

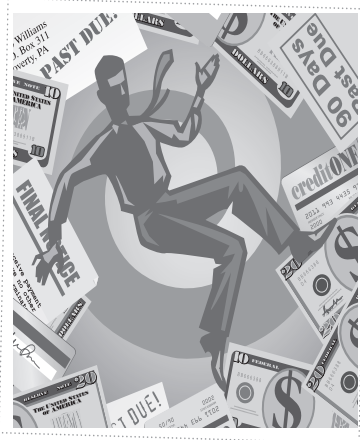


Business, Financial & Insurance Solutions

alperservices.com • 60 West Superior Street • Chicago, Illinois 60654 • F 312.944.7000 • P 312.642.1000

MANAGING RISK IN TROUBLING TIMES

Regardless of the size, structure, product or industry, American companies are feeling the impact of tumultuous national and global economic conditions. In these challenging times, it's natural to more closely scrutinize every line-item, and to re-examine and re-evaluate every cost.




Careful and creative management of your risk is more important than ever. Uncertain economic conditions make you more vulnerable to risks from lawsuits, business interruptions, crime, and even property damage and workers compensation.

Insurance companies are increasingly diligent in the risks they will accept. Applications are becoming more stringent as the insurance carriers closely examine every current and potential source of risk.

Companies considering budget cuts should not eliminate basic safety and loss control measures. As budgets tighten, more is demanded of the remaining workforce and accidents may increase.

Some experts contend that a tight economy combined with real or perceived threats of layoffs contribute to increased cost and duration of workers' compensation claims. Pending layoffs also lead to increases in employment practices liability lawsuits, including discrimination and retaliatory discharge.

The continued presence of risk managers, safety committees, and strong company-wide loss control measures will help companies conserve their economic resources today and over the long run.

Please contact your Alper Account Executive for more information about risk management and protection for your company. 

LEGAL UPDATES EMPLOYERS SHOULD KNOW:

IL Court Ruling Permits Employers to Halt Certain Work Comp Benefits

Employers frustrated by the prospect of firing an undesirable employee because he or she has a pending workers compensation claim, may find some assistance in a recent court opinion. The Illinois Appellate Court ruled that an employer may stop paying temporary total disability ("TTD") benefits to an employee who is fired for cause. *Interstate Scaffolding, Inc. v. The Workers' Compensation Commission, et.al.*, 385 Ill.App.3d 1040, 896 N.E.2d 1132 (3d Dist. 2008).

The case involved an employee who was receiving workers comp benefits due to a work-related injury. The employee returned to light-duty work, and the employer accommodated his restrictions. However, during his light-duty assignment, the employee was caught scrawling graffiti on the employer's walls. After the employer terminated him for cause, the employee attempted to collect TTD benefits, which the employer challenged.

In its ruling, the Appellate Court noted that the primary purpose of workers' comp is to compensate an employee for "lost earnings resulting from a work-related disability." However, when an employee loses earnings due to his own blatant misconduct, the loss of income is no longer associated with a work-related disability. In that circumstance, an employer can stop paying TTD benefits.

Notably, the court decision does not change the Illinois law which still makes it illegal to fire an employee in retaliation for filing a workers' comp claim. Employers must take precautions to insulate themselves from retaliatory discharge lawsuits by carefully documenting the cause for termination, and ensuring they have precisely followed all company policies regarding termination. Before firing an employee, it's always advisable to consult with your attorney, and before ending TTD benefits, to consult with the workers compensation adjuster.

continued

LEGAL UPDATES EMPLOYERS SHOULD KNOW *continued...*

Changes To Federal ADA Expands Recognized Disabilities

New changes to the Americans with Disabilities Act (ADA) may impact the more than 54 million disabled U.S. workers and the companies that employ them. Effective January 1, 2009, the ADA expanded its definition of mental and physical impairments which "substantially limit" major life activities. It also revised the definition of major life activities potentially impacted by a disability to include major bodily functions, such as cell growth, digestion, bowel, bladder and reproductive functions.

For employers, the new ADA means more employees may be considered 'disabled'. For example, under the new definition, sleeping and eating disorders, fertility and reproductive issues, as well as learning impairments and ADD, all may be classified as "disabilities." With the new changes, it's a good time for employers to review their company policies on accommodating disabilities. Employers should also re-educate their supervisors on what may be classified as a "disability," and how to manage increased requests for accommodation under the ADA. 📌



Gail Klappauf, *Small Commercial*
312-867-7364 or GKlappauf@AlperServices.com

Cynthia Ruiz, *Personal Lines*
312-335-2156 or CRuiz@AlperServices.com

Tina Xanos, *Financial Sales/Life*
312-335-2152 or TXanos@AlperServices.com

Gigi Santos, *Employee Benefits*
312-654-4264 or GSantos@AlperServices.com

THE ALPER LINK: Looking Out for You

Alper Services strives to continually expand our role as your risk management resource.

The Alper Link teams up four of our key insurance departments: Employee Benefits, Personal Coverages (Homeowners, auto, etc.), Standard Property & Casualty, and Financial Services/Life. Led by several of our most experienced Team Members, the Alper Link will provide a comprehensive, in-depth review of your current policies and analysis of your practical insurance needs.

If you would like to schedule a no-cost review of all or any of these coverages, please contact Cynthia Ruiz at 312-335-2156 or CRuiz@AlperServices.com. 📌

The information in this newsletter is provided for general information only. Specific implementation and action should be undertaken only after individual consultation with Alper Services and/or legal advisor.

Presorted
Standard
U.S. Postage
PAID
Sycamore, IL 60178
Permit No. 5

alperSERVICES LLC
60 West Superior Street
Chicago, Illinois 60654