The Entertainment Technology Professional’s Guide to Insurance and Risk Management

ENTERTAINING SAFETY

Brought to you by: ESTA & ProSight Specialty Insurance
EXECUTIVE SUMMARY

04

WHY SHOULD ENTERTAINMENT TECHNOLOGY PROFESSIONALS CARE ABOUT INSURANCE AND RISK MANAGEMENT?

Understanding the Insurance Buying Process

Finding the Right Agent for Your Business

Understanding the Renewal Process

Risk Transfer: Insurance and Contracts

SECTION 1

08

INSURANCE FOR THE ENTERTAINMENT TECHNOLOGY PROFESSIONAL

What You Really Need to Know About Insurance—But Never Knew Who to Ask

SECTION 2

26

A CREATIVE APPROACH TO SAFETY

How Entertainment Technology Professionals Manage and Avoid Risk

Risk Management Is Fun . . . Really! ........................................... 28

Reduce Your Risk Everywhere . . . Before Anything Happens .......... 30

Going Beyond the Regulations ............................................. 32

Risk Assessment and Planning ........................................ 36

Certification ................................................................. 39

Paying the Price When Things Go Wrong............................... 40
SECTION 3

WHAT TO DO WHEN BAD THINGS HAPPEN TO GOOD ENTERTAINMENT TECHNOLOGY PROFESSIONALS

Being Prepared: What Must Be in Place, Just in Case ...............45
Outdoor Events and Weather ..............47
What to Do When an Incident Occurs ..................48
The Insurance Claims Process ...............54

CONCLUSION

Don’t Let This Happen to You

The Risk of Not Paying Attention to Risk and Insurance ........60
Prepare for the Worst—to Prevent It from Happening ..........62
WHY SHOULD ENTERTAINMENT TECHNOLOGY PROFESSIONALS CARE ABOUT INSURANCE AND RISK MANAGEMENT?
Risk management may not be the sexiest part of entertainment technology, but it is critical to protecting your business and the safety of the people around you at the events and workplaces at which you make your living.
Risk management may not be the sexiest part of entertainment technology, but it is critical to protecting your business and the safety of the people around you at the events and workplaces at which you make your living. There’s a good chance it isn’t the part of the job you spend the majority of your time on, yet when treated with utmost importance, effective risk management could protect your livelihood, your well-being, and the lives of others when worst-case scenarios arise.

In recent years, several incidents have reminded the industry what is at stake every time we put on a festival, concert, sporting event, or other type of spectator experience. The 2003 fire at a Great White concert caused by pyrotechnics launched improperly at a Rhode Island nightclub killed more than 100 people and injured more than twice as many, landed the band’s stage manager in prison for four years for involuntary manslaughter, and resulted in a $176 million civil suit that eventually dented or shut down several businesses. Meanwhile, legal battles are still being waged between the band Sugarland, the State of Indiana, a handful of promotion companies, and the families of seven people who were killed and dozens of others who were injured by a stage collapse at the 2011 Indiana State Fair.

Although no single resource can cover every detail about safety and risk management, this handbook will help even veteran business owners familiar with insurance see the finer points of protecting their businesses, employees, and the people who enjoy the events their organizations help bring to life.

**In a nutshell,** it will provide you with the roadmap to help you achieve three major objectives in risk management:

1. **Acquiring the right insurance policies for your business**
2. **Ensuring safety in the workspaces and venues in your line of work—and for the people who inhabit them (e.g., coworkers and event goers)**
3. **Reducing the likelihood that your company will find itself in litigation**
The first section of this book will walk you through the insurance purchasing process, including the different types of policies, how to select the right coverage for your business, and just as important, what your insurance may not cover. It will also guide you in how to:

- Find the right insurance agent
- Make sure you are asking the right questions when renewing your policy
- Limit your liability by utilizing your insurance policies and those of the promoters, artists, other suppliers, and the rest of the personnel working with you at an event

Section 2 will illustrate how to creatively integrate safety into the equipment you design, rent, or use throughout the year. More specifically, we will tell you how to mitigate risk at your facility, in transit, and onsite at a venue, and point you to the standards you should be upholding in your practice (hint: it’s not those of the Occupational Safety and Health Administration [OSHA]; federal and state codes should be your minimum standard, not the ultimate bar you strive to reach). This section takes you through the basic steps of a risk assessment process—Plan, Do, Check, Act—and concludes with information about certification.

The final section covers how to handle an incident, starting with what you need to put in place beforehand in order to effectively deal with a calamity when one occurs. It then examines what to do if misfortune strikes—who to call first, how to deal with injuries, what information to collect, and what you should and shouldn’t do and say throughout the process—before concluding with an overview of the insurance claims process.

Insurance coverage is constantly changing, which is why it is important for business owners to review it regularly and take the steps necessary to understand what they are (and are not) getting with their policies. This handbook will outline and sequence the issues you need to consider in order to protect yourself, your business, and the people with whom you come in contact throughout the year. And where explicit answers are not given, we tell you where you can obtain additional information.

At the end of the day, treating insurance and risk management as a core component of your operations could be the difference between ensuring great fun for the attendees of your events (and the people who create them) and being put out of business altogether. It is our sincere hope that this book helps you and everyone you work with to understand the essential role safety plays in producing great entertainment. We are all in this together—we all win when we are safe.
INSURANCE FOR THE ENTERTAINMENT TECHNOLOGY PROFESSIONAL

What You Really Need to Know About Insurance—But Never Knew Who to Ask
In This Section

UNDERSTANDING THE INSURANCE BUYING PROCESS ....... 10
What Matters to Insurance Underwriters—and Why That Matters to You ................. 10
Types of Insurance Coverage .................................................. 12
Key Insurance Terms Defined ................................................... 13
Understanding Coverage .......................................................... 14

FINDING THE RIGHT AGENT FOR YOUR BUSINESS .......... 18
Specialists vs. Generalists: Does Your Agent Know What a Chain Hoist Is? ............... 18
Questions to Ask Your Prospective Agent ........................................ 18
Signs You Have Found the Right Agent ........................................... 18
“War Stories” from Insurance Industry Veterans ........................................ 19

UNDERSTANDING THE RENEWAL PROCESS ................. 20
Reassess Your Business ................................................................ 20
Reevaluate Carriers .................................................................... 20
Start Two Months in Advance ..................................................... 20

RISK TRANSFER: INSURANCE AND CONTRACTS ............. 21
Critical Elements of Contracts ................................................... 21
Liability of Different Parties ................................................................ 22
Ensure That Subcontractors Have the Right Language and Protections in Place .......... 24
Dealing with Onerous Venue Contracts ........................................... 24
UNDERSTANDING THE INSURANCE BUYING PROCESS

WHAT MATTERS TO INSURANCE UNDERWriters— AND WHY THAT MATTERS TO YOU

Simply put, insurance underwriters want to understand the nature of the businesses they insure and the everyday exposures to loss that these entities face. As part of this process, they need to uncover as many potential exposures to accident, injury, and mishap in the course of your everyday business that can be discovered. The goal is for both the insured and the insurance carrier to understand the risks that can impact a business and to help you, the insured party, when possible, to reduce, avoid, and/or transfer that risk.

Ultimately, the insurance company is interested in achieving the main objectives listed at the outset of this handbook—ensuring safety for everyone at a work site (including workers, customers, audiences, and citizens), while protecting you against legal action. One might think that divulging your vulnerabilities will empower your carrier to take more money out of your pocket. In reality, the opposite is typically true. Your premium corresponds to your exposure. By clearly understanding all of your exposures, your insurance agent and carrier can work together to reduce as much of your exposure as possible—often reducing the premium with your carrier in the process.
The goal is for both the insured and the insurance carrier to understand the risks that can impact a business and to help you, the insured party, when possible to reduce, avoid, and/or transfer that risk.
TYPES OF INSURANCE COVERAGE

- **Required by Statute**
  - Workers’ Compensation
  - Automobile
  - Disability

- **Recommended Coverages**
  - General Liability
  - Property
  - Inland Marine
  - Commercial Crime
  - Errors & Omissions (E&O)
  - Umbrella
  - Directors & Officers (D&O)
  - Business Interruption
  - Cancellation
  - Fine Arts

**Workers’ Compensation**
Provides coverage for employees when they are injured in the course of their employment.

**Automobile**
Provides coverage for liability claims related to bodily injury and property damage to third parties should your vehicle be involved in an accident. Businesses should maintain coverage for owned, leased, rented, and non-owned vehicles used for work-related purposes. You are legally required to carry only Automobile Liability insurance to cover third parties, but you can elect to purchase a Comprehensive and Collision coverage that would also cover damage to your vehicles.

**Workers’ Comp is an absolute must**—have it if you have people working for you. This includes temp workers, freelancers, and contractors hired for specific events!

**Disability**
Provides short-term disability benefits if employees are disabled as a result of an accident or sickness that occurs while they are not at work. (Required in California, Hawaii, New Jersey, New York, Puerto Rico, and Rhode Island.)

**General Liability**
Provides coverage for bodily injury and property damage claims to third parties arising from the insured’s operations on the business premises and/or on location. Although there are many exceptions, General Liability policies usually provide a $1 million limit. Higher liability limits can be obtained through a separate Umbrella policy.

**Property**
Provides coverage for owned, leased, or rented buildings, personal property used for business, and equipment. Each commercial lease should detail the tenant and landlord’s respective property and business interruption insurance requirements.
Business Interruption
Provides protection against direct physical loss to covered property at a covered location from a covered cause of loss. It is designed to help you pay those continuing expenses while you are putting your business back together in the wake of the claim related to your property.

Cancellation
Covers the expenses resulting from the cancellation of an event that stems from circumstances beyond the control of the policyholder. A Cancellation policy can enable entertainment technology businesses to prioritize safety rather than risk catastrophe by moving forward with an event when it is not advisable.

Fine Arts
Provides coverage for assets that have a special significance that enhances their original value (e.g., a famous musician’s instrument). A Fine Arts policy may entail an appraisal and require a proof of authenticity to obtain higher limits.

Inland Marine
Provides coverage for equipment in transit in and while at unnamed locations. It can also include other people handling your gear; other people’s possessions in your care, custody, and control; or property in a mobile business structure. (See “Limitations, Exclusions, and Coverage Interactions” on page 17.)

