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of Experience

# ATLAS

RISK & CLAIMS CONSULTING NEWSLETTER



**Vincent Miyoi**  
Senior Vice President  
Client Consulting Services

Phone (808) 533-8719  
vmiyoi@atlasinsurance.com



**Steven Pang**  
Risk Consultant

Phone (808) 533-8619  
spang@atlasinsurance.com



**Kurt Sibayan**  
Risk Consultant

Phone (808) 533-8715  
ksibayan@atlasinsurance.com



**David Ching**  
Risk Consultant

Phone (808) 533-8689  
dching@atlasinsurance.com



**Roy Sasuga**  
Claims Consultant

Phone (808) 533-8725  
rsasuga@atlasinsurance.com



**Martin Beardeaux**  
Claims Consultant

Phone (808) 533-8617  
mbeardeaux@atlasinsurance.com

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## Crisis Situation...It can happen to anyone!

You just never know when you will be confronted with a crisis situation. As I was about an hour into my flight bound to Las Vegas screams were heard coming from the back of the plane. At first, I thought it was an elderly person having a difficult time flying but the screams became louder and more aggressive. I kept looking back to see what was happening and eventually observed flight attendants restraining this large elderly passenger. I quickly went to the back of the plane to see if I could provide any assistance to the flight attendants. Although there were approximately 3 to 4 male flight attendants, this person was very strong and I felt obligated to assist flight personnel. Flight attendants made a wise decision to restrain the passenger's arms and legs as the passenger was kicking and throwing their arms in all directions.

Although flight attendants discouraged passengers from participating or assisting...they made another wise decision to allow me and another passenger assist flight attendants. The niece of this person who was being restrained indicated to us they had left the medication in their luggage that was checked-in. Can you believe it? Whatever the case, I was not going to let this person hurt anyone or jeopardize the flight in any way. There was an announcement by the pilot asking for a physician and luckily two were on board the plane. They were able to provide some medication but nothing really helped the passenger. We basically had to assist in restraining/watching this person for approximately 3 ½ hours. At least the flight went by quickly!!! After 3 ½ hours, the passenger calmed down a little but still showed some aggressiveness and erratic behavior. Eventually they took off the arm and leg restraints allowing some freedom to walk short distances between flight attendants and us (next to the emergency door).

Once we landed in Las Vegas, everyone was asked to stay in their seats. Flight attendants whisked the passenger off to the front of the plane while passengers were still seated. The passenger eventually received medical assistance immediately outside of the plane.

Although I have been involved with these types of situations in the past, it was a very interesting experience. I was surprised when only three passengers on the entire plane stood up and offered to assist flight attendants. Many passengers continued to sleep, eat or watch a movie while the screaming, kicking and punching continued on the flight.

I guess many passengers had faith in the flight attendants to handle the situation, some don't want to get involved and others don't care...or they are just scared and want off the plane. Whatever the case, I've learned people will react differently in a crisis situation.

I'm glad no one got hurt and the plane landed safely.

Sincerely,

*Vincent T. Miyoi*

Vincent T. Miyoi  
Senior Vice President, Client Consulting Services





*Photos courtesy of National Institute of Standards and Technology*

## Fire Prevention Tips for the Holidays

Fire Safety is one of the most overlooked aspects of the holiday season. During the hustle and bustle of wrapping gifts, decorating the house, setting up the Christmas tree, and tending to family, we tend to forget about the things we do that may cause a fire. Below are some fire safety tips that you can do to prevent a fire in your home or office during the holidays.

**Electrical Extension Cord Failure.** According to the U.S. Consumer and Product Safety Commission (CPSC), about 4,000 injuries due to electrical extension cords are treated in hospital emergency rooms annually. Roughly 50 percent of these injuries involve fractures, contusions, sprains, or lacerations from people tripping over the electrical cords. 15 percent of these injuries involve children under five years of age; injuries to this age group included 50 percent of children receiving electrical burns to the mouth. Furthermore, the CPSC also estimates that approximately 3,300 fires per year are started by faulty extension cords, injuring around 270 people and killing 50. So how does this happen, and what can you do to ensure a fire free holiday?

