

Your hand is still shaking as you put the phone down. The county sheriff called to let you know one of your employees t-boned another car and the other driver was seriously injured. You are relieved to learn that Jake, the high school student who works part-time, was not injured. He was on his way to drop off a bow at UPS for return to the manufacturer when he caused the collision. Now what do you do? Is your company covered? How does Jake's collision affect your company? Do your knees buckle at the thought of having to pay tens of thousands of dollars in damages out of your company pocket?

Most employers ask employees to run company errands—take deposits to the bank, mail a package, deliver a bow to a customer, pick up a delivery of new broadheads—while driving their own vehicle. Does this sound familiar? Of course you have insurance on company-owned vehicles and your own personal vehicles but your employee was driving his car on company business. The sheriff was trying to sort out all the facts, but one thing for sure was that the other car was destroyed, personal property was damaged and the vehicle occupant injured.



By David Paul Williams

# Business Break

## Limiting Liability

### Liability

Here's the bad news. Because Jake was using his own car within the scope of his employment, as his employer, your company will be held liable for damages he caused to the other car, the personal property and, more importantly, the vehicle occupants. The time-honored legal theory known as respondent superior is a fancy phrase which means the employer can be liable for employee negligence that injures third persons.

Money damages can be high. What if Jake hit a cell phone tower which ripped out some expensive to replace electrical transmission lines? Accident victims incur emergency room charges, maybe overnight hospital stays, followup medical treatment, lost wages and more. The dollar signs multiply in your mind but you are sure Jake had car insurance so you breathe a sigh of relief.

### Liability Insurance

Most states, as a condition of owning a motor vehicle, require the owner have "mandatory insurance" or demonstrate "financial responsibility" for damages caused by an accident. The minimum liability insurance or financial responsibility (minimum limits) varies by state. For example, Alabama minimum bodily injury limits are \$20,000 each person, \$40,000 each accident and \$10,000 for property damage. Alaska minimum limits are much higher, \$50,000/\$100,000/\$25,000. To see the specific rules that are applicable in your state go to [www.autoinsurancelaw.com](http://www.autoinsurancelaw.com).

Jake, a responsible young man obtained insurance when he got his car but being a high school student, he could only afford a minimum limits liability insurance policy. Your sigh of relief turned out to be premature on learning that the car Jake hit

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careened off the road, knocked down a cell phone tower and the car occupant suffered severe personal injuries. In other words, the bodily injury and property damages quickly exhausted Jake's liability policy limits so the tower owner and the injured party come knocking on your door to collect the remaining damages.

### Employer Liability Protection

Some good news. When you opened your store, you met with your professional insurance agent (and again annually thereafter), who sold you an insurance policy, gener-

**You want the type of business insurance that protects you from liability if an employee has a crash while running an errand.**

ally known as a Business Owner's Policy (BOP). A BOP or "package policy" may contain a number of insurance coverages, such as general liability, automobile liability and fire. According to Mark Shinstrom, a principal in Shinstrom & Norman, Inc., a Washington insurance agency licensed in four states, he always recommends business owners opt to include "Non-owned Auto and Hired Auto" coverage as part of the BOP. Shinstrom, a third-generation independent insurance broker, points out that the low cost of about \$125.00 per year can buy \$1,000,000 of peace of mind.

Still more good news. When you bought your BOP, you wisely followed your agent's advice and purchased the Non-Owned Auto coverage. Now it protects you, the employer and policy insured, for the bodily injury and property damages caused by Jake, who was driving his own car within the scope of employment. Your insurance company responds to the tower owner and car occupant claims, agrees on the amount of damages to each and reaches a settlement. You again breathe a sign of relief.

### Final Words

Not all BOP insurance policies are alike. Subtle differences in policy coverages and exclusions can make a big difference in whether or not a particular loss is covered. One of the most important facets of the protections afforded by your insurance policy is the insurance company's duty to defend you against claims which may fall within coverage. This means that if the insurance company disputes the claim and you get sued, the insurance company must hire and pay an attorney to defend you.

Not all insurance agents are alike. You work hard building your company. You want to select an insurance agent that works equally hard to earn and retain your insurance business. Don't make the mistake of simply buying insurance based on the cheapest premium because the cheapest premium may come back to bite you in the form of limited coverage. Insurance policy coverage and exclusionary language constantly change which makes it all the more important to find a professional, independent insurance agent who understands your business, the changes within your industry, then places your insurance coverage with the insurance company that fits best.

Jake is back at work, a wiser young man. Your insurance company stepped up and promptly settled the tower owner and car occupant damage claims before a lawsuit was filed. You can devote your time and energy to the difficult task of running your business instead of being distracted by being a defendant in a damage lawsuit.

*Editor's Note:* David Williams, of Bellevue, Washington, has resolved legal issues for small businesses and their owners since 1979. In addition he is a freelance writer on business and legal topics. He can be reached at The Williams Lawfirm, P.O. Box 1455, Bellevue, WA 98009. On the web you'll find him at DPWLaw@earthlink.net or you can call (425)990-8800. Permission is given to make copies of this article or any section for store use. ←

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