Commercial Crime
Provides coverage for theft of money, property, and other assets as a result of various types of criminal activity, including but not limited to some forms of employee dishonesty; theft of money, securities, and assets on and off the insured’s premises; and computer fraud.

Errors & Omissions (E&O)
Covers financial losses related to “wrongful acts” that do not result in bodily injury or property damages. For entertainment technology companies, E&O insurance could help protect against losses due to the failure of people and/or equipment to perform (e.g., malfunction of animatronics, failure of live Web feed, botched lighting, etc.).

Umbrella
Provides higher limits of liability protection once the limits have been exhausted on primary policies, such as General Liability and Automobile. For example, if an out-of-control automobile injures numerous people at an event, your Auto policy may not cover the entirety of the resulting damages. Umbrella will provide excess limits. Consult your agent to determine scenarios that would require additional coverage. May be considered for situations such as:

- Working in a public setting—$1 million General Liability may not be enough when you are working with public streets, services, and crowds.

- Companies with numerous jobs around the globe at one time—larger companies can have millions of dollars in exposure at any given time.

- Small business landing a larger-scale event—Setting up lights at the local theater will require less coverage than a sports arena or stadium.

Directors & Officers (D&O)
Provides coverage for losses that result from the actions of directors and senior management of a company as they relate to their specific work-related duties.

KEY INSURANCE TERMS DEFINED
http://www.ambest.com/resource/glossary.html
UNDERSTANDING COVERAGE

What Do You Really Need to Insure?

This is where it is critical for a technical entertainment business to have the expertise of a broker or a risk manager if the company has access to one. Your broker should be very familiar with the types of coverages offered in the marketplace and know how to assess which ones are right for you.

Again, it is important to share as much information about your business as possible. There are two schools of thought when it comes to sharing the intimate details of your operations with an insurance underwriter. The first school of thought is to try to keep the underwriter in the dark and only answer the questions asked of you. The second school of thought, and the more successful approach over the life of a business, is to share with the underwriter the exposures that pose the greatest threat to the financial well-being of your business.

It can be tricky to figure out the value of your equipment and property as well as your general exposure to frequent and severe claims, then balance that against how much you can afford to spend on insurance. Underwriters want to know as much as possible about clients’ total inventory, employee head count, and estimated income and expenses up front. Wherever possible, it is recommended that you insure these assets to full value (see “Important Terms: Replacement Cost, Actual Cash Value” on page 16).

Many businesses find themselves in unanticipated dilemmas because they did not fully insure their operations, usually because they did not include every essential asset of their business in their policies or they did not purchase the appropriate level or types of coverage. For example, it is not uncommon for companies to find out their Property policies do not cover damages that result from a flood or earthquake (see “Limitations, Exclusions, and Coverage Interactions” on page 17).

Selecting the assets to insure is just the beginning of the discussion. How those assets are used, stored, and in some cases transported also determines the level of coverage you need. If you have employees—temporary or permanent—handling your equipment, driving your vehicles, or working under your roof, that too will factor into the equation.
Coinsurance—and the Risks of Underinsuring Your Assets

In the context of property and casualty insurance, coinsurance is an approach that allows policyholders to cover less than 100 percent of the replacement cost of their property and still be able to collect 100 cents on the dollar for partial losses.

Coinsurance is a contractual provision that requires the insured to purchase a minimum specified dollar amount of coverage—usually 80, 90, or 100 percent of the entirety of the policyholder’s building assets and personal property used for business.

If a property policy with a $1 million replacement cost contains an 80 percent coinsurance clause, the insured would need to buy an $800,000 limit in order to comply with that policy. If there were a total loss of $1 million then the insured would receive $800,000 and pay $200,000 out of pocket as a coinsurer, per the agreement.

It is when customers purchase coverage for an amount that is less than the coinsurance requirement—in this case, $800,000—that policyholders encounter costly surprises upon filing a claim. Let’s say a business owner takes out coverage for $400,000. The most common misconception is that the insured will be reimbursed the full amount if that company were to indeed experience a $400,000 loss. In fact, the policyholder will collect $200,000 in this instance, not the $400,000 the business was expecting—the ratio of the amount of coverage the customer purchased ($400,000) divided by the $800,000 amount the business was required to cover.

Companies might be tempted to buy low limits of insurance, believing they would never suffer a total loss. However, coinsurance penalties could easily erase savings gained through lower monthly premiums if one fails to insure the full value of assets up to the percentage required by the policy.
Important Terms: Replacement Cost, Actual Cash Value

**Actual Cash Value** =
Value of your assets at the time of loss (i.e., depreciation is taken into consideration—the value of what a used item would cost).

**Replacement Cost** =
Amount of money needed to replace lost asset with one of equal quality.

Whenever your carrier allows it, you want to insure possessions and property at replacement cost. If your staging equipment is 10 years old, its Actual Cash Value will likely be low due to the depreciation of its net worth over time. However, it might cost you several times more than the Actual Cash Value to secure satisfactory replacements.

Since few policies are exactly alike, it is critical that you review your policies with a specialty agent who is experienced in the entertainment technology industry (see “Finding the Right Agent for Your Business” below) to know exactly what each one covers—and just as important, what it does not —long before you encounter a situation involving a claim.
Limitations, Exclusions, and Coverage Interactions

Understanding exclusions and limitations of your coverage is one of the most complex elements of purchasing insurance (and filing claims). There are many different kinds of insurance policies, and each carrier puts its own nuances on each type of coverage. Moreover, coverage policies are constantly changing over time. Thus, exclusions and exceptions are an area in which many policyholders encounter rude surprises. It is almost impossible to list every type of exception to your coverage.

The following examples represent only a small sample of the numerous types of exclusions:

- Policies often will exclude earthquake and flood, particularly in your specific region (e.g., California, Southeast United States, etc.). Natural disasters have to be addressed in a separate policy.

- General Liability will provide coverage for bodily injury and property damage, but depending on the situation it likely will except criminal acts; intentional acts; possessions in your care, custody, and control; and breach of contract, libel, and slander.

- Property policies will provide coverage for personal property used for work-related purposes that resides at your location, as well as other assets in your care, custody, and control, but they will not always cover equipment if something breaks in transit, unless they are supplemented with an Inland Marine policy. Property may not fully cover items with a special significance, such as a famous musician’s instrument. Those should be addressed with a Fine Arts policy.

- Business Interruption will not cover losses if there is no direct physical damage to the property at the location covered by the policy. The other most notable exclusion in Business Interruption insurance is that it does not cover losses attributed directly to earthquake and flood if these perils are not included in the same policy. It also will not reimburse for losses related to failure of public utilities or labor unrest (e.g., strike), but Civil Authority coverage is often available for situations where a governmental entity, for instance, restricts access to your property or location.

Again, make sure you ask an agent to review exclusions to your policies in great detail.

Don’t Be Penny Wise, Pound Foolish

In the end, it is imperative that your policies insure the full value of your business. What may seem like a superfluous expenditure in good times may end up being the difference between total ruin and surviving a potentially cataclysmic event—that much is at stake. Make sure your agent knows everything your profession entails and is aware of all the items in your possession and how they relate to your work. This enables your agent to help you properly insure all that is vital to your business. Moreover, this knowledge helps your agent get you and the carrier on the same page if/when a claim occurs. The first question a claims rep will ask an underwriter when assessing a claim is: what was your intent of coverage? A good agent will make sure you are not left high and dry when catastrophe strikes.
SPECIALISTS VS. GENERALISTS: DOES YOUR AGENT KNOW WHAT A CHAIN HOIST IS?

Generalist insurance companies and their agents are what you likely think of when the topic of insurance arises. Maybe you deal directly with the insurance company, or work with an agency that works with one or more large, well-known insurance companies. However, the Property, Auto, General Liability, and other similar policies they sell to basic home, auto, and business owners are much different in nature from the insurance products and risk management services designed for the entertainment technology workplace.

Insurance agents who specialize in entertainment technology know in great depth the unique work circumstances of the average rigger, stagehand, electrician, or audio engineer. More important, they know the intricacies that go into creating a safe working environment—and the types of claims that are likely to occur in an unsafe environment—and thus they are in much better position than a generalist to help you mitigate your risk. Just as insuring an antique car is far different from insuring your Chevy, assessing the entertainment workplace requires significantly more specialized knowledge than it does to evaluate your average business.

In fact, many generalists would rather not take on the risk that comes with this type of work, as they are used to less-risky volume business done in the general market. With that said, if you have a satisfactory working relationship with a generalist insurer, you do not necessarily have to break ties. A good agent knows when he or she is over his or her head, and generalists can always partner with a specialist wholesale broker to supplement their offerings.

QUESTIONS TO ASK YOUR PROSPECTIVE AGENT

- How many years’ experience do you have in the entertainment technology industry?
- What types of operations and venues do you insure?
- Do you have references?
- Do you work with specialist insurance carriers?

SIGNS YOU HAVE FOUND THE RIGHT AGENT

- Agent asks detailed questions about your business.
- Agent speaks your language and demonstrates an understanding of your industry’s protocols and how business is transacted.
- Agent asks to see your employees’ certifications and other credentials related to your activities.
- Industry peers (business managers, fellow ESTA members, etc.) have heard of the carrier and have had positive experiences with it. The company also has lots of positive testimonials from customers in your industry.
- Policies sold by the agent are designed to address your industry’s unique insurance needs.
- Agent acknowledges the parts of your existing policies that are comprehensive and fairly priced.
- Agent’s or organization’s Web site speaks specifically to your industry, demonstrating a high level of specialization.
Agents with many years of experience serving the entertainment industry have many stories illustrating what can happen when you try to cut corners on your policy or safety measures in your operations. The following anecdotes show how things can go wrong and where good advice can mitigate financial and operational disaster.

**Company Gets Burned Underinsuring Its Stages**
A live events company decided to take out a policy that covered only one of its three stages, thinking that it could save a little money on premiums because it only used one stage at a time. Of course, when a fire broke out at the company’s headquarters and wiped out all three stages, the company was hit with expensive penalties for underinsuring its property. Had it communicated its intentions to the underwriter when it set up the insurance policy, the business could have avoided extra penalties by declaring up front that it had three stages but was only insuring one of them.

**Agent’s In-Depth Knowledge Assists in Collecting Payment from Dawdling Carrier**
A company that had paid for both a Property policy that included theft coverage and a separate Commercial Crime policy to protect against employee dishonesty saw some possessions go missing. Despite the company’s covering its bases through these complementary coverages, the carrier stalled in paying out what was obviously a legitimate claim.

