

### THE SCRIVENS PERSPECTIVE

BY PETER SCRIVENS, PRESIDENT



The Summer's weather certainly had it's ups and downs but the city is back to school and back to regular traffic.

That is, except a few areas that continue to be under development, like Elgin Street near

our main office. We encourage you to help support the many local businesses on Elgin throughout the construction period.

Now that Summer is over, we're working later on Friday. Please note our regular hours are now in effect:

#### Office Hours

*Monday to Friday: 8 am - 5 pm*

Remember, even when our office is closed, our claims service remains open. If you experience an emergency and need to speak with someone immediately, please call 1-800-267-3542.

Ole Jensen is optimistic about some possible changes coming to insurance for snow removal companies in his latest article. If you are a landlord, contractor, or have people on your property, it's certainly an important read!

Abuse claims are a reality more than ever and we discuss how you can manage your risk with abuse liability.

Elsewhere at Scrivens, Karen Spencer explains how condo insurance is special, what's going on with car insurance in Ontario, and more! In our Retirement Matters newsletter, we talk about Disability Savings Plans, politics' effects on your portfolio, and more!

I am excited to announce that we have welcomed another new face at Scrivens as we continue to grow our commercial insurance department. I am pleased to welcome **Phuong Mai** as our newest Commercial Account Manager.

I appreciate your support and I look forward to sharing what's going on around Scrivens in our next newsletter!

## BILL 118: POSSIBLE RELIEF FOR SNOW REMOVAL OPERATIONS



Ole Jensen, Partner

Securing adequate insurance coverage for contractors with snow removal operations has proven to be a difficult task in Ontario but relief appears to be in sight with the proposal of Bill 118, Occupiers' Liability Amendment Act, 2019.

"[This] Bill amends the Occupiers' Liability Act to provide that no action shall be brought for the recovery of damages for personal injury caused by snow or ice against an occupier, an independent contractor employed by the occupier or, in the case of a tenancy described in subsection 8 (1) of the Act, a landlord, unless, within 10 days after the occurrence of the injury, written notice of the claim and of the injury are served. The Bill also sets out exceptions to this rule."

At Scrivens, we believe this is an encouraging move that could help relieve some of the risk of slip and fall claims caused by snow and ice. Previously, individuals could sue for personal injuries up to two years after an accident.

What Bill 118 is proposing is to decrease the amount of time one can decide to start a lawsuit to 10 days.



### Why is snow removal operations so expensive to insure?

It's expensive to insure snow removal operations because from an insurance company's point of view, the risk of covering potential lawsuits up to two years into the

future is simply too great.

Consider receiving notice a year and a half after an incident you never knew happened that your company is being sued for a slip and fall. Will you have the necessary documentation to protect your case?

There has been some push-back stating that 10 days simply isn't enough time for an individual to go see a doctor, receive medical treatments, etc.

However, Bill 118 doesn't state they must file a statement of claim in court by 10 days after the incident, just to put a defendant on notice.

Also, if an individual isn't able to put a defendant on notice in 10 days, they still may be able to proceed given there is a "reasonable excuse" as determined by the judge.

Reasonable excuse does not appear to be defined in the bill and can be left for interpretation but one instance to consider could be the individual couldn't determine who exactly would be responsible for the claim.

Currently, the "10-day rule" is in place for municipalities under the Municipal Act, 2001 where individuals must serve "written notice of the claim and of the injury complained of, including the date, time and location of the occurrence" within 10 days. Essentially, Bill 118 extends this same rule to an occupier, independent contractor, or a landlord relating to incidents involving snow and ice.

This bill will help ease some of the strain on insurance companies and snow removal companies by ensuring they are made aware of any slip and fall claims caused by snow and ice with enough time to preserve their evidence and records.

Bill 118, if passed by the Ontario government, could open up more opportunities for contractors to advance their winter operations as more insurance options become available.

At this time, it simply isn't worth the risk!

