Best's Insurance Law Podcast

Enterprise Risk Management Strategies - Episode #158

Posted: Mon., Oct. 21, 2019

Hosted by: John Czuba, Managing Editor

Guest Experts: Sean Murphy and LoriAnn Lowery-Biggers of Courtroom Sciences, Inc.

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John Czuba: Welcome to "Best's Insurance Law Podcast," the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, Managing Editor of *Best's Insurance Professional Resources*.

We're pleased to have with us today two representatives from expert service provider Courtroom Sciences in Irving, Texas.

Courtroom Sciences partners with corporate legal departments and law firms throughout the entire litigation process from the moment a crisis occurs through discovery, trial preparation, jury selection, and the trial itself. Joining us for a discussion today are Sean Murphy and LoriAnn Lowery-Biggers.

Sean Murphy is a strategic communications counselor with extensive corporate reputation and litigation crisis communications experience. Sean has worked with a number of leading organizations across a wide range of industries on public communications challenges presented by high-stakes and high-profile crisis cases.

LoriAnn Lowery-Biggers has over 25 years of experience in the global finance and insurance industry, notable as President of Lloyd's of London for North America, and President of Navigators Commercial Insurance Company.

She is a director on the corporate board and chairperson of the finance and investment committee of Copper Point Mutual Insurance Holding Company, and a director on the boards of Brown & Riding Insurance, Incorporated, Protective Insurance, Incorporated, and Courtroom Sciences. LoriAnn also sits on the Council on Litigation Management, and is a member of Global YPO.

LoriAnn and Sean, thanks so much for joining us this morning.

LoriAnn Lowery-Biggers: Thank you for having us, John.

Sean Murphy: Thank you.

John: Today, they will be addressing enterprise risk management and challenges facing insurance carriers. Our first question today, we'll direct towards LoriAnn. LoriAnn, enterprise risk management has increasingly become a top priority for boards of directors and C-suite executives. What trends are driving this increased focus?

LoriAnn: First of all, we have to really understand that we are in an unprecedented and evolving landscape unlike anything we have ever seen historically.

A few key trends that are driving this increased focus, particularly from the board and the C-suite levels are rapid speed of business model interruption and disruption, industry changes, corporate tax reform, political uncertainty, increasing workplace violence, reputational and headline risks.

Cyber threats unlike we've ever seen, crisis management needs, new litigation, regulatory risks and scrutiny, innovation in technology disruptions.

Sustaining customer loyalty and retention, which we all know is ever-changing with the Amazon effect. Attracting and competing for talent and risks associated with culture, retention, and succession planning, economic conditions globally, risks with M&A.

Frankly on the flip side, risks with limited opportunities for organic growth, clashing and changing generational work structures and cultural resistance to change, an inability to migrate operational efficiencies.

The list could go on and on and on, however, I believe we only have a short window for the podcast, so I don't want to depress everyone right from the start. Suffice it to say, we are in uncharted waters.

John: What should companies prioritize as part of their ERM strategy? What are the biggest areas of vulnerability, and are there any areas being overlooked?

LoriAnn: It's all about intentional implementation of risk oversight. I'm going to say that again-- intentional implementation of risk oversight -- instead of that, so many companies, what they currently are doing, is reactionary procurement of risk management.

What I mean by that is that companies need to focus on the quality of the enterprise risk management process and not just have a “check-the-box” exercise, for lack of a better term, where there is a risk function and an associated list of risks that they're literally going through with a check mark.

They also, number two, need to focus on behaviors, making ERM a corporate and a cultural asset as well as an oversight priority. The tone comes from the top, but it's cascaded throughout the entire organization.

Then they need to ensure management communicates and engage the entirety of that organization in terms of the importance of ERM, the accountability associated with that, and then the pride that comes with having an organization that has really thought through and implemented the ERM changes.

Last, but certainly, certainly not least is that they need to establish and sustain board-level dialogue, oversights, protocols, and best practices, and emphasize the importance of the board working in conjunction with the management on the short- and the long-term strategy and implementation of such enterprise's management. In other words, instill it in the corporate DNA.

John: LoriAnn, how are major insurers evaluating their insureds in terms of ERM preparedness?

LoriAnn: Very different than it used to be. Looking at things through the lens of all four quadrants of risk, number one, the operational risks -- their processes, the operational oversight, the resistance to change operations, supply chain management, distribution exposures.

Number two, the financial risks, everything from the cost of capital, the market risk, their growth in capital adequacy, the financial and investment risk tolerance that that company might have.

Number three, the strategic risks, which really, they haven't looked at in the past, which include everything from how their industry is evolving, the customer base and how that's changing. What is the future of their specific business and the competitive landscape associated with it? What are the headline, branding, and imaging risks? The succession challenges and, of course, the historic.

Number four, the hazard risks. What trends are occurring in third-party liability? The employee exposures, the property exposures, the product liability, all of those things. It's becoming very, very clear that insureds are no longer being evaluated myopically and through a single underwriting lens.

Much more is being underwritten, correlated, and contemplated than the traditional hazard risks.

John: LoriAnn, to what extent should crisis preparation planning be a part of ERM?

LoriAnn: On three of the corporate boards on which I sit, in the last four years, we've gone through three separate CEO searches.