Fortunately, this policyholder’s agent was experienced and familiar with the intricate details of each policy. With just a conversation or two, the agent was able to bring to the attention of the adjuster the appropriate sections of the policy that specified that the claim should be paid out in this instance. The insurance company sent the check the next day.

**Thieves Foiled by Solid Agent Advice**
As the economy spiraled downward from late 2008 through 2010, an agent observed a rise in theft claims. This agent reacted by placing an extra emphasis on preventative measures. Namely, he began advising clients to install more external lights and loud alarms, and to place valuables in multiple locked areas inside.

In one instance, he recommended that one client keep its entire inventory in a secure room that was fronted by a series of locked doors and rooms. Soon thereafter, a burglar broke into the premises—but came away with nothing because the valuables were not easily accessible.

**Client Closes the Curtain on Inadequate Protection Against Strong Winds**
A stagehand working on an outdoor event was asked to hang a curtain that he suspected wouldn’t be able to withstand strong wind gusts. The client inquired about receiving protection through an indemnification clause in order to proceed with hanging the substandard curtain. The agent ultimately convinced all parties not to hang the curtain under any circumstances and to cease pursuit of policy amendments that might encourage anyone to do so.

**Bottom line:** Even taking into account clients’ eagerness to do things more cheaply, no one should risk their company’s livelihood on risky installations or inadequate craftsmanship.
UNDERSTANDING THE RENEWAL PROCESS

Most policies are sold in one-year terms, so renewal is generally going to be an annual process. It is important to take into account the following measures when it is time to renew:

REASSESS YOUR BUSINESS

How have your business operations changed over the course of the past year? Are you doing something differently now as compared to when you first began this term? Have industry standards and/or regulations changed recently?

REEVALUATE CARRIERS

Has your carrier maintained a high level of service? Does it even serve your industry anymore? (Remember, oftentimes carriers—particularly generalist insurers—find out that they are not equipped to assume the risk of adverse events associated with entertainment, and eventually end up not renewing coverage.) Has it delivered a change of service notice? (Carriers are required by law to provide a certain amount of advance notice of changes in rates, coverage areas, and even carrier companies and/or underwriting companies themselves. The amount of notice varies from state to state.)

START TWO MONTHS IN ADVANCE

Whether you are staying with your current carrier(s), or evaluating several new ones, it is important to allow several weeks for the process to unfold. If you are shopping for a new agent, you will have time to ask industry contacts (business managers, fellow ESTA Members, or other partners) for references or referrals. In the meantime, your current or prospective agent needs to get to know your business and collect updated information around payroll, sales, inventory, names of the insured, building limits and specs, and existing coverage, among other items. This still leaves plenty of time to negotiate any sticking points. Be wary of agents who routinely wait until the last minute to give quotes, especially after a previous coverage term where there were no incidents or issues; often, this is a ploy to leave the customer with little wiggle room to negotiate or shop around. Conversely, if you are seeking a change and want your agent to shop your existing policy around, give him or her as much lead time as possible to do so.
Throughout any given year, entertainment businesses will take on many jobs and collaborate with a wide variety of companies, independent contractors, union laborers, and other workers—often on a temporary basis. With each engagement, these organizations should take measures to limit their exposure as much as possible.

First, it is critical to have something in writing. Many times deals are done by handshake, but when disaster strikes those handshakes turn into finger pointing. If no contract is in place, every stakeholder could potentially be embroiled in a legal mess regardless of fault. Although verbal agreements are a form of contract, everyone’s “recollections” will inevitably recall how they weren’t at fault. Contracts are particularly critical for public events. Many carriers will insist it’s “no contract, no quote” for folks who want to insure such events.

Second, the contract should outline the scope of duties and responsibilities for each party—promoter, engineer, entertainment technician, equipment and labor provider, venue, etc.—in as much detail as possible. It should also spell out at least the following information:

- What is to be insured
- Types of policies employed to cover the assets deemed in need of coverage
- Policy limits
- Minimum financial resources required to be carried by the underwriting company

A lot of this is achieved through indemnification clauses and hold-harmless sections protecting each party from the negligence of others (see “Liability of Different Parties” below).

If something does happen, there ideally will be little question as to who was responsible for what.
LIABILITY OF DIFFERENT PARTIES

Whenever one acquires others’ services—whether it is employing subcontractors or collaborating with another contractor as equals—that party is inherently exposed to risk. If another person on the job commits an act of negligence (e.g., causes property damage or injury), chances are a claim will be brought and litigation may follow, and the aggrieved party is unlikely to limit his or her targets for legal action. Lawyers will come after multiple parties—including the employer—and not just the individual perpetrator(s).

Even if you are innocent, you cannot necessarily rely on the judicial system to exonerate you. Moreover, even a court victory comes at a considerable legal cost. Two legal tools can help limit exposure prior to any job: 1) indemnification and 2) guarantees and warranties.

Indemnification

Generally speaking, this is the practice of gaining agreement that one party will bear the monetary costs for losses incurred (or caused) by a second party. For lighting, sound, staging, and rigging companies, the goal is to sign “mutual indemnification” agreements—clauses that essentially guarantee a reciprocal relationship in which each party will take financial responsibility for claims arising from their respective operations. Mutual indemnification should always be negotiated by your lawyer. These agreements go beyond your insurance policies, and thus are not in your agent’s scope of duties.

In many cases, another section in the contract will specify each party’s insurance requirements. You should be wary of clauses that require yours to be the primary insurance regardless of the circumstance, such as “For any reason…,” “For any claim…,” “For any cause…,” or “Regardless of negligence…,” but your attorney should detect these phrases and advise you accordingly. Once an agreement has been reached, make sure you obtain copies of the other parties’ Certificates of Insurance (see definition below) and the full description of their underlying policies, and have your legal team review them for exclusions that could be of concern. Your attorney(s) can address and renegotiate items that could potentially result in higher liability.

Once you have confirmed that the other contractor’s or subcontractor’s insurance is acceptable, ask to be named on that policy as an additional insured! Conversely, the other party may reciprocate and ask you to name them on your policy. The value: if a forklift operator knocks over a luminaire and hurts someone in the process, the lighting technician or company named on the forklift operator’s policy will not have to pay the costs of defending themselves in court; all of the legal responsibility will likely be on the employer of the forklift driver.

Certificates of Insurance

A Certificate of Insurance is a document that details the specifics of an insurance policy, such as its effective date, the type of insurance coverage purchased, and the dollar amount of applicable liability. A Certificate of Insurance allows for an educated guess as to what might be covered. It is the underlying policy that needs to be reviewed to determine the true scope of coverage.
Guarantees and Warranties

Due to their own liability concerns, manufacturers of turntables, treadmills, elevators, and other mechanical devices commonly used in stage acts often stamp their products with clear warning labels that detail the potential hazards of their products. Always abide by user manual specifications and take all suggested precautions when using these products. And never remove a warning label or guard that comes with a manufactured item.

Of course, in the entertainment industry, companies frequently work with artists who require custom-built devices of all kinds for their acts. Be warned: you may be liable for anything that goes wrong with an accessory or prop you modified or something you built from scratch yourself. If you are installing a device or fixture, make sure you include sufficient guards, warning labels, and clearly defined safe operating procedures. (This and other risk management practices are explored further in Section 2.)
ENSURE THAT SUBCONTRACTORS HAVE THE RIGHT LANGUAGE AND PROTECTIONS IN PLACE

Similarly, if you are employing a temporary employee, contractor, subcontractor, or vendor to create and install a similar mechanism, make sure your contract with that person requires compliance with all relevant regulatory requirements (e.g., Americans with Disabilities Act, building codes, etc.) and American National Standards Institute (ANSI) standards. If the person building steps on the side of the stage is only conforming to a drawing on a napkin, those stairs may not meet safety codes.

DEALING WITH ONEROUS VENUE CONTRACTS

Unfortunately, many venues, particularly unique sites in a geographic area (e.g., large arenas or stadiums) and public grounds, require you to sign inflexible contracts with burdensome mandates, including clauses that obligate stakeholders for any liability related to an accident at the venue, regardless of fault. In such cases where you may not be able to negotiate contractual changes, you can form an effective defense by bringing physical and administrative deficiencies to the attention of personnel at the venue with overall responsibility for workplace and spectator safety prior to the event. These should be documented either in the form of an email or in written notes or a diary.

Physical Deficiencies
Examples include but are not limited to cracked curbs, blocked fire exits, malfunctioning emergency lighting, and anything else that might impede an evacuation.

Administrative Deficiencies
Review the venue’s emergency action plan. If it’s one-size-fits-all, it is likely substandard. A proper emergency plan will anticipate a wide variety of situations. If it only talks about evacuation, then the emergency strategy will increase danger rather than mitigate it in the event of an earthquake, tornado, or riot. In the case of the Indiana State Fair stage collapse in 2011, the Indiana State Fair Commission’s emergency plan did not address instances of severe weather, nor did it anticipate large crowds. If the plan had been reviewed by the Authority Having Jurisdiction (AHJ), that AHJ might have flagged its shortcomings.
Review the venue’s emergency action plan. If it’s one-size-fits-all, it is likely substandard. A proper emergency plan will anticipate a wide variety of situations.
A CREATIVE APPROACH TO SAFETY:
How Entertainment Technology Professionals Manage and Avoid Risk
### In This Section

**RISK MANAGEMENT IS FUN . . . REALLY!** .................................................. 28
Have Fun! .................................................................................................................. 29
Work Together .......................................................................................................... 29
Empower Everyone .................................................................................................. 29

**REDUCE YOUR RISK EVERYWHERE . . . BEFORE ANYTHING HAPPENS** .................................................. 30
At Your Facility ......................................................................................................... 30
In Transit .................................................................................................................... 31
On-Site ....................................................................................................................... 31

**GOING BEYOND THE REGULATIONS** ................................................................. 32
Following the Rules—Creatively ............................................................................... 33
Minimum vs. State-of-the-Art Standards ..................................................................... 33
Link to Relevant Standards for the Entertainment Technology Industry .................. 33
“War Stories” from Entertainment Safety Experts ..................................................... 34

**RISK ASSESSMENT AND PLANNING** ............................................................... 36
Plan, Do, Check, Act: The Iterative Risk Assessment and Planning Process ............. 36
ISO 31000:2009(E) ...................................................................................................... 38
Document and Refine—Your Plan Does No Good on the Shelf ................................. 38

**CERTIFICATION** ................................................................................................. 39

**PAYING THE PRICE WHEN THINGS GO WRONG** ............................................ 40
Creativity is the heart and soul of the entertainment business. Making sure the success of the show is unblemished by accidents, injury, and property damage also requires a creative approach—especially for entertainment technology professionals whose typical workplace is a far cry from the average office, factory, or construction site.