### MARIJUANA LIABILITY: RETAILERS AND DISPENSARIES

Marijuana retailers, like any other business, have specific insurance needs. In fact, the marijuana industry presents a number of unique risks - risks owners and operators should be aware of in order to avoid major financial losses.

**Commercial General Liability (CGL) Insurance** is a must-have, especially considering it's often required if leasing a business space. CGL typically provides protection up to \$5 million, if and when accidents occur, and in the event of a lawsuit from rendered services. CGL coverage can be extended if you add new locations, products, or services.

It's important to be upfront about the

nature of your business because if an insurance company was unaware you ran a dispensary, they could void a policy when you need it most.

**Product Liability Insurance** provides protection in the event one of your products causes harm to your customers. Some examples are: when a smoking device malfunctions and injures a customer, a customer overdoses on a consumable product, a customer is harmed by consumer raw flower, etc.

**Property Insurance** provides general protection including office furniture, dispensary equipment, computers, inventory, and other essential supplies.

It often provides coverage against fires, explosions, implosions, riots, vandalism, and (most commonly) theft.

**Business Income & Extra Expense Coverage** protects any net income your business would have received had it not suffered a fire, theft, or other covered claim. This coverage is crucial as it helps recoup the costs as your business gets back on its feet after a loss.

While coverage for marijuana retailers is new for insurers, it's no different than for general retailers. To learn more about your risks and to ensure your dispensary is prepared for any claim, contact Scrivens today!

### SOLUTION: ABUSE LIABILITY

Especially during the current #MeToo movement, the possibility of a costly abuse claim arising is a very real threat for organizations that provide care or services to children, the disabled, or the elderly.

Year after year, sports associations, day cares, schools, camps, churches, and other charitable organizations face the staggering financial cost of civil judgements due to the abusive conduct of their employees or volunteers.

#### Vicarious Liability

A common law principle that refers to situations where an organization is held responsible for the actions or omissions of one of their employees or volunteers.

#### Abuse and Molestation Insurance

Covers individuals and organizations for acts related to abuse and molestation, however this coverage does not protect the perpetrator.

Covered is dictated by its treatment of several key issues, including:

- Occurrence vs. claims-made coverage
- Limitations on amount of coverage
- Aggregate language

#### THE ROLE OF RISK MANAGEMENT

As a condition for purchasing abuse coverage, many insurance companies require organizations to demonstrate they have

implemented a formal abuse prevention plan. Elements of this plan should include:

- A policy statement that confirms the organization's commitment to providing a safe environment for individuals under their care and declares zero tolerance for abuse, harassment or neglect committed by employees, members, or volunteers.
- Screening procedures to ensure all employees and volunteers are suited for work with vulnerable populations
- Abuse prevention training is provided to all staff members and volunteers.
- Operational procedures are clearly outlined in a written manual, which summarize guidelines for preventing abuse and harassment.
- Procedures that ensure any incidents of abuse will be properly reported to the relevant authorities.

Should a situation develop that requires an organization to defend itself against claims of abuse, the cost of doing so can be debilitating.

In order to protect your organization's viability for the long term, it is vital to obtain the proper insurance. To learn about abuse liability coverage, or to conduct a review of your current insurance program, please contact your broker.

### MOBILE DEVICE SECURITY TIPS

As mobile device usage soars, it's becoming increasingly important to take steps to protect your company from mobile threats, both new and old.

**Lost or Stolen Devices:** All phones and tablets should be locked with a password or PIN and the device should automatically lock after a short period of time (ie. 30 seconds).

**Malicious Attacks:** Employees should never install unauthorized apps to company devices. It's important to never pay a ransom if ransomware finds its way onto a company device; your willingness to pay will place a huge target on your business.

#### PREVENTATIVE MEASURES

1. Establish a Mobile Device Policy
2. Establish a Bring Your Own Device (BYOD) Policy
3. Keep the devices updated with the most current software and antivirus programs
4. Back up device content regularly
5. Choose passwords carefully

Scrivens has worked with industry experts to craft sample mobile device policies. Contact us today to obtain your copy!