



INTERNATIONAL INSURANCE BROKERS

CORPORATE HEADQUARTERS • NEW YORK, NY • TEL 212 432 1234  
EASTERN REGIONAL OFFICE • MELVILLE, NY • TEL 516 228 1234  
PERSONAL LINES CENTER • VALHALLA, NY • TEL 914 773 4321

## THE INSURANCE NEWSLETTER

Spring 2014

### What Insurance Do You Need When Renting A Car?

Your plane has landed, you've retrieved your luggage, and now you are at the rental car counter. Besides the car itself the agent presents you with a list of insurance options. What should you do?

Most of our readers can relate to this. You know that the options you are offered add up to a lot of extra costs tacked on to the daily car rental rate. Which, if any of them, should you consider taking? Since this is a question about insurance the answer will not surprise anyone: It depends. Let's try to break the question down a bit, though, and make it simpler.

Auto insurance has two major parts, liability and property (collision and comprehensive) coverage. We'll tackle liability first. The short answer to the question of what you need will depend on one major variable, whether or not you carry a personal auto insurance policy on an auto you own personally. Liability coverage provided by standard personal auto insurance policies is generally portable, that is, the liability coverage follows you, the insured, not the car. That means that if you personally own and insure a car you can get out of that car and into another, whether rented or borrowed, and as long as you are driving it with the permission of the owner, the liability coverage in your policy follows you and protects you.

Put another way, as you stand at the rental counter and contemplate their offer of liability insurance at rates that might run from \$7 to \$14 a day, you can decline that insurance without concern; it would only duplicate what you already have in your own policy. There are a couple of caveats, though.

- If your car is owned and insured by your business on an unmodified commercial auto policy, coverage does not follow you. Unlike with a personal auto policy, commercial auto liability coverage attaches to the vehicle, not the driver, even if the commercial auto policyholder is an individual. The commercial policy can be endorsed to fix this, but you'll need to be sure that was done. Otherwise, buy the rental company's insurance.
- If you do not own and insure a car with a personal auto policy, you have no coverage that will follow you anywhere. In this case you must buy the rental company's insurance.

The only other liability coverage concern is with limits. We have written in the past about the importance of buying adequate liability insurance limits; if you heeded that advice and carry high personal insurance limits you are OK. If you rely on the rental car company's insurance or any other source for liability coverage, you'll want to buy the highest limits available.

Another insurance decision you may be faced with is an offer by the rental company for medical coverage for injuries resulting from an auto accident. Again, you'll only buy this if you have no other coverage from another source. If you have health insurance, either personally or at work, the only thing you need to know is if it covers you in the territory where you are renting. Many health plans have limitations or restrictions once you leave your home state or region. If that applies to you the \$2 to \$6 daily charge for the rental company's medical coverage might be worth a look.

Property coverage, collision and comprehensive, is where things get tricky. Car rental companies don't offer physical damage insurance; instead, they offer a "damage waiver" which waives your responsibility for

costs resulting from collision or theft and often waives loss of use and other administrative charges as well. This is a neat thing; damage a rental vehicle and you just toss the keys back to the renter and walk away. It's not ironclad, though; rental contracts will normally have a list of prohibited items that will put you in breach of the contract and may void this coverage. Typical prohibitions would include allowing someone other than the renter or other permitted driver to get behind the wheel; driving on unpaved roads; and the trickiest, driving under the influence of alcohol. This last is a problem because the way these limitations are usually worded there is no threshold for alcohol consumption. A glass of wine at a business dinner or a beer with your hamburger for lunch would not leave you anywhere near legally impaired in most jurisdictions, but could still violate your rental contract and void the damage waiver if you get behind the wheel of your rented vehicle afterward and have an accident.

These damage waivers from the rental companies are typically not cheap, either; they will usually charge between \$10 to \$20 daily. For a short term rental these costs might be bearable, but for any length of time they can add up quickly and make it worthwhile to look for other ways to cover these potential costs. Before looking at other options, consider the types of costs you could potentially be liable for in addition to the costs for direct damage to the vehicle:

**Loss-of-use costs:** The rental company will calculate the income they will claim to have lost while the damaged car is in the shop being repaired, resulting in "loss-of-use" charges.