For example, few office workers worry about avoiding a fall from the stage to the orchestra pit—but this is a day in the life of an entertainment technician and a commonplace safety scenario in the live entertainment business. Protecting rehearsing performers is usually as simple as building temporary railings or safety chains strung between upright pipes until they know their blocking and the boundaries of the stage—but what about an awards ceremony where the winners have not yet stepped onto the open stage area? One creative approach we’ve seen uses a gigantic floral garland to demarcate the edge of the stage—the flowers are highly visible, but much more attractive than a guardrail.

As you apply your creative skills to the task of managing and avoiding risk, three simple but effective practices can help you work with others to ensure a safe workplace: fun, collaboration, and empowerment.
HAVE FUN!

Creative risk management means, first and foremost, finding enjoyment in the task. Ensuring workplace safety before, during, and after the show must be an engaging, enjoyable task for everyone involved—if risk management is fun, then it is much more likely to get done. Yes, it’s also serious business—the law says you must maintain a safe workplace, accidents and injuries are showstoppers, and nobody wants the lawsuits that inevitably ensue when mishaps occur—but enthusiasm for safety is far more motivating and sustainable than fear.

WORK TOGETHER

Creative risk management also is not a solo activity for entertainment technology professionals—it requires that you collaborate with event managers, producers and directors, the talent, and others involved in a production. In a profession where no two workplaces are exactly alike—and where the same venue can be vastly different depending on the production and staging—it should be no surprise that workplace safety requires all parties involved to put their heads together, share their different perspectives, and bring fresh thinking to every situation. You see things differently if you are a technician erecting or lighting a stage, a promoter bringing in the audience, or a performer in the middle of the action—yet everyone should work together toward the common goal of ensuring that the whole structure does not collapse!

EMPOWER EVERYONE

Finally, everyone on the job site—not just technologists and managers, but also the performers and producers, security personnel, risk management professionals, and any others who play a role—must be empowered to be creative and proactive about safety. As noted above, every perspective matters, and different pairs of eyes see things that others don’t. Most important, no one on the job site should ever be afraid to speak up about a potential hazard because “the show must go on.” Even if you are the subcontractor of a subcontractor, you are considered a responsible party and therefore are accountable if something goes wrong. So always speak up, even if “safety coordinator” is not in your formal job description—and make sure others feel comfortable doing so as well! Formally communicating your concerns to the responsible parties can significantly reduce your liability exposure. If one party is not committed to safety, ramifications extend to everyone involved—including end customers or general citizens (and their families) in worst-case scenarios.
REDUCE YOUR RISK EVERYWHERE BEFORE ANYTHING HAPPENS

As an entertainment technology professional, you don’t have the luxury of working at a single job site with a relatively unchanging, highly predictable setting. Instead, you do your job at multiple locations, including at your own facility or workspace, traveling to and from work sites, and at other locations aside from your primary place of business (and as noted above, no two venues are alike, and even the same venue can be configured very differently with every production). Effective risk management means identifying potentially unsafe conditions and procedures everywhere you work, involving everyone with whom you work, and with the variety of equipment, vehicles, and materials involved in your profession. Specifically, your risk management program needs to encompass workplace safety at your facility, in transit, and on-site at the entertainment venue.

AT YOUR FACILITY

You have the most control over the physical conditions, activities, and behaviors that occur in your own facility. Unsafe conditions need to be corrected, but most accidents are caused not by unsafe conditions, but rather by unsafe acts—incorrect behaviors such as failing to use safe lifting techniques, forgetting to wear steel-toed shoes or eye protection, or jumping off the back of a truck rather than riding the lift. It’s very important to implement explicit safety policies and procedures, to conduct formal periodic inspections of your facility, to identify and correct unsafe conditions and behaviors—and to document everything you do that makes your workplace safer. (See “Risk Assessment and Planning” on page 36.) It’s also helpful to organize your facility and to provide proper tools so that the safest action is the easiest one. Why climb a storage rack when a suitable ladder is within easy reach?
IN TRANSIT

As a business, you frequently have valuable equipment in transit between your facility and the venues where you work. Whether they’re carried by your own vehicle, or by a third party, you need to protect your valuable tools and products. And of course, safe practices are crucial when loading, transporting, and unloading.

But what about when a contractor is transporting your equipment? As emphasized in section 1, the importance of risk transfer cannot be overstated when a third party is working for you—including when loading and transporting your equipment (see “Risk Transfer: Insurance and Contracts” in section 1). If you utilize any third party or contractor for transportation services, get a Certificate of Insurance from them—and when you get the certificate in hand, verify the expiration date and make sure a knowledgeable person has evaluated the limits on that certificate. Whenever possible, you should also make sure your company is named as an additional insured on the third party’s policy. In this regard, a written contract with indemnification and hold-harmless wording in your favor is recommended.

When third parties are involved, you should always supervise the loading, securing, and offloading of your equipment and goods—but supervise only. Don’t load someone else’s truck—that creates liability for you if something goes wrong. Pay particular attention to how your equipment and goods are secured—again, don’t secure the items yourself, but watch the process, inform the workers of any concerns you see, and make sure any problems are addressed to your satisfaction before you release the vehicle for transport.

ON-SITE

Reducing risk on-site at the entertainment venue presents daily challenges for entertainment technology professionals—because generally you do not have comprehensive control over the people handling your equipment and other work materials, and because there can be numerous parties involved, especially with larger events and venues. Often, you are relying on local union labor—for example, if you’re supplying trusses, union workers might be responsible for assembling them on-site.

You still have substantial power on-site to reduce the risk of accident, injury, or property damage—and thus hopefully avoid Workers’ Comp and other claims that can result when something goes wrong. Supervision is critical—whenever possible, you should have an on-site supervisor, and when you cannot directly supervise, make sure that the correct procedures and documentation are in use on the job site. It’s crucial to establish the hierarchy of responsibility. The employee with supervisory responsibilities needs to be someone with the knowledge and authority to say, for instance, “that forklift is not rated to lift that truss,” or “this worker is using inadequate fall protection.” Even if you lack direct authority over the on-site workers, you can watch them, ask intelligent questions, and if need be, document unsafe conditions and practices and notify the on-site supervisor.

It’s also crucial to make sure everyone on the job site is covered by Workers’ Comp and carries the appropriate certifications for the job they are performing. For instance, if a worker is rigging trusses or working at heights, he or she needs not only to use proper equipment and procedures, but also to provide proof of his or her fall protection training.

One excellent practice for supervising union job sites is to request a minute or two to talk during the “toolbox meetings” that most unions have at the beginning of each workday. The supervisor can remind the workers that they are aware of and trained in safety procedures. Focused, practical, frequent risk management discussions of this sort can go a long way toward instilling a safety mindset in everyone working on the job site—whether or not they are directly in your employ.
Two problematic mindsets pervade the entertainment industry.

1. “Our business is a creative business and we’ve been doing things this way forever—so we don’t have to follow the rules as long as we know what we’re doing.”

2. “All we need to do is follow the OSHA regulations so we can avoid fines.”
FOLLOWING THE RULES—CREATIVELY

First of all, as emphasized at the beginning of section 2, creativity does not conflict with safety—it’s part and parcel of making entertainment workplaces safer, and not just because it makes risk management fun, collaborative, and empowering. Creativity is also essential because virtually every entertainment job site is different from every other one—so what constitutes safe practice and reduced risk at one venue must be evaluated and often modified whenever you are working at a different venue.

MINIMUM VS. STATE-OF-THE-ART STANDARDS

The second mindset—“all we need to do is follow the OSHA regulations so we can avoid fines”—is entirely insufficient for maintaining a safe workplace and can put your business at grave risk of costly litigation if something goes wrong. OSHA’s mandatory standards are the minimum standards for the entertainment industry. The same applies if you are simply following the rules set by another AHJ (Authority Having Jurisdiction).

Therefore, you must make every attempt to incorporate the latest, most state-of-the-art standards and best practices that have been established in the entertainment industry. These can include:

- Entertainment Technician Certification Program (ETCP) certifications for riggers and electricians
- American National Standards Institute (ANSI) consensus standards, specifically those developed under ESTA’s Technical Standards Program for the entertainment industry
- Widely utilized and/or well-documented industry best practices for electrical work, rigging, stage construction, and other commonplace activities in the entertainment industry

In fact, there is no established set of OSHA regulations designed specifically for the entertainment technology industry, but the agency’s inspectors most definitely have jurisdiction over your job sites and can impose fines or even shut down an event venue for noncompliance. OSHA regulations are written mainly for the most common types of workplaces—office buildings, stores, manufacturing facilities, construction sites—but they still can and will be applied to an entertainment job site. For instance, an OSHA inspector can show up while a stage is being built and deem the venue to be a construction site—and then return during the show and say you are “manufacturing an event.”

Moreover, OSHA deals with employer-employee relationships and specifically mandates that every employer must maintain a safe workplace—period. OSHA regulations require a general duty of care, but do not explicitly address the general public or volunteers—both of which are commonly present at an entertainment venue. Again, there are rules, but it requires creativity to apply them to your particular situation.

If an accident or injury occurs—and especially in the case of insurance claims and lawsuits—your actions and those of every other party involved will be held to any industry standard (mandatory or voluntary) that exceeds mandatory regulations.

LINK TO RELEVANT STANDARDS FOR THE ENTERTAINMENT TECHNOLOGY INDUSTRY

ANSI
http://tsp.esta.org/tsp/documents/published_docs.php
FROM ENTERTAINMENT SAFETY EXPERTS

Experienced safety inspectors, OSHA officials, agents, and insurance companies share frightening “war stories” and lessons learned the hard way in the entertainment industry. Behind the headlines, underneath the official story or court verdict that assigns blame, whenever an incident such as the Great White pyrotechnical disaster occurs, there’s almost always an even scarier story of unnecessary mistakes, inattention to safety, and often wildly insufficient risk management practices. Bluntly stated, taking the attitude of “we know what we’re doing and this is how we’ve always done it,” or offering the defense of “we were following OSHA regulations,” can pave the road to accidents, injury, and death, not to mention causing severe financial distress to you and your business. Fortunately, smart industry professionals (including many entertainers) are continually raising the bar for safety and risk management.