**Make Sure Your Plugs Are Polarized and Grounded.** Polarized plugs feature one wider blade to reduce the risk of electric shock and fire; grounded plugs simply add a grounding post just below the two blades. If you're using older extension cords, throw them out and get newer polarized and grounded cords. Don't misuse extension cords. Tying the electric cord in a knot, pulling the cord itself from the wall to unplug rather than pulling from the plug, stapling the cord to the wall, and using indoor electrical cords outside are not recommended. Use extension cords properly and you'll have minimized risk of fire.

**Don't Plug a Three-Prong Plug Into a 2-Prong Outlet.** It's tempting to try to bend the rules a little by plugging a three-prong plug into a two-prong outlet, allowing the grounding post to stick out of the plug into the air. Instead of doing this, take the time to buy an extension cord that will take a 3-prong plug correctly.

**Never Use Damaged Electrical Cords.** If your extension cord is cracked, worn, or shows internal wiring, discard the cord immediately and purchase a new one. For the sake of holiday fire safety, don't take this unnecessary risk.

**Never Overload or Piggyback.** If you're in a rush, it's easy to be lazy and plug electrical strips into more strips and extension cords into multiple plug adapters, all going into one outlet on the wall. Don't do it! Be sensible and plug in only what the strip allows for. Use a second outlet if you need to add another electrical strip.

**Use a GFI (Ground Fault Interrupt) to plug your lights into and don't string more than 3 standard size sets of lights together.** Look for lights that are approved by the UL (Underwriters Laboratory). If you like decorating with outdoor lights, be sure to secure them to the house, tree or other support. Use only insulated staples or outdoor hooks made for this application. Turn all lights off when leaving your house or going to bed.

Other things that can be done to prevent fires during the holidays are to keep candles away from anything flammable and don't leave candles burning in unoccupied rooms. Also, keep fire extinguishers handy in your home and teach your children fire safety. By remembering these simple preventative tips you and your family can have a safe and joyous holiday season.

~ Kurt Sibayan, Risk Consultant

## Play Ball?!

Most firms would agree that sponsoring a company sports team is a great idea with a lot of advantages such as camaraderie, improved morale, learning to work as a team and just plain fun. This is fine, however, there can be drawbacks, too.

For example, what happens if an employee gets hurt while playing on the company softball team? What if an employee drops a bowling ball on his foot while bowling for the company team? Could the company be liable if a fight erupts at a softball tournament and a spectator gets hurt? What if there is alcohol at an after-game party and the employee hits a pedestrian on the way home?

These questions can be difficult to answer and further complicating matters is the fact that courts tend to look at a variety of factors in such cases. To determine if your insurance is going to be affected by having a company sports team, ask yourself the following questions:

Are the games on the employers' premises?  
Was the game considered an element of the employee's job?  
Are employees expected to play or asked to build relationships with customers on the playing field?  
How much of a financial stake did the company have in the team?

If the answer to any of these questions is yes, then your company sports team may affect your insurance rates. You need to keep these factors in mind when deciding whether to sponsor employee sports team. Injuries and lawsuits can take away from any benefits that having these types of activities may bring to the company.

A possible solution suggested to decrease the employer's liability was the use of "waivers" for the employees to sign before enrolling them on company teams.

The idea of the waiver might sound fairly simple and might appear to offer solid protection, but there's still no guarantee that the waiver will offer all-encompassing protection or that it will be enforceable.

Obviously each situation and injury is different and how it will affect your insurance rate will be judged based on the facts and circumstances surrounding the loss. But what factor most determines your liability comes down to the company's level of involvement.

If you are traditionally involved with your athletic teams, you need to step somewhat cautiously to minimize your risk.

