

A Slip, Trip, and Fall Guide For Banks

By Scott Simmonds

The Event

Slip, trip, and fall claims are injuries caused by an accident on the bank premises involving customers, visitors, pedestrians, guests, and vendors. Injuries to employees are a topic for another day (that's workers' compensation).

Some common loss-situations are:

- A pedestrian walking on the sidewalk in front of the bank slips on the ice.
- A customer walking in the bank parking lot falls after tripping on loose concrete.
- A customer inside bank trips on a trashcan left in a hallway.
- A delivery person slips on a wet floor in the entryway of the bank.
- A real estate agent falls down the stairs at a foreclosed property.

The Insurance Coverage – Commercial General Liability

In almost all cases, the above-described events are a part of a bank's commercial general liability insurance (also known as CGL or GL). Coverage is provided for bodily injury caused to third parties that bank is found liable for.

If the amount of the loss exceeds the limits of coverage in the general liability policy (usually \$1,000,000), then excess coverage is usually provided by the bank's umbrella liability insurance policy.

The Insurance Coverage – Medical Payments

Most bank insurance programs also include a coverage section called "medical payments." Coverage here is usually \$5,000 or \$10,000.

Recall that in the section above I said that the general liability policy responds to negligence by the bank. Medical payments insurance pays for injuries regardless of negligence. It pays if the bank was negligent or if the injured person was klutzy.

I have often called medical payments, "goodwill coverage," as the policy pays the injured person in an effort to avoid a lawsuit. The coverage responds to the injury – almost with no regard to the injured person's actions that might have contributed to the injury.

If the injured person pursues legal action, the bank's general liability responds.

The Insurance Coverage – Limits of Insurance

Adequacy of insurance coverage for these types of events is rarely at question. Almost all these claims will be for amounts under five thousand dollars.

Questions of insurance coverage almost never come up for these events. They are perhaps the most straightforward of insurance claims. Your insurer will respond and take care of almost your entire loss.

Most bank general liability coverage is at \$1,000,000, with excess coverage provided by an umbrella liability policy. I recommend all banks carry at least \$5,000,000 of umbrella liability insurance.

- Banks with over \$300 million in assets should have at least \$10 million of umbrella liability.
- Banks of \$500 million to \$1 billion in assets should carry at least \$15 million of umbrella liability.
- Banks that have over \$1 billion in assets should have at least \$20 million in umbrella liability.

The Claim and Process

Most slip and fall claims are small and quickly resolved by the payment of a few hospital bills. Those that end up with lawyers are another matter. Lawsuits for slip and fall incidents are frustrating and time-consuming for bankers. They involve issues of right and wrong, ego, principle, and the equity in our legal system. Claims can lead to high emotion – bordering on indignation by bankers.

“Are we being taken advantage of?” is often asked. Bankers experiencing these claims use the phrase “blood-sucking lawyers” a great deal.

While these events are relatively rare for bankers, insurers handle thousands of such claims every year. It is that common-ness to adjusters that can lead to the appearance of complacency with the process, adding to banker ire.

In addition, most general liability insurance policies put the insurer in the position of leading the defense of these claims. Banks are rarely given any voice in the selection of an attorney or in the negotiation of claims settlements. Bankers are often left out of the process completely, and only learn that a claim has been settled well after the fact.

While this is frustrating, it is the nature of general liability insurance coverage. The insurer defends the policyholder for losses. The policyholder gives the duty to defend all claims to the insurer.

You are certainly free to try and influence insurer actions. Be prepared to find your insurer unresponsive. (Sorry.)

Preparations / The Plan / At The Scene

Each branch and location should have several employees trained on your accident response process. All (yes ALL) accidents should be documented in as much detail as possible. Even the most minor of events can lead to a claim months down the road. Documentation now can save grief later.

Consider first aid training for your employees. “First-responders” should provide immediate care and comfort to the injured person. Some injuries require a 911 call immediately. Other, more minor, events will have people wondering if an ambulance should be called. The first responder should almost always strongly insist on the injured person visiting a doctor.

Gather contact info on the injured person. Get the names and phone numbers of persons who saw the accident.

Take pictures of the scene. Have an employee video the unfolding events if possible. Document what the injured person and their companions say and do immediately after the event.

If the injury takes place in view of the bank’s camera system, preserve the video.

Often your staff might hear of the event well after it is over, sometimes hours or days later. Document who told staff about it, and as much detail as you can gather. Record what is known of the conditions in the area at the time of the accident – conditions of the floor or walkway, and weather that may have had an impact.