WAR STORIES

Unsafe Practices Cause Miami Video Wall Collapse?

On March 14, 2013, portions of a giant video wall fell some 30 feet to the stage during preparations for the 15th annual Ultra Music Festival in Miami. Four workers were injured, two critically, when a seven-foot-high section of the wall extending three-quarters the length of the stage fell on them. Fire and emergency personnel were close at hand and responded swiftly; after repairs and official inspection, the show proceeded as planned. Investigators have cited the failure to follow industry-standard safety practices as a likely contributing factor to the accident and the severe injuries it caused.

Native American Entertainment Venues Can Pose Risk Management Challenges

Many entertainment technology professionals now take on jobs at the growing number of hotels, casinos, and other entertainment venues located within Native American reservations. These venues are considered to operate within sovereign nations—so tribal authorities may not be subject to OSHA regulations and can resist using or even acknowledging state-of-the-art entertainment safety practices.

For example, until recently, the stage elevator at one tribal hotel casino in California lifted talent to the stage through an unprotected opening in the stage floor. A tribal dancer was caught in a pinch point between the elevator and the stage decking—and was paralyzed for life. The dancer’s family was quietly compensated by the tribal authorities, so the incident did not lead to claims or adverse publicity. However, this tragic incident is a stark reminder that entertainment technology professionals should be especially careful when working at venues that fall outside the jurisdiction of state and federal safety officials—and should think twice before working with venues that refuse to implement state-of-the-art safety and risk management practices.
Failure to Follow Voluntary Standard Cited in Deadly Indiana State Fair Collapse

On August 13, 2011, stage trusses at the Indiana State Fair collapsed during high winds, killing seven people and injuring more than 50 others. In-depth forensic investigations by two expert assessment firms, Witt Associates and Thornton Tomasetti, as well as the OSHA investigators’ report, all cited the failure to follow the ANSI E1.21 standard—which, as noted earlier, is a voluntary entertainment industry standard that goes beyond mandatory OSHA regulations.

In the aftermath of the incident and subsequent eight-month investigation, the Indiana State Fair Commission publicly announced numerous changes in safety and risk management practices, including:

- Implementing the Witt and Thornton Tomasetti report recommendations ranging from code compliance and inspections to comprehensive public safety plans in conjunction with community public safety partners.
- Hiring a chief operations officer primarily responsible for the day-to-day implementation of the Witt and Thornton Tomasetti recommendations, and for enhancing public safety.
- Establishing a risk assessment practice and expectations that will be set and monitored by the commission.
- Incorporating recommendations from the Indiana OSHA report to further the protection of employees.

Entertainers Insist on Safe Conditions, Certified Workers

In March 2013, the famed Italian opera house La Scala was forced to cancel the premier of A Dog’s Heart, a highly technical production utilizing a computer-controlled moving video wall. A series of technology breakdowns and accidents convinced the rehearsing performers that the staging was unsafe. A growing number of entertainers—recent examples include Pat Benatar and Harry Connick, Jr.—are refusing to go onstage if they consider the structure, equipment, or conditions to be unsafe.

Moreover, many entertainers, venues, and companies in entertainment are now refusing to work with workers who lack ETCP certification. (For more on ETCP, Certification on page 39.)
“Risk assessment” sounds like something that’s challenging and complex—too daunting for anyone other than an expert risk consultant, and too costly to do on a regular basis. Entertainment professionals can fall into the trap of thinking that safety is a static thing—hire a consultant, go through a one-time effort to make the workplace safe, post some rules on the wall, and go on with your day job. Neither notion is true.

Yes, a safety consultant or insurance company risk analyst can provide invaluable expertise and an outside-in perspective on making your workplace safer. He or she will have knowledge and experience that you don’t. If you work with an insurance carrier that specializes in entertainment, the carrier may offer you a risk manager assessment—and some insurance companies provide them for free. However, the services provided by a third-party expert are only the beginning of an ongoing risk assessment and management process that should become an integral part of your daily operations. Conditions and activities are continually changing at entertainment workplaces—especially at theaters, arenas, and other venues where a new show inevitably brings new risks that must be evaluated, corrected, and mitigated. Moreover, because you are the one who is an expert in entertainment technology, no one else will know the intricacies of your job, the specs and load ratings of your equipment, and so on. So it’s up to you to ensure that you are continually evaluating faulty settings and risky behaviors wherever you are working.

Numerous sophisticated methodologies have been developed to assess risk in the workplace. But the basics of iterative risk assessment can be encapsulated in a simple, repeatable, four-step process popularized by W. Edwards Deming, “the father of quality control”: Plan, Do, Check, Act.
Plan
Start by physically walking through the venue and thoroughly inspecting and evaluating the conditions and behaviors in the facility—not just the stage or trusses, not just the technicians, but look in every nook and cranny and observe the work of everyone. Take detailed notes (and ideally, take video and photographs) of every potential risk, safety challenge, or deficiency—both physical conditions as well as the actions of everyone present in the workplace (whether workers or not).

Develop a complete list of the risks you’ve spotted. For each, identify the people and property that are at risk. Then evaluate and rank the risks on your list—using, say, a 1-to-5 scale—focusing on the probability of something happening and the severity and consequences if it does happen. This will ensure that you first focus on the risks that matter most. Then establish a safety goal for each identified risk, determine the necessary steps and controls for correcting or mitigating each risk, and decide what criteria you will use to evaluate your success in achieving your safety goals.

Do
Implement your improvements and put in place the controls you believe are needed to ensure that they remain in place. For instance, if workers inconsistently use protective gear and you’ve set the goal of 100 percent worker compliance for the use of eye and ear protection, your improvement could be reminding workers at the beginning of each day to “put on your eyes and ears,” enforced by random spot checks, and reinforced by rewarding workers as a group for full cooperation with the policy. Then assign responsibility: who is ultimately in charge of making sure controls are actually kept in place and how will they do this?

Check
Evaluate the completeness and effectiveness of your safety improvement. What is the risk level now with controls in place? Is the individual in charge actually following through and ensuring that these checks and balances are executed properly? Collect data, study the results, and compare against your goals. If it’s working, great. If there’s still room for improvement, evaluate what’s gone wrong or right and how to improve further. Look for any gaps in your plan. Create simple charts if helpful to you and track your progress and trends over time.

Act
Use the data and insights gleaned from the Check step to evaluate and refine your risk plan, and then implement new or improved controls. Evaluation and improvement are essential, of course, if something goes wrong. (Sometimes, controls don’t work; other times, a supposed improvement turns out to create additional problems and you need to return to the drawing board.) Analyze the root cause of every undesired outcome. Then determine corrective actions that address the differences between your goals and actual results.

One very important point:
If the above seems arduous, it doesn’t need to be. It’s fine to start with a small set of the most crucial safety improvements and a very basic plan of risk reduction activities—then build on this success with subsequent iterations of the four-step process.
Most important, you should document every instance where your safety assessment and plan is based upon or incorporates relevant aspects of voluntary standards and best practices as well as any mandatory requirements from OSHA.
CERTIFICATION

ETCP Certification from ESTA provides one of the most effective ways of ensuring that safety is part and parcel of your employees’ daily work life. It also is becoming a job requirement. More and more entertainers and venues require entertainment technicians to provide proof of their professional certification before they are allowed to work on an assignment. Certification—and the ability to document that you are following the best practices established by the certification program—can also reduce your liability in the aftermath of an incident by demonstrating your commitment to safety. Certification of existing employees provides an ideal way to ensure a consistent understanding and approach as your firm takes its safety and risk management program to the next level.

Entertainment Technician Certification Program

The Entertainment Technician Certification Program (ETCP) is an industry-wide program—created by an unprecedented group of industry organizations, businesses, and individuals—that provides rigorous assessments for professional technicians. ETCP focuses on disciplines that directly affect the health and safety of crews, performers, and audiences. You may become certified through ETCP in the following areas: Rigger – Arena, Rigger – Theatre, Entertainment Electrician. Personnel certification is the voluntary process by which a nongovernmental organization grants recognition to an individual who has demonstrated certain abilities, skills, and knowledge. ETCP encompasses the creation of exams based upon identified bodies of knowledge, the conducting of those examinations, the awarding of certifications, and recertifying individuals.

ETCP is administered by ESTA, and organizations that maintain seats on the ETCP Council include:

- ACTSAFE
- Alliance of Motion Picture and Television Producers (AMPTP)
- Canadian Institute for Theatre Technology (CITT)
- InfoComm International
- International Alliance of Theatrical Stage Employees (IATSE)
- International Association of Venue Managers (IAVM)
- The League of American Theatres and Producers
- Themed Entertainment Association (TEA)
- United States Institute for Theatre Technology (USITT)

The ETCP Certification Council membership also includes the following entertainment business leaders:

- Broadway Across America
- Cirque du Soleil
- Disney Theatrical Productions
- Live Nation
- NBC Universal
- Production Resource Group

For more information about ETCP Certification on page 39, visit http://etcp.esta.org.
There are many reasons why things can go wrong, especially in complex entertainment and live event settings. Following is just a sampling of entertainment production issues that have led to large financial losses, large insurance claims, or both, as well as some clear “no-nos” that should never happen in an entertainment venue. These all-too-familiar challenges starkly illustrate why smart entertainment technology pros are always on the lookout for risk—and for ways to reduce it.
Using Cranes:
Not securing the flooring where the crane has been erected or will be used; using the crane in close proximity to electrical wires; overweighting the crane; not keeping cast, crew, or audience members far enough away to avoid collisions.

Staging and Trusses:
Trusses unable to bear weight of hanging video monitors/walls; outdoor trusses/staging unable to withstand high winds or other inclement weather; insufficient stage capacity for the type of performance, number of performers, and/or weight of special equipment used.

Pyrotechnics, Welding, and Special Effects:
Smoldering embers have caused large stage and location fires; live ammunition should never be brought to a film set or used on stage; pyrotechnic and special effects personnel should not be paid as employees, unless pyrotechnics or special effects is your business; any company hired to perform such duties should maintain its own General Liability and Workers’ Comp insurance.