**Diminution in value:** Even if repaired, the value of a car that suffers extensive damage in an accident will be diminished. These costs are rarely covered by traditional personal insurance policies. They can also be significant.

**Additional fees:** The rental company will often add "administrative expenses" incurred after a loss. Essentially, these are soft costs incurred after a claim such as towing, storage and claims adjustment expenses, among others.

**Loss settlement disputes:** Anyone who has suffered a collision will understand the challenges that arise in trying to agree on the value of a damaged car. The cost the rental car company determines to repair or replace a car may be far higher than the actual cash value loss settlement a personal auto insurer will pay.

**Minor claims:** Often, minor scratches, dents and dings can result in damages in the hundreds of dollars. These might be well below the collision deductible on a personal

auto policy, resulting in an out-of-pocket expense for those who decline the waiver.

**Time and aggravation:** People who buy the damage waiver from the rental car company most often cite reduced hassles and peace of mind as a primary reason. Reducing or eliminating the time and hassles of dealing with these situations is a big benefit.

**Credit card hassles:** If you decline the damage waivers and have an accident the rental car provider may immediately charge your credit card for the costs arising from the accident.

**Claim activity:** If you buy the damage waiver any claims you might have under that will not show up on your own auto insurance experience.

Understanding potential risks arising from physical damage claims to rented cars, let's consider other ways to cover them besides expensive rental company damage waivers. You basically have three options:

- Rely on the coverage in your personal auto policy. Again, assuming you have one, it may provide some coverage for damage or loss to a rented car, and generally without concerns for situations that would be violations of the rental agreement. That's good; the flip side is your personal policy will probably not respond well to parts of the claim alleging loss of use, diminution in value and other costs the rental company may claim.
- Look for coverage from a credit card company. Visa, MasterCard and others may provide some coverage for damage to rented cars. Terms and conditions vary widely. Things to look for: Is coverage provided? Is it primary or secondary (and what do those terms mean to the credit card company)? Are there vehicle or territorial limitations? Any limits on the length of the rental? What other fees or costs are covered? Answers can vary widely. Remember though, with most all cards a condition for coverage to attach is that the rental be charged to the card in the first place.
- Arrange for other, direct insurance. If your company has a commercial auto policy and your employees travel (and rent cars) frequently it might make sense to negotiate a corporate master rental contract with a national rental agency; you could incorporate a damage waiver in that. For less frequent renters there are also some options for stand alone policies covering loss damage waiver for rental cars.

One final thought: all of the foregoing applies specifically

to rentals in the U.S. With different laws and insurance requirements, and territorial limitations on your U.S. policies, if you are renting outside the U.S. you'll usually expect to buy from the renter unless you make other arrangements in advance.

Inside the U.S., in order to make an informed decision at the rental counter you need to know in advance what other coverage or options you have. Armed with that information your choices should be pretty straightforward. As always, call us if you would like to explore options.

## Workers Compensation and Foreign Travel

As our economy becomes increasingly globalized more businesses are seeking opportunities outside U.S. borders. This leads to instances of U.S. based executives or employees engaging in business travel to, and occasional lengthier assignments in, foreign destinations. Your folks are normally covered by your workers compensation policy if they suffer a work injury anywhere here in the U.S., but what happens when they are hurt outside our borders? If they suffer an injury on such a trip, what coverage can apply in this situation?

Your standard Workers Compensation and Employers Liability Insurance Policy has two parts, as its name suggests. Part One, Workers Compensation, provides compensation and benefits to injured workers as directed by the workers compensation statutes of the state of jurisdiction. Part Two, Employers Liability, will pay all sums that you legally must pay as damages for bodily injury to your employee because of a covered injury arising out of an employment relationship.

Part One says it will pay workers compensation benefits according to statute; it doesn't address foreign exposures at all. However you'll find in Part Two of the policy an exclusion that states: "...this insurance does not cover... bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries."