~Roy Sasuga, Claims Consultant







## Surveillance – An Appropriate Cost Containment Measure?

A common topic of discussion with clients is the use of surveillance when there are concerns about an employee's activity level compared to their documented restrictions. Although the utilization of surveillance is certainly a valid and appropriate cost containment measure, there are many considerations to be addressed before making a referral:

### What is the nature and extent of injury or illness?

Most physical injuries that result in disability from work can be associated with a clear physical handicap that can be identified visually (i.e., a limp, limited use of an extremity, limited ability to transfer, etc.). These handicaps can be easily spotted and used as a baseline for surveillance. However, there are some injuries / illnesses that do not result in any obvious handicap. Psychological injuries and occupational illnesses are examples of conditions that may not result in any obvious functional impairment. As such, utilization of surveillance may not be appropriate, depending on the documented restrictions and activities involved.

### What current restrictions are in place as documented by the physician?

It is also important to consider the documented restrictions. If there are stated physical restrictions (i.e., limited lifting, carrying, walking, etc.), this is something that can be captured on video and compared to the physical restrictions. With regards to psychological injuries and occupational illnesses, the restrictions may be much more subtle and less suited to surveillance. However, if the restrictions limit interaction with others or limit exposure to certain environments, then it is possible that surveillance is a viable option. Just as with physical restrictions, capturing video footage of someone engaged in activities inconsistent with a stated condition or symptoms can be very powerful. A good example is someone with a diagnosis of depression or social anxiety resulting from a work injury. If that person is later caught on video at a night club or social function and behaving in a manner inconsistent with their stated symptoms, this can be used as evidence to challenge the claimant's credibility or the physician's clinical findings.

### What specific activities is the claimant allegedly participating in?

Taking into consideration the nature / extent of injury and the documented restrictions, the next element is the actual activities the claimant is allegedly engaged in. Some activities, if not excessively strenuous, can be considered therapeutic in nature (i.e., swimming, shopping, walking, etc.). These examples of Activities of Daily Living (ADL), if not clearly inconsistent with the physician's restrictions, are not actionable by way of surveillance. On the other hand, participation in sports or other physically demanding activities should immediately be investigated. Considering the cost of surveillance and the likelihood of success, surveillance must be used judiciously.

### Can the allegations be validated?

It is important to secure details about the alleged activities. "What", "Where" and "When" are three questions that should be answered. Is it predictable, such as a weekly bowling league? Does the activity take place in an area that is accessible to the public? Is the witness willing to document their allegations in writing? In a perfect world, the investigator 1) would know exactly where to locate the claimant, 2) be able to make a positive identification and 3) be able to capture video footage of the claimant repeatedly engaging in activities clearly inconsistent with their documented restrictions. In reality, we are often unable to succeed in one or more of these objectives. Effective communication between the employer, adjuster and investigator is critical to the success of a surveillance effort.

### What is the nature of the claimant's usual and customary position?

If a claimant's job is relatively sedentary in nature, but the claimant remains totally disabled from work, even modestly demanding physical activity outside of work can be used as evidence to potentially terminate benefits. On the other hand, for someone employed in a job that is considered heavy in nature, the physical demand level must be much greater to accomplish the same results. It comes down to a basic equation: Do the alleged activities exceed the physical restrictions and/or job duties? If not, then the likelihood of success is small.

### Have the goals and reasonable expectations been established?

There are two final considerations – defining the goal and maintaining reasonable expectations. It really comes down to making educated decisions, clearly establishing the goals and defining success:

### How is success being defined?

- The ability to locate the claimant?
- Confirming that the claimant's activity level is consistent with the documented restrictions?
- Catching them on camera exceeding their restrictions?
- Securing valuable information for review by the treating or IME physician?
- Facilitating settlement negotiations?
- Terminating benefits?
- Securing reimbursement for benefits paid?
- Securing a criminal conviction?

At a cost of \$500.00 to \$1,000.00 a day, the cost effectiveness of surveillance is a difficult determination to make. However, with proper information and tight coordination between stakeholders, the chances of success can be increased significantly. Your Atlas Claims Consultant can assist you with this process.

~Martin Beardeaux, Claims Consultant

Atlas Risk & Claims Consultants wish you

*A Safe and Enjoyable*

**HOLIDAY SEASON!**