Properly Securing the Location:
Electrical wiring, tying electricity into a location, properly grounding, covering cables to prevent tripping; keeping the public at safe distances; limiting visitors to the set/stage area.

Crime and Fraud:
Theft of money or assets by employee; embezzlement; computer fraud (i.e., hacking, phishing, password theft, etc.); wire transfer fraud; counterfeiting.

Intellectual Property Right Violations:
Use of photographs and paintings whether from cleared sections of prop houses or not; music has resulted in some of the largest copyright violation claims in the entertainment business; talent releases from minors; unsolicited materials; beware of locations and venues that have their own release.

Vehicles Driven by Nonqualified Drivers:
Unweighted trailer attached to a truck; tractor-trailer used on a mountain road without downshifting; tying down loads so the weight does not shift; drivers using personal vehicles on company time.

Mechanical Breakdown of Vehicle(s), Essential Props, and/or Nonperformance of Animals:
Mechanical breakdown of vehicle(s) can disrupt a live performance or cause the loss of an entire shoot day; mechanical breakdown of an animatronic, a special scenic device, or an effect can result in a long film/video production delay or cancellation of performances; nonperformance of animals, likewise, inhibits production.
WHAT TO DO WHEN BAD THINGS HAPPEN TO GOOD ENTERTAINMENT TECHNOLOGY PROFESSIONALS

It is impossible for any individual to completely mitigate the possibility of a crisis situation. This section walks you through the basics of what to do when disaster strikes.
In This Section

BEING PREPARED: WHAT MUST BE IN PLACE, JUST IN CASE ............................................. 45
  Updating Equipment/Asset/Inventory Lists ................................................................. 45
  How ETCP Certification Reduces Risk—and Lowers Your Liability .......................... 46
  Disaster Preparation Measures .................................................................................... 47
  Chain of Command ...................................................................................................... 47

OUTDOOR EVENTS AND WEATHER .................................................................................. 47

WHAT TO DO WHEN AN INCIDENT OCCURS ................................................................. 48
  What Do You Do First? .................................................................................................. 48
  What to Do Next .......................................................................................................... 48
  What Not to Do ............................................................................................................ 49
  Documentation and Formal Accident Investigation ................................................... 50
  Pertinent Information to Collect .................................................................................. 52
  Coping with the Aftermath .......................................................................................... 53
  What Can Help Prepare for and/or Prevent Lawsuits? ............................................... 53

THE INSURANCE CLAIMS PROCESS .............................................................................. 54
  Understanding the Claims Process .............................................................................. 54
This may sound like overkill, but by tracking the life of your possessions so thoroughly, you will be able to demonstrate that your asset was in good condition immediately before a calamity occurred.
UPDATING EQUIPMENT/ASSET/INVENTORY LISTS

In all likelihood, you will be adding new equipment and saying goodbye to assets that have outlasted their usefulness long after you sign or renew your insurance policies. It is critical to frequently update the list of possessions covered by your insurance. At a minimum, you should do this once a year, but it is recommended that you register new gear, automobiles, workers, properties, and other work-related resources with your carrier as soon as you acquire them—and, of course, that you keep your receipts! In other words, if you have not huddled with your agent about what specifically is covered by your policy in recent months, you could be underinsured.

After you update your list, make sure you document the condition of these items. One way is to take a video of your properties, automobiles, and belongings. If you do this, it is recommended that you open every drawer, closet door, and shelf when you record. A better method is to barcode each piece, record where it was manufactured, and keep a log of every project on which you use it. This may sound like overkill, but by tracking the life of your possessions so thoroughly, you will be able to demonstrate that your asset was in good condition immediately before a calamity occurred. Such documentation can help to mitigate your liability. If you do not have the means to do this, at the very least record the serial number, manufacturer, and name of the piece of equipment, so you can account for everything covered under the policy.

Ways to Track Your Assets

- Video all items – open doors, drawers, and shelves
- Barcode assets and keep a log of every project for which it is used
- Record serial number and manufacturer of every piece of equipment, and keep receipts
HOW ETCP CERTIFICATION REDUCES RISK—
AND LOWERS YOUR LIABILITY

Insurance adjusters and risk management personnel can often determine the root cause of an accident, as well as the liable parties, quickly and methodically. With a series of questions, and through postaccident examination and reconstruction, investigators can often decipher who exceeded industry standards and who cut corners. Thus, if you used ETCP-certified technicians or followed ANSI standards, chances are you held up your end of the bargain and may not be held responsible for damages.

With that said, if you are ETCP certified, it is critical that you adhere to best practices on every single project. From time to time, artists, promoters, and other stakeholders will pressure professionals to lower their standards for a variety of reasons. In the end, your liability is tied to your behavior, so it is important that you hold the line on the highest safety benchmarks. Or else you could, and likely will, be found at fault for substandard craftsmanship, regardless of whose idea it was to fall short of best practices.

Contrary to what some might think, certification does not increase liability. In fact, using certified professionals shows due diligence on your part in hiring qualified people who promote safety and are less likely to make costly mistakes.
DISASTER PREPARATION MEASURES

Every venue should have an emergency handbook with guidelines that anticipate a wide variety of potential crisis scenarios. Employees should be periodically tested on its content, and refresher courses are recommended before each major initiative. Each individual on the job site should make basic safety observations (e.g., are exits accessible? Can you evacuate the venue?), regardless of whether it is in his or her day-to-day job description.

CHAIN OF COMMAND

This is one of the most important elements to establish prior to any event, from both a safety and a claims standpoint.

It should be very clear who has the authority to make ultimate decisions, most notably canceling an event. Likewise, the reporting structure should spell out clearly who reports to whom and account for every person.

Once an incident takes place, a claims person is going to inspect very closely whether the correct orders were issued by the appropriate people and followed by personnel throughout the chain. It helps the situation immensely when all parties are clear on to whom to report an incident. Equally important, those charged with overarching authority—whether it be a crew supervisor, HR rep, risk manager, or other party—must know whom to call for medical assistance (specialists, health care providers, etc.) and how to ask the right questions to get to the bottom of an incident.

OUTDOOR EVENTS AND WEATHER

Inclement weather can always rain on a parade, so to speak, especially in the summer when outdoor events take place around the world. For some locales, it is commonly known when they are at risk of adverse weather (e.g., tornadoes in the Midwest, hurricanes in the Southeast). Nevertheless, a weather service should be contracted for every event, and updates must be disseminated in a timely fashion to everyone with a role in putting it on. Once a severe weather warning is issued, those high up in the chain of command may need to cancel or postpone the event and must be prepared to evacuate the venue if there is any doubt about worker or attendee safety.

In the case of the 2011 Indiana State Fair, a weather service that was contracted indeed issued such a thunderstorm warning the evening of the show, but according to various accounts the full extent of the updates was not communicated in a timely manner to the proper individuals. (Also see “War Stories” from section 2.)
WHAT TO DO WHEN AN INCIDENT OCCURS

WHAT DO YOU DO FIRST?

First and foremost, if it is an emergency and/or a life-threatening situation, call 9-1-1. Follow the directions of the 9-1-1 operator (or the on-site emergency medical personnel, if available) on how to handle the injured parties. If the individual refuses treatment, get some form of written documentation if possible, perhaps in the form of an incident report filled out by the EMT staffer or other party.

WHAT TO DO NEXT

Once immediate emergency and safety measures have been addressed, it is crucial to contact your agent or carrier as soon as possible, so that he or she can start processing the claim and get a claims adjuster to the scene. The insurance company will need all of the relevant information you can accurately provide (see “Pertinent Information to Collect” on page 52).

If you happen to carry complementary policies (e.g., Property and Inland Marine, Workers’ Comp and General Liability, etc.), it is recommended that you report an incident under each policy. Typically, there is no penalty for reporting; your rate is only affected if a payment is made on a reported claim.

When the claims adjuster eventually begins the investigation, that person is going to want to see the scene in the condition it was in when the loss occurred, or as close to it as possible. Take pictures with your smartphone or camera if you are in a position to do so. The more accurately the scene of the incident can be captured or preserved for the claims professional, the better.

Of course, entertainment technology companies are going to be concerned about getting employees back to work, particularly if another event is scheduled in the same location soon after an incident. You certainly have the right to move forward as quickly as your business demands in cases that occur on your property. However, shortchanging an investigation now can cost you later. If an investigator identifies another party as liable, that little extra time allocated toward a proper analysis might save you money in the long run. You can always relay your concerns to the adjusters so they can get you up and running as quickly as possible. Nevertheless, the faster you notify the insurance company and the more you cooperate with its examination of the scene, the quicker it can get you back to work without jeopardizing the potential payout of the claim.

After 9-1-1 and Nonemergency Situations
Other phone calls may be necessary depending on the situation after you have dialed 9-1-1 or simply in noninjury situations. For example, if there is a crime in progress, the police must be contacted immediately. After that, the immediate responsibility is to take commonsense measures to mitigate further damage to people, property, and possessions, in that order. But be sure not to put yourself or someone else’s life at risk just to protect assets. To the extent you have water damage, say from a pipe leaking, you need to contact a plumber to make repairs or a restoration company if the damage escalates beyond the scope of a plumber. You may also be able to call your insurance company, as it may have a recommendation for a vendor.

Case in point: After a weather service issued a severe conditions warning, workers began disassembling a structure that was erected for the event. With the storm fast approaching, the group abandoned the edifice to take cover. This led to a much better outcome than what could have been, given the circumstances. Most important, no one was hurt. In addition, the impact on future premiums for the insured was minimized because payouts were limited; the insurance carrier paid out Property and Automobile claims to cover the structure and the car it hit when it collapsed, but it did not have to pay Workers’ Comp and General Liability claims on top of it thanks to the quick thinking of everybody involved.
WHAT NOT TO DO

One consequence of retaining the original setting is that you may have to fight natural inclinations to clean up the area. Do not throw anything related to the incident away, even if it is otherwise trash to you (e.g., shaved wood, broken equipment, etc.). While it is certainly possible to reconstruct the scene after discarding portions in the immediate aftermath, it is harder and costlier to do so. Also, you might want to fire up a machine or use a piece of equipment that was involved in an accident. You should get clearance from the adjuster prior to doing so. Discard or use something that was part of the episode before the examination of the scene is finished and you could potentially affect the accuracy of the claim (and, in turn, the payout).