It is irrefutable that crisis is the new norm, and throughout the candidate interview process, we heavily weighed the candidate's ability, preparedness response and experience in crisis situations, and their prior leadership and outcomes of those situations very, very stringently.

It is almost, in today's environment, a foregone conclusion that senior leaders now need to be equipped, empowered, and prepared for when the crisis happens, not if it happens. Consequently, crisis preparedness in ERM is essential.

It is critical for there to be clear rules, roles, and responsibilities in the event of a crisis, while simultaneously addressing potential vulnerabilities well in advance of a crisis hitting.

How can leadership preemptively agree on the response and remedies if there is no contemplation of crisis within the ERM? It will likely be the difference between the company thriving post-crisis versus surviving in the face of such crisis and adversity.

John: LoriAnn, thanks so much. We're going to direct some questions now to Sean. Sean, what are some of the practical steps a company can do to plan for a crisis?

Sean: The most important thing for companies to do in planning for a crisis is to make sure that they are anticipating the types of scenarios that they may encounter, and then developing responses to those types of scenarios in advance.

The other thing they need to do is prepare for the kinds of people, the types of spokespersons, the experts within their organizations who should be available very quickly to address those situations should they occur.

John: Are companies willing to do this type of crisis planning, or do you see some resistance out there?

Sean: They ignore it at their own peril, because particularly in today's social media environment, you get one shot at managing a crisis, and one shot at giving the kind of response that people will respond to more favorably than if you don't.

If you know your company and your industry, the types of crises you may encounter are very predictable.

If you collect personal information on your customers, then you should be prepared for a data breach. If you're in a business that could have an environmental impact, you have to plan for accidents.

Unfortunately today, if you're a business, a municipality, or a mall, you have to prepare for the potential for violence.

John: What are some of the more common mistakes you see companies make during a crisis?

Sean: There are two ends of the spectrum on this. On the one end, you see companies that when they begin to talk about the crisis, they are talking about it from their own perspective and their own self-interests, and not taking into account the perspectives or the needs of the people who have been impacted by the crisis.

That's a critical mistake, because your messaging and your narrative need to be shaped around what it is you're doing to deal with the situation on behalf of those people.

On the other hand, you have companies that are so anxious about the situation that they will admit liability versus taking responsibility, and those are two very different things. In a situation, it's very important to accept responsibility and take actions that will remedy the situation.

Liability is an entirely different matter, so it's important to distinguish that when you're shaping your messaging and shaping the narrative, and before you communicate that publicly.

John: For companies caught in a crisis, what are some of the first things that they should do?

Sean: They need to pull together the team of decision makers and experts within the company who can affect the right solution.

You need people who can make final decisions in the company, and you need people whose responsibilities reflect the area that the crisis is affecting. If it's a customer service issue, then you need to have the customer service head in the room and making decisions with you, giving you input, etc.

You need to determine as best you can what has occurred. All of that information isn't always immediately available, so you need to gather as much information as you possibly can, because the first response is usually, "This is how we intend to deal with this crisis."

Having some information about it is a good guide for how to communicate that information and put that together, because your first actions are about mitigating the current situation, and then talking about your plans for addressing the crisis overall.

Those are the most important things -- getting the decision makers, getting the right experts in the room, determining as best you can what's happened, and then, how can you mitigate the immediate situation, and what plans do you have to resolve the crisis, to address the crisis and ensure that a similar thing won't happen again.

John: Who in an organization do you typically work with before a crisis to build a preparation plan, and are they the same people you work with during the actual crisis?

Sean: Yes, they are the same people, because in a crisis situation, as LoriAnn said, you have to deal where the decisions are made. This is at the C-suite level, this is in the general counsel's office.

These are the senior corporate communications people. These are the people who have the most impact in any crisis situation, because they have the ability to make the decisions. They have the expert information at their hands. They have the organization to manage. These are the people that have to be involved in any crisis situation.

John: With so many crisis situations being social media-driven today, how difficult is it to prepare for that type of incident?

Sean: It's the same as any other crisis, although I think that people don't feel that way, because it seems to come out of nowhere. Companies need to be able to respond in the same way they would to a traditional crisis.

The key here, really, is what kinds of public policies and procedures do you have that reflect our current social mores and that can really pass public scrutiny in terms of how you operate?

In a social media crisis, that's immediately what you go to. While these are our operating standards and principles, if there is an issue is social media, it's generally because they've been somehow violated or not followed.

Your best defense in those situations is to say, "Here is how it's supposed to go. If it hasn't gone this way, we're going to figure out why. We're going to fix it, and we're going to take steps to make sure it doesn't happen again."

Again, at the end of the day, on the social media side, it is this enterprise risk management mandate to ensure that you have in place the kinds of policies, procedures, standards, corporate values that are reflective of whomever it is you're doing business with, whether that's the general public, consumers, or business to business. You want to make sure that you're in sync with them.

John: Sean and LoriAnn, thank you both so much for joining us today.

LoriAnn: Thank you, John.

Sean: Thank you, John.

John: You've just listened to LoriAnn Lowery-Biggers and Sean Murphy from Courtroom Sciences in Irving, Texas, and special thanks to today's producer, Frank Vowinkle.

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I'm John Czuba, and now this message.

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