

By performing audits to ensure compliance with wage and hour laws and understanding the law, and other precautionary measures, employers could very well result in lower premiums for EPL coverage and hopefully, prevent wage and hour lawsuits altogether.

Please contact your local Socius Management Liability broker to discuss this coverage further and if you are interested in obtaining a quote.

RECENT SOCIUS SUCCESSES

[January 08] B. Conrad, a member of Paul Lefcourt’s team, successfully placed coverage for a technology firm that recently merged with four other entities. Conrad insured one of the subsidiary entities and negotiated to write the new entity name including the other three entities as well as keeping the prior entities’ retro dates on the new policy. Going forward policy totaled approx. \$97,940. **[December 07]** Paul Lefcourt, Management Liability Practice Leader, San Francisco Office, successfully placed coverage for two large investment advisor firms with Hedge Funds that recently merged resulting in a new combined Investment Advisor firm going forward. Lefcourt negotiated very competitive run-off/tail terms for both Company’s D&O, EPL, E&O and Fiduciary policies as well as negotiated a broad going forward D&O, EPL, E&O and Fiduciary policy for the newly created combined Investment Advisor firm. The premium for the 2 run-off policies and going forward policy totaled approx. \$220,000. **[December 07]** Jenni Picetti, Assistant Vice President P&C, San Francisco Office, successfully placed a large Food Processing/ Agricultural needing \$130,000,000 in Excess Liability Limits. She was able to secure the best placement and pricing for a total of \$895,000 annual premium. **[November 07]** Eric Shapiro, Assistant Vice President, Florida Office, successfully placed a large contractors professional risk where the client needed a quote within a day or they were going to lose their contract with a major customer of theirs. Shapiro placed \$5mm in limits with Hiscox within 1 day. ::

PROGRAM SPOTLIGHT

EMPOWER EPLI

Written thru Lloyds of London, Socius Insurance Service's Empower EPLI program is one of the broadest products available today and includes loss control by top employment law firms.

FEATURES INCLUDE THE FOLLOWING:

- >> 24 Hour Turn Around Time
- >> Ability to Quote off any application
- >> Proactive Loss Control
- >> Wage & Hour Coverage
- >> Broad definition of Insured's
- >> Full Prior Acts Coverage
- >> Third Party Coverage Included
- >> Ability to Quote up to \$10,000,000 limits

For more information or an application, please contact your Socius broker or Lisa Masa at 415-778-0310 x 349. Don't forget to ask about our new exclusive "Contractor's Endorsement."

EPLI SUCCESS STORY

:: JANUARY 2008

NATURE OF RISK
Construction

CLAIMS

Non Renewed by incumbent due to claims history. \$168,000 loss due to sexual harassment claim.

TERMS QUOTED

\$168,000 claim and 65 employees, turnaround time within 24 hours.

BOUND

\$1M/\$2M Agg Limit, XS \$25,000 at \$9,787 including DOL.

Continuing Education Classes

"Thoits Insurance Service, Inc., spends a great deal of time and money providing Continuing Educational classes on site. We use a number of providers and instructors to keep our staff informed, current and licensed. By far, Socius provides the best instruction, timely topics, and professional presentation in their specialty. Plus the price is right!"

:: DEAN MIDDOUR, PRESIDENT AND C.O.O.

Socius Insurance Services is constantly finding ways to stand out from other wholesalers and bring added value to our relationships with agencies we are currently doing business with, and even those we hope to in the future. One way in which this is achieved, is our ability to offer in-house CE Classes at no cost to your agency. Socius has done this for a number of years now and we have always received great responses from those agencies that chose to utilize this service.

THERE ARE OVER 20 CLASSES which we are offering, ranging from 1-4 hours in length. Socius is licensed to teach in California and Florida. Below are a few examples:

- >> Intro to Employment Practices Liability
- >> Intro to Director's and Officer's Liability
- >> Changing Nature of Directors and Officers Liability
- >> Ethics in Insurance (Meets CA DOI Requirements)

If you are interested in the complete class list or learning more about how you can schedule a CE Class for your agency, please contact Shannon Mahoney at SMahoney@sociusinsurance.com.

ANNOUNCEMENTS

WE'VE MOVED! ::

On December 14th, Socius Insurance's San Francisco office welcomed back some of its former occupants. The Socius Walnut Creek staff, led by Management Liability Practice leader and co-founder, Paul Lefcourt, rejoined our group in San Francisco. We are very happy to welcome back Paul, Barb Candeub, B. Conrad, Artavia Clay, Isela Coronado, Anna Lopez and our Chief Operating Officer, Carol Rizzo!

NEW HIRES AT SOCIUS ::

On October 4th Socius announced the appointment of two new employees, Shannon Mahoney and Tim Troy.

SHANNON MAHONEY, BUSINESS DEVELOPMENT MANAGER, is charged with national new business development responsibilities, specifically targeting new agency appointments. This is a brand new position at Socius which we are very excited about and believe will help drive new business opportunities for the agency.

TIM TROY, ASSISTANT VICE PRESIDENT, is a new **P+C Producer** charged with new

business development responsibilities in Northern California risks primarily for the construction industry.

2007 EMPLOYEE OF THE YEAR ::

Socius likes to annually recognize one employee who stands out because of their work ethic and has truly gone above and beyond their job requirements. For 2007, Socius was happy to award, DEBORAH WAPLES, SENIOR ASSOCIATE BROKER out of Sacramento office, as the deserving recipient.