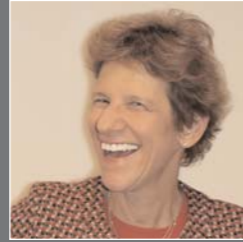


Ask Jane

Controlling Employee Benefits Costs

Q: I offer medical insurance to my five employees. I just received my renewal and it is up 22%. How can I control costs?



Here are five areas to consider:

1. Plan design – When was the last time you increased office visit co-pays or deductibles?
2. Employee contributions – Do employees share the cost of your plan premiums?
3. Choice of plans – Do you offer your employees a choice of plans? When employees share the premium cost of a plan, they may choose a less-expensive one that fits their needs more appropriately.
4. Dependent Coverage – Do you offer employees incentives to

waive coverage if they are eligible for healthcare elsewhere, such as under their spouse's policies?

5. Network Physicians – Using network physicians saves your employees money. If they don't use your insurer's network physicians, find out why. If they are not located where your employees live or offer the type of services they need, inform your broker.

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The Expert's Corner

What Happens if Your Dealer Runs Off With Your Art?



One of the most common problems art lawyers see – and one of the most vexing problems our clients can face – arises when an art dealer doesn't pay a collector following the sale of a work of art. This situation is made even worse when the collector does not intend for the work to be sold in the first place – for example, when a work is merely loaned to a gallery for a temporary exhibition, and is then sold to a buyer.

Among the litany of legal causes of action which inevitably arises in both of these scenarios is a claim by the collector for "conversion", i.e. intentionally depriving an owner of the benefit and use of his property without his authorization or lawful justification; in short, a type of theft of physical property.

If your insurance policy covers "all risk" of physical loss, but does not exclude conversion, are you covered for it? In other words, does the definition of "loss" in an all risk policy extend beyond the traditional defini-

tion of loss through damage? This is the issue currently being considered in lawsuits between AXA Art Insurance Corp., which filed suit in New York, and The Philadelphia Museum of Art (the "PMA"), which filed suit in Maryland.

The facts of the AXA/PMA lawsuit are as follows: In 2006, the PMA consigned paintings by artists Prendergast and Davies to the Salander-O'Reilly Galleries for sale. Salander sold the Prendergast, didn't pay the PMA, and subsequently went bankrupt.

The PMA says AXA should pay it \$1.5 million for the Prendergast because Salander effectively stole it. The PMA points to AXA's fine art policy, covering the art against "all risks of direct physical loss or damage from any external cause" not specifically excluded in the policy. AXA, in turn, says the loss of the Prendergast is not covered since the policy was intended to protect the works from damage or physical loss, not financial fraud.

This publication is provided solely for informational purposes and is not intended to provide legal advice or create a binding contract. This publication does not describe all available insurance options. Coverage is subject to the terms, conditions, limitations and exclusions of the specific insurance policy.

This case has just begun to wind its way through the courts, and the outcome is unclear. However, one very possible result may be specific language that will appear in future insurance policies specifically excluding conversion.

Prudent collectors can take several measures to protect their works from loss through conversion:

1. Secure your art by filing a financing statement under your state's Uniform Commercial Code (UCC), which puts the world on notice of your ownership interest. This filing is relatively easy and inexpensive, but many collectors still don't do it.

2. When in doubt, keep physical possession of your work.
3. If you are consigning your work to a gallery for sale (as opposed to an exhibition), make sure that you enter into a proper agreement with the gallery saying you are entering into a true consignment, and that title to the work doesn't pass unless and until you receive payment in full.
4. Don't necessarily assume that your insurer will cover a loss arising by reason of conversion.

Thomas and Charles Danziger, Lead Partners in the New York art-law firm, Danziger, Danziger & Muro, LLP – www.danziger.com

Tips to Save on Worker's Compensation Rates

- Most Worker's Compensation policies are audited each year to make sure the payroll information is correct and up to date. Complete and return the audit forms promptly. Without this information, the insurance company will estimate the audit ...and they can multiply the payroll currently listed by up to four times, raising your premium considerably. If you think the audit is incorrect, you can challenge the results.

- Make sure your payroll is classified correctly. The wrong classification can increase your

premium rate this year or when audited. There are no specific classifications for Fine Art Gallery employees. Generally, Retail Stores (8017) Salespersons (8742) or Clerical (8810) are used. Ask your broker to advise you on the correct, most cost-effective classification.

- Executive officers or members of a Limited Liability Corporation can opt out of Worker's Compensation coverage. This will reduce the company's premium, but also eliminates valuable coverage for the person that is specifically excluded.

Speed and Prevention Avert Water Damage

Water damage can be as devastating to your artwork as smoke – water running down walls from fire hoses on an upper floor, even from an overflowing sink or clogged toilet above your installation. Pictures sitting on wet walls quickly absorb surrounding water through their backing boards and then through the image.

If water damage occurs, immediately move your art to a safe environment with humidity controls and have a conservator examine the art.

Here are three simple ways to protect your art from water originating from above and below.

1. Insert spacers behind works hung on walls. Small spacers, 2mm deep can be inserted to raise the picture away from the wall and any flowing water, but not interfere with the aesthetic of your installation.

2. Seal your floor vitrines and raise sculptures on pedestals. Water running down the walls pools on the floor. Often vitrines cover the top and sides of a floor mounted artwork but the bottom is not sealed. This can be done discreetly and is particularly important for installations created from absorbent materials such as paper, wood, plaster, fabric and paint.

3. If you have a sophisticated burglar and fire alarm system, adding a water alert system may be a cost-effective addition. Ask your alarm company for options.

These are a few tips from Claire Marmion, The Haven Art Group, and Greg Smith, Berkley Asset Protection, speakers at DeWitt Stern's Dealer Forum: Disaster Planning and Risk Analysis, at the New York Yale Club on May 19.