Once you have notified your insurance company of an incident, relate only pure facts to police officers and others at the scene. You should not get into subjective details until you have consulted with the claims person after the incident has occurred. Statements such as “We’ve been meaning to fix that” or “That’s the third person to slip today” can have negative ramifications as the claims process unfolds.

Even without ill intentions, you can create the impression of culpability if you do not cooperate with an investigation. Obviously, facts will dictate how the claim is paid, but it is important to always make the time to share pertinent knowledge and assist with the process. At the very least, let the investigator know where you will be and where you can be reached. The insured needs to act as a partner with his or her agent. All parties concerned may take note of people with reputations for being uncooperative.

What to Do

- Call 9-1-1 in the event of an emergency
- Call other authorities and service providers as necessary (police, restoration companies, etc.)
- Call your agent to begin the claims process
- To the extent possible, keep the scene as close to the condition it was in at the time of the incident
- Be responsive and truthful throughout the process

What Not to Do

- Do not throw away materials that are part of the scene
- Do not make admissions or provide written statements before claims person arrives
- Do not leave town without notifying claims person and supplying contact information
**DOCUMENTATION AND FORMAL ACCIDENT INVESTIGATION**

During the formal investigation, you will need to fill out a claims form and possibly a separate accident investigation form. Depending on the policy, additional forms and reports may be involved. Filing a police report within a certain number of days could help an Auto claim. General Liability and Workers’ Comp claims are mandated by law to be reported in a specified timeframe. Although the amount of time varies by state, every jurisdiction requires some type of form. Complete them or call them in to your insurance company after 9-1-1 has been contacted.

<table>
<thead>
<tr>
<th>State</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td><a href="http://dir.alabama.gov">http://dir.alabama.gov</a></td>
</tr>
<tr>
<td>Alaska</td>
<td><a href="http://www.labor.alaska.gov/wc">http://www.labor.alaska.gov/wc</a></td>
</tr>
<tr>
<td>Arizona</td>
<td><a href="http://www.ica.state.az.us">http://www.ica.state.az.us</a></td>
</tr>
<tr>
<td>Arkansas</td>
<td><a href="http://www.awcc.state.ar.us">http://www.awcc.state.ar.us</a></td>
</tr>
<tr>
<td>California</td>
<td><a href="http://www.dir.ca.gov/dwc">http://www.dir.ca.gov/dwc</a></td>
</tr>
<tr>
<td>Colorado</td>
<td><a href="http://www.colorado.gov">http://www.colorado.gov</a></td>
</tr>
<tr>
<td>Connecticut</td>
<td><a href="http://wcc.state.ct.us">http://wcc.state.ct.us</a></td>
</tr>
<tr>
<td>Delaware</td>
<td><a href="http://www.delawareworks.com">http://www.delawareworks.com</a></td>
</tr>
<tr>
<td>DC</td>
<td><a href="http://www.does.dc.gov/does">http://www.does.dc.gov/does</a></td>
</tr>
<tr>
<td>Florida</td>
<td><a href="http://www.myfloridacfo.com/wc">http://www.myfloridacfo.com/wc</a></td>
</tr>
<tr>
<td>Georgia</td>
<td><a href="http://sbwc.georgia.gov/portal">http://sbwc.georgia.gov/portal</a></td>
</tr>
<tr>
<td>Hawaii</td>
<td><a href="http://hawaii.gov/labor/rs">http://hawaii.gov/labor/rs</a></td>
</tr>
<tr>
<td>Idaho</td>
<td><a href="http://www.iic.idaho.gov">http://www.iic.idaho.gov</a></td>
</tr>
<tr>
<td>Illinois</td>
<td><a href="http://www.iwcc.il.gov">http://www.iwcc.il.gov</a></td>
</tr>
<tr>
<td>Indiana</td>
<td><a href="http://www.in.gov/wcb">http://www.in.gov/wcb</a></td>
</tr>
<tr>
<td>Iowa</td>
<td><a href="http://www.iowaworkforce.org">http://www.iowaworkforce.org</a></td>
</tr>
<tr>
<td>Kansas</td>
<td><a href="http://www.dol.ks.gov/wc/about.html">http://www.dol.ks.gov/wc/about.html</a></td>
</tr>
<tr>
<td>Kentucky</td>
<td><a href="http://www.labor.ky.gov">http://www.labor.ky.gov</a></td>
</tr>
<tr>
<td>Louisiana</td>
<td><a href="http://www.laworks.net">http://www.laworks.net</a></td>
</tr>
<tr>
<td>Maine</td>
<td><a href="http://www.maine.gov/wcb">http://www.maine.gov/wcb</a></td>
</tr>
<tr>
<td>Maryland</td>
<td><a href="http://www.wcc.state.md.us">http://www.wcc.state.md.us</a></td>
</tr>
<tr>
<td>Massachusetts</td>
<td><a href="http://www.state.ma.us/wcac">http://www.state.ma.us/wcac</a></td>
</tr>
<tr>
<td>Michigan</td>
<td><a href="http://www.michigan.gov/wca">http://www.michigan.gov/wca</a></td>
</tr>
<tr>
<td>Minnesota</td>
<td><a href="http://www.doli.state.mn.us">http://www.doli.state.mn.us</a></td>
</tr>
<tr>
<td>Mississippi</td>
<td><a href="http://www.mwcc.state.ms.us">http://www.mwcc.state.ms.us</a></td>
</tr>
<tr>
<td>Missouri</td>
<td><a href="http://labor.mo.gov">http://labor.mo.gov</a></td>
</tr>
<tr>
<td>Montana</td>
<td><a href="http://erd.dli.mt.gov">http://erd.dli.mt.gov</a></td>
</tr>
<tr>
<td>Nebraska</td>
<td><a href="http://www.wcc.ne.gov">http://www.wcc.ne.gov</a></td>
</tr>
<tr>
<td>Nevada</td>
<td><a href="http://dirweb.state.nv.us/WCS/wcs.htm">http://dirweb.state.nv.us/WCS/wcs.htm</a></td>
</tr>
<tr>
<td>New Hampshire</td>
<td><a href="http://www.labor.state.nh.us">http://www.labor.state.nh.us</a></td>
</tr>
<tr>
<td>New Jersey</td>
<td><a href="http://wldstate.nj.us/labor/wc/wc_index.html">http://wldstate.nj.us/labor/wc/wc_index.html</a></td>
</tr>
<tr>
<td>New Mexico</td>
<td><a href="http://www.workerscomp.state.nm.us">http://www.workerscomp.state.nm.us</a></td>
</tr>
<tr>
<td>New York</td>
<td><a href="http://www.wcb.state.ny.us">www.wcb.state.ny.us</a></td>
</tr>
<tr>
<td>North Dakota</td>
<td><a href="http://www.workforcesafety.com">http://www.workforcesafety.com</a></td>
</tr>
<tr>
<td>Ohio</td>
<td><a href="http://www.ohiobwc.com">http://www.ohiobwc.com</a></td>
</tr>
<tr>
<td>Oklahoma</td>
<td><a href="http://www.owcc.state.ok.us">http://www.owcc.state.ok.us</a></td>
</tr>
<tr>
<td>Oregon</td>
<td><a href="http://www.cbs.state.or.us/wcd">http://www.cbs.state.or.us/wcd</a></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td><a href="http://www.portal.state.pa.us">http://www.portal.state.pa.us</a></td>
</tr>
<tr>
<td>Rhode Island</td>
<td><a href="http://www.dlt.ri.gov/wc">http://www.dlt.ri.gov/wc</a></td>
</tr>
<tr>
<td>South Carolina</td>
<td><a href="http://www.wcc.sc.gov/Pages/default.aspx">http://www.wcc.sc.gov/Pages/default.aspx</a></td>
</tr>
<tr>
<td>South Dakota</td>
<td><a href="http://dlr.sd.gov/workerscomp">http://dlr.sd.gov/workerscomp</a></td>
</tr>
<tr>
<td>Tennessee</td>
<td><a href="http://www.tn.gov/labor-wfd">http://www.tn.gov/labor-wfd</a></td>
</tr>
<tr>
<td>Texas</td>
<td><a href="http://www.tdi.state.tx.us/forms">http://www.tdi.state.tx.us/forms</a></td>
</tr>
<tr>
<td>Utah</td>
<td><a href="http://www.laborcommission.utah.gov">http://www.laborcommission.utah.gov</a></td>
</tr>
<tr>
<td>Vermont</td>
<td><a href="http://www.labor.vermont.gov">http://www.labor.vermont.gov</a></td>
</tr>
<tr>
<td>Virginia</td>
<td><a href="http://www.vwc.state.va.us/portal">http://www.vwc.state.va.us/portal</a></td>
</tr>
<tr>
<td>Washington</td>
<td><a href="http://www.lni.wa.gov">http://www.lni.wa.gov</a></td>
</tr>
<tr>
<td>West Virginia</td>
<td><a href="http://www.wvisurance.gov">http://www.wvisurance.gov</a></td>
</tr>
<tr>
<td>Wisconsin</td>
<td><a href="http://dwd.wisconsin.gov/wc">http://dwd.wisconsin.gov/wc</a></td>
</tr>
<tr>
<td>Wyoming</td>
<td><a href="http://doe.wyo">http://doe.wyo</a></td>
</tr>
</tbody>
</table>
Of course, filling out claims and accident forms does not constitute a full investigation! It is best to clearly document the critical details of the incident—who saw it, what happened, attempts to prevent the occurrence, the date corrective action was taken, etc. (see “Pertinent Information to Collect” on next page). The latter is particularly important because it can be alleged weeks or months after the event in question that no action was taken.

He or she will look for evidence that the incident could have been prevented, which is why it is critical to act on any observation you might have related to safety, regardless of how trivial it may seem at the time. If an investigator discovers that there were multiple reports of people slipping and falling on a wet spot or of a rowdy group of fans causing trouble, a price will be paid for negligence if such reports are ignored or not taken seriously.

Documenting Workers’ Comp claims is much more straightforward if the claim is made on the scene. However, injuries are commonly reported days after the alleged incidents. If a worker reports an injury the next morning, an employer needs to find out when pain began to occur, what caused it, what the person did immediately before going home, and how they initially treated the ailment. Make a record of the details of this conversation on notepaper or in an email!

