

While restaurant owners certainly have to pay close attention to many different kinds of insurance protections from workers compensation insurance to fire insurance to theft and many others, one could make a case that liability protection has the greatest potential to wipe out a business. This is due to the nature of liability exposures in that their top end limit is unknown. You know for sure what you stand to lose if your building burns to the ground but with liability exposures, you are dealing with vague unknowns. And there is a hidden responsibility in your liability protection that could put you in a very vulnerable position if you are facing a lawsuit.

Any restaurant owner who stays in business long enough will probably face some kind of liability claim. People slip and fall, claim food poisoning, crack teeth on foreign matter in their food and a whole host of other kinds of risks, not to mention the huge risks for the restaurant owner associated with an entity that serves alcohol. But have you ever considered what you must do in the event that you are served with suit papers from a claimant?

If you are served with suit papers then your first action should be to contact your insurance agent or your insurance carrier and get copies of those papers to them immediately. This is particularly true if the suit seems frivolous or even if you have been included in a lawsuit for which you have no connection at all. The reason for the need for immediate action is that failure to respond in time could put you in a position of having to accept a default judgment against you, even if you have nothing to do with the case. In addition, if you don't allow your insurance carrier enough time to respond (and they often need a few weeks to set up the attorney and the claim file), then they have the right to refuse to honor your claim.

Here's a personal story that will demonstrate to you just how vulnerable you can become if you ignore suit papers and don't take immediate action. Several months ago I was served with papers for a slip and fall claim that happened in the building beside the one I own. Because that building owner had the same name as me, and because my company was once a tenant in that building, the plaintiff's attorney decided to name my company in this lawsuit. My first step was to call the attorney and clarify that he had made a mistake in naming me as a defendant in this suit. Now all the while he promised to release me from the lawsuit, in fact he never took the action to do so. As the 30th day approached I decided that I had better respond to the lawsuit and I contacted my liability insurance carrier. They told me that I had waited too long and that they would be unable to defend me. At this point I was forced to hire my own lawyer at my own expense to ask for an extension in the time to respond so that I could file the claim with my insurance company. In the end the claim was filed and with the insurance company's attorney working for me I was released from the claim. But I felt a bit blindsided by the fact that a plaintiff's attorney's error in naming me could have led me to face a default judgment for a claim to which I had absolutely no connection.

If an insurance agent like me could make that mistake, I worried about my restaurant insurance clients. Therefore I have written this blog as a way to share this nasty experience with others who might not take so seriously the fact that they have been served with papers naming them as a defendant in a lawsuit. So, should you ever receive suit papers, do not delay, get them to your insurance carrier as quickly as you can.