So Part Two, Employers Liability, will apply while an employee is "temporarily" working outside the country, although "temporarily" is not defined in the policy, leaving some uncertainty. In addition, for Part One individual state statutory extraterritorial provisions must

be considered. Put all this together and it's not very clear how a policy will respond to injuries to employees occurring outside the U.S., creating uncertainty and potential gaps in coverage where an injured employee may or may not have coverage under the policy.

There is another problem to consider. Work injuries occurring outside the U.S. create additional financial risk not covered by standard workers compensation policies. Examples:

**Repatriation Expenses:** An employee is seriously injured overseas; after initial treatment they'll need lengthy hospitalization and treatment. Getting them home isn't easy or cheap; a seriously injured person can't just hobble down to the airport and buy a ticket on the next flight out. Costs to bring a seriously injured employee home can be very expensive.

**Endemic diseases:** These are defined as those diseases indigenous to a particular country. If foreign travel is limited to western Europe and a few other English speaking countries this may not be an issue, but for almost anywhere else in the world it should be a concern.

These two items can potentially be extremely costly, and are not covered by a standard unmodified workers compensation policy. The solution is to request an endorsement to your policy to cover these items. This makes sense if foreign travel is limited to only a few employees and only a few weeks a year. If it exceeds that, another, better option would be to obtain a Foreign Workers Compensation Policy. Broader in coverage than standard domestic policies, you'll find many times these policies provide 24 hour coverage for travelling employees. Other enhancements might also be found. One popular one pays for the spouse or other family members of an injured employee to travel to the country where the injury occurs to be with the injured employee in cases where transport home may not be possible due to the serious nature of an injury or illness.

If you have employees traveling outside your normal state(s) of operation, or who travel to foreign countries, please give us a call. Whether by endorsement to your current policy or through a separate policy, we can find a solution to make sure you have the coverage you need for your employees.

## Maintaining Protective Safeguards

Unless you are dealing with certain specialized types of insurance (professional liability, malpractice,

director and officers or employment practices liability being common examples) you'll rarely run into policy warranties. Underwriters for the aforementioned types of policies rely on your accurate information in the policy application, and usually include a warranty provision in such policies that if the information in the application turns out to be inaccurate or wrong they can cancel the policy and void coverage, even after a loss has occurred and a claim reported.

Policy warranties are usually not found in general property and liability policies. There is one important exception, though, found in property policies, that you need to know about and keep in mind.

It is very common for property insurance policies covering buildings with sprinkler systems, fire and burglar alarms and other safeguards to include a Protective Safeguards endorsement. This is a short (a page and a half) endorsement, but with powerful effect. Essentially, you are warranting that you have a sprinkler or other described protective system in your building, that it works, and that you will keep it turned on and in operating order.

Property insurance companies grant some pretty significant premium credits for sprinklered buildings in particular. They want to hold you to your word that the sprinkler system is actually in place to provide the



INTERNATIONAL INSURANCE BROKERS

68 South Service Road  
Melville, NY 11747-2357

PRESORTED STANDARD  
US POSTAGE  
**PAID**  
PERMIT NO 231  
WINSTON SALEM, NC

protection they are relying on, and this is how they do it. If you know of an impairment or suspension in the system and don't notify the insurance company, or if you fail to maintain the system in complete working order, and a fire occurs, the insurance company has grounds to deny coverage.

Standard wording of these endorsements states that if part of the system has to be shut off due to "breakage, leakage, freezing conditions or opening of the sprinkler heads", you don't have to notify the insurance company as long as you can restore full protection within 48 hours. If the system will be down longer than that, the insurance company must be notified. Notice, also, there was no

mention of "maintenance" in there. If you have to shut off even part of your system for maintenance, repairs, or any other reason, you need to call us immediately.

The standard endorsement can also apply to other protective safeguards, including central station fire alarms, security services, private service contracts, or any other protective system. You might find these in your policy even if you don't have a sprinklered building. Keep an eye out for it, and call us if you have any questions.