For larger events, such as Bonnaroo or Coachella, a claims representative might be placed on-site to monitor events as they unfold, leaving significantly less guesswork in getting to the bottom of claims. Thus, if someone alleges negligence against a venue after a slip-and-fall incident, this on-scene investigator can verify that the person was not intoxicated or did not contribute to the stumble in any way. If they are not there in person, claims adjusters will also review video if recordings exist and are preserved—smartphone videos and photos played a huge role in the identification of the Boston Marathon bombing suspects.
PERTINENT INFO TO COLLECT

- Date, time, location
- Event where incident occurred
- Weather conditions (including temperature, precipitation [if outdoors], etc.)
- Lighting
- Photos (damaged property, vehicles, area of body injured, etc.)
- A quick diagram of the scene (if possible)
- For slip-and-fall accidents: the type of flooring, any obstacles or foreign substances (with accompanying photos), claimant’s footwear, etc.
- If at the scene: general statements from the claimant and witnesses, as well as their phone numbers
- Description of the accident and nature/extent of the injury. (Only record the facts. Provide your own thoughts to the insurance adjuster later.)
- Claimant’s (approximate) age
- For auto accidents: make, model, and year of vehicles involved, as well as location of damage on each vehicle
- Were alcohol or drugs a factor?
- Were police called?
- Was ambulance called?
- Was claimant transported? Where?
- Was treatment refused?
- For theft claims: how does it appear the thief gained entry to the property? Get photos of any broken windows, doors, locks, etc.
- Date corrective action was taken to prevent similar incidents in the future
COPING WITH THE AFTERMATH

Obviously, depending on what coverages you have in place and how well you have documented your assets, your insurance coverage can help begin to get you back on your feet, depending on the circumstances. Your agent should be able to walk through what you can be reimbursed for as well as when and how you will be paid by your insurance company throughout the process. Your agent can also help you evaluate where things went wrong and what can be done to prevent similar incidents from occurring. Specialty insurers in the entertainment space also have a wide network of venues and vendors that can provide new parts and services for assets that need replacing, and ensure that everything meets the strictest codes and highest standards. Underwriters who are truly experienced in the live event business should be able to point you in the direction of loss control specialists, engineers, and lawyers who can provide professional advice as to how to handle the task at hand and reduce your potential exposure to loss in the future should something go wrong.

WHAT CAN HELP PREPARE FOR AND/OR PREVENT LAWSUITS?

Oftentimes, particularly in Workers’ Comp cases, people file claims in part because they are disgruntled. It is imperative to make sure people are treated with compassion and that the appropriate coworkers and superiors are checking on them regularly. A simple statement such as “I’m sorry this happened” can go a long way toward defusing anger, provided that you do not admit fault in your account.

In high-profile incidents that receive local and/or national media attention, it is useful to vet any written statements with your attorney as well as your public relations department or an outside PR firm. Be sure to have a thorough discussion with your insurance adjuster, PR representatives, and legal contacts about proper messaging before conducting any interviews. Lawsuits can be born from (or strengthened by) the wrong public statements.
UNDERSTANDING THE CLAIMS PROCESS
A company will hold its primary insurance policy either with a general insurance carrier or with a company that specializes in the entertainment field.
Working with a Generalist Insurance Agent and Carrier
As was mentioned earlier in this handbook, good generalist insurance agents will know when they are in over their head. Most are not familiar with the intricacies of insuring major entertainment events—and guiding you through the aftermath of a fire at a large nightclub requires a much different knowledge base from looking into a similar incident in a single-family residence, for instance. Generalists are also wary of the risks associated with, say, a stage or lighting truss collapse or a fall into the orchestra pit. Usually all parties agree that specialized expertise is required for the types of risks and claims associated with the events and venues at which entertainment technicians work.

Working with a Specialist Insurance Carrier
When you are involved in an incident and claim, your primary point of contact will be with investigators and claims adjusters who work for your specialty insurance carrier—and they should have deep expertise in dealing with claims in the entertainment industry. Your agent, if a specialist in the entertainment industry, can also be a great help due to his or her ability to ask the appropriate questions, act as a helpful intermediary with your insurance carrier, and lend you support throughout the process thanks to a wealth of both insurance and entertainment industry expertise and experience.

It is recommended that claims be submitted by the policyholder and not another party, such as the insured's attorney, doctor, or employer. For Workers' Comp claims, time is of the essence. If you want the doctor to proceed with treatment and bills to be paid on time by the insurance company, we cannot stress enough the critical importance of reporting the claim quickly; insurance company claims adjusters cannot begin working with health care providers until a claim is on record. Similarly, if a lawyer is involved, the claims adjuster cannot discuss the case in depth with your legal counsel without a formal claim filed.

Some specialty insurers have scores of entertainment technology companies in their client base, so do not hesitate to go into great technical detail about the incident, including the preparation of the premises beforehand and the specific equipment in question in the claim. The more detail, the better.

Again, when you begin discussions with the adjuster or adjusters handling the claim, be honest, forthright, and cooperative.
Procedures

If the claim has the potential to end up in court, the insurance carrier may retain legal counsel, which would place an even greater need for truthfulness, collaboration, and responsiveness as previously outlined in describing how to correspond with the insurance company. Legal matter or not, it can be very costly if it comes out later that your statement that “no one has ever fallen down that set of stairs” was untrue.

For Workers’ Comp claims, the investigator will contact three parties: 1) the employer (to get his or her side of the story), 2) the doctor (to obtain extent of injuries and medical history), and 3) the claimant. The adjuster will utilize these conversations to determine if the incident is work related and consequently if benefits are due. If the claim is found to be legitimate, the insurance company will generally pay lost wages for missed work time and the injured party’s medical bills. If the insured is still working while recovering from the injury, the policy will pay for the medical expenses.

The number of times you speak with an insurance adjuster throughout the course of a claim will vary as every situation has unique circumstances; the inquiry may only require one phone call, or it could take weekly conversations for an extended length of time (or anywhere in between). Workers’ Comp claims can also entail additional dialogue to untangle a variety of details, depending on the nature of the case. It may not always be black-and-white whether an injury is work related. For instance, an employer may or may not be responsible for a claim involving dehydration or sickness caused by food on the job site. Additional correspondence may be required if a worker lives in one state, works in another, and got hurt in a third state, because it can take more time and discourse to figure out the jurisdiction for the claim.

Again, while the probe is ongoing, preserve all pieces of evidence in question—just as you did at the scene—until the agent or adjuster says you can throw it away. It may seem innocuous to discard decaying wood, but if the insurance company is analyzing a flood, the extent of the damage to those fragments could be pertinent. Just to be safe, always ask the insurance agent or adjuster if it is okay to toss an exhibit to the scrap heap.
DON’T LET THIS HAPPEN TO YOU
THE RISK OF NOT PAYING ATTENTION TO RISK AND INSURANCE

Insurance and workplace safety go hand in hand. Both are all about protection—of you, your business, and the people you are surrounded by as you ply your trade. You may be encouraged to do “just enough” with your insurance policies or the safety measures you implement at your next work engagement because an accident has never occurred while you were on the job. However, with so many factors out of your control—weather, other people involved in the production, the unforeseen—it is imperative to take all of the necessary measures to protect your assets and the people you help entertain.

All it takes is one incident like the fire at the Great White concert held in the Station Nightclub in Rhode Island, the stage collapse at the Indiana State Fair just before a scheduled performance by the band Sugarland, or the breakdown of the Downsview Park stage in Toronto on which Radiohead was going to play to leave you tied up in litigation and your reputation (and assets) battered. Any incremental savings gained over the years by not taking the most comprehensive precautions with each job will be lost and then some.

If an occurrence like this can be traced back to a practice of yours not up to ANSI and other industry standards, your liability will likely be greater than you can afford. Regardless of whether an accident is your fault or not, you may be rudely surprised to find that you are not covered by your insurance policies if you did not work closely with an insurance agent with specialized knowledge of the entertainment technology field to apply coverage that is uniquely appropriate for your business.
Insurance and workplace safety go hand in hand. Both are all about protection—of you, your business, and the people you are surrounded by as you ply your trade.
PREPARE FOR THE WORST—TO PREVENT IT FROM HAPPENING

At and after each of the events you work, always run through the “Plan, Do, Check, Act” methodology. Make sure you are constantly revising and tailoring your safety procedures specifically to your next job. Along the way, make sure to hold others working side by side with you to put on a show equally accountable. Point out anything that could potentially become a hazard no matter how trivial it might seem at the time. After all, all it takes is one inattentive stakeholder or act of negligence to get everybody in trouble; everyone must pull on the same rope to mitigate the possibility of a debacle.

Safety also equates to better rates. When an underwriter has a comfort level that its customers will seek out professional advice and adhere to the industry’s best practices and standards, it tends to give these businesses its best pricing. It is the unknown and people who act with disregard to safety and the protection of their property that cause an underwriter to stay awake at night.

When you obtain or renew your policy, think hard about paying a little extra now to prevent paying much more later. Flood insurance sounded like a foolish investment to many until Hurricane Sandy put their property and equipment in jeopardy. Likewise, Business Interruption and Umbrella coverage may seem like an excessive expense until they save you thousands of dollars—and possibly your business itself. You might think you only need Property or Inland Marine (not both), but covering only part of your business still leaves you exposed.

In the end, the extra time, resources, and attention to detail in your craft could save you from much greater hassle down the road. Conversely, declining that additional policy could be the very illustration of “penny wise, pound foolish” if calamity strikes.

At the end of the day, half measures ultimately lead to full crises.
About ESTA
ESTA is the lead professional body for businesses that supply technologies and services to the event, entertainment, and installation industries. Operating from offices in Europe and North America, the association provides business support services to its growing worldwide membership, writes industry standards, leads the development of qualifications, and focuses on improving the business practices adopted by the industry. With more than 1,100 members worldwide, it represents one of the largest member networks in the industry.

ESTA also runs successful media and events divisions and is responsible for the industry-leading magazines Lighting&Sound International, Lighting&Sound America, and Protocol, and the ESTA Show in London, together with the regional ESTA Focus events.

For more information, please visit www.esta.org.

About ProSight Specialty Insurance
ProSight Specialty Insurance was founded by CEO Joseph Beneducci in 2009 and is backed by affiliates of TPG Capital and GS Capital Partners. ProSight Specialty Insurance focuses on niche markets where it has differentiated underwriting and claims expertise and partners exclusively with specialist distributors who have a deep understanding of their customers.