In about half the cases I hear of, the bank learns of a lawsuit three months or more after the accident. What was thought to be a minor incident at the time becomes a case for the courts. Without a process in place to maintain documentation of every incident, by the time you know about a lawsuit the video is erased, memory has faded, and you are holding the muddy end of the stick.

(Social Media Note: Remind all employees that pictures and videos of events that happen at the bank should not be posted on Facebook or on other social media sites. I realize this sounds elementary. It has happened recently though.)

Actions After The Fact

What follows are my ideas on how a bank should respond to an accident at the bank where there were injuries known at the time. Some experts will disagree with this approach because it has you reaching out to the injured party. My conservative colleagues might see this as “admitting fault.” I see it as being compassionate.

I think caring about the injured person is the right thing to do, and leads to better understanding by all concerned.

An official of the bank should call the injured person after the injury. This might be a few hours later or the next day. Certainly it should be no longer than twenty-four hours after

the injury.

Even a customer whose accident results in only torn pants and a sprained ankle should be called later that day. I think the branch manager should call the customer.

“I heard of your accident. I hope you are OK?”

“I'm sorry it happened.” (Note: This is not admitting guilt. It is being human and kind.)

Some banks immediately offer to pay medical bills. In general, I like that approach.

“When you get the bill for the ambulance or the hospital, please send it to me.”

I like the idea of a local person being the bank's contact for such. Some banks want a central person handling all such claims. Obviously, the personality of your bank is your guide.

I also like the idea of a follow-up by the branch manager a few weeks after the event, a phone call checking in.

“It's been about two weeks since your accident at the bank. I'm just checking in with you to see that you are OK.”

Each contact with the injured person should be documented in detail at the time of the conversation. What both sides said should be written down and kept together with other information on the event. You may need this information months down the road if you get a letter from an attorney.

Reporting the Event To Your Insurance Company

My friends who are insurer claims people may not like what I am about to say. In general, insurance company adjusters are horrible at public relations, and ham-handed at dealing with “claimants.” (Side note, the fact that claims adjusters call injured people “claimants” tells us the default position of the insurer.)

If there are no known medical bills to be paid, I suggest you not report the incident to your insurer. Keep your documentation, but you don't have to report the event.

If there are no medical bills but the customer submits a bill for torn pants, broken glasses, or other damaged clothing, the bank should report the incident “For Information Only” to the insurer. Pay for the damaged clothing at your discretion. I suggest not submitting such bills to your insurer.

It is vital to report an event involving medical bills to your insurer within days of the accident. If the injuries are life-threatening, the report should be made within hours. Your insurance agent will have an accident reporting form for you to use. Some insurers request that incidents be reported directly to the insurer.

For minor injuries, I suggest the bank take the lead in gathering information on the event and working with the injured person following my guidelines above.

For minor injuries, report the event to your insurer with clear instructions that adjusters should contact your lead-person on the accident BEFORE contacting the injured person.

Provide the adjuster with all your documentation, and request that your lead-person be allowed to continue to communicate with the injured person – in the interest of customer service and community relationships. In general it is in the best interest of your bank not to have insurance adjusters talking to injured customers – it just never seems to work well.

Most of these claims are simple – minor injury, medical care, call from branch manager, bills sent to branch manager, branch manager sends bills to insurer, insurer pays bills, incident closed.

If a claim becomes contentious between the injured party and the bank (meaning the injured person hires an attorney), the insurer will insist on your employee backing off. Rightly so.

Loss Prevention

Preventing accidents is not rocket science. Keep walkways clear of ice and snow. Floors that get slippery when wet need to be covered with a nonslip carpet or treated to increase traction.

If you know an entryway is a problem when it is wet, you need to fix it NOW.

Empower all employees to resolve unsafe conditions. Make preventing accidents everyone's job. If the president of the bank is seen spreading sand on an icy walkway because he was the first one to notice the problem, everyone gets the message.

A sign posted saying the floor is slippery is not loss prevention. Clean it up. Post an employee to warn people until the problem is solved.

A culture with an emphasis on safety will even help your bank in a lawsuit. Show that you do all that can be done to prevent accidents, and a court will have a tougher time finding negligence.

Conclusion

Any business with customer traffic can see slip and fall claims. Diligent preparation can both prevent claims and minimize the impact that events have on your bank. Insurance is there to help fund a loss that happens. Your understanding of the process will make for quicker resolution.

About Scott Simmonds

Scott Simmonds is an unbiased insurance consultant with a specialty in bank insurance issues. He offers a variety of services to banks, including coverage reviews that tell banks of insurance gaps and overlaps. His work can help you understand where you have too much insurance or not enough.

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