

# ***Claims Stories: When Insurance Really Matters***

Presented by Gowrie Group  
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THE  
**BURGEE  
PROGRAM**

By **GowrieGroup**



## Claims Stories:

### Awareness and Preparedness are the Antidote to Risk...

- |   |                      |
|---|----------------------|
| 1. Fires  | 7. Towing & Trailers |
| 2. Weather Disasters  | 8. Docks             |
| 3. Medical Emergencies                                      | 9. Electrocution     |
| 4. Liquor   | 10. Trespassing      |
| 5. Employment Risks   | 11. Cyber Liability  |
| 6. Injury on the Job: Workers<br>Compensation and Jones Act | 12. D&O              |

We have seen a lot of claims over the years...

## ***CLAIMS SCENARIO: Fires burns club to the ground***



Southern Yacht Club during  
Hurricane Katrina, 2005  
New Orleans, LA



“New”  
Southern Yacht Club, 2010  
New Orleans, LA

# WHAT TO KNOW & DO: Fires and Rebuilding

## Safety and Prevention

- Periodic inspections of:
  - Wiring and Electric Systems
  - Heating and mechanicals
  - Fireplaces (indoor and out)
  - Kitchen appliances
  - Fire extinguishers and suppression systems
- Conduct drills (at least annually)

## Coverage and Valuation Considerations

- Limits need to consider historic and custom architecture, building code, zoning & ordinance laws
- Be aware of Co-Insurance, Actual Cash Value, Sub-limits, and Deductibles
- Can take years to rebuild...
- Insurance should be **equal to true replacement cost**
- **Frequent appraisals** are essential (about every 3 years)
- Remember that replacement values and **construction costs increase**
- Work with an architect to understand how **Ordinance & Law Changes will impact a rebuild**
- Make sure to address your **dock systems and outbuildings**

# ***CLAIMS SCENARIO: Hurricanes, Earthquakes, and Flooding***



Hurricane IRMA, 2017 (Category 5)  
Bitter End Yacht Club, BVI  
(Image: Caribbean Buzz Helicopters)



Hurricane Carol, 1954 (Category 3)  
Edgewood Yacht Club, RI  
(Image: NOAA)



The Great Earthquake and Fire, 1906  
San Francisco Waterfront  
(Image: Prologis, Pier 1)

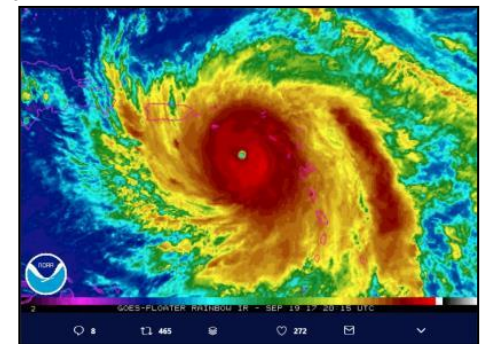


Hurricane Irene, 2011 (Category 1)  
Sachems Head Yacht Club, CT  
(Image: Whitney Peterson)

# WHAT TO KNOW: When planning for severe weather and natural disasters

## Key Considerations:

- **Engineering:** Are your buildings and clubhouse engineered to withstand catastrophic wind, flood or earthquake events?
- **Catastrophe Plans:** Who would shut off the gas feed? Where/how are the boats stored? Do you have a documented plan?
- **Membership Communication:** Do you have a plan to keep the membership engaged with the club after a disaster?
- **Irreplaceable Property:** Where and how are fine arts such as trophies and other memorabilia that have strong sentimental value to your club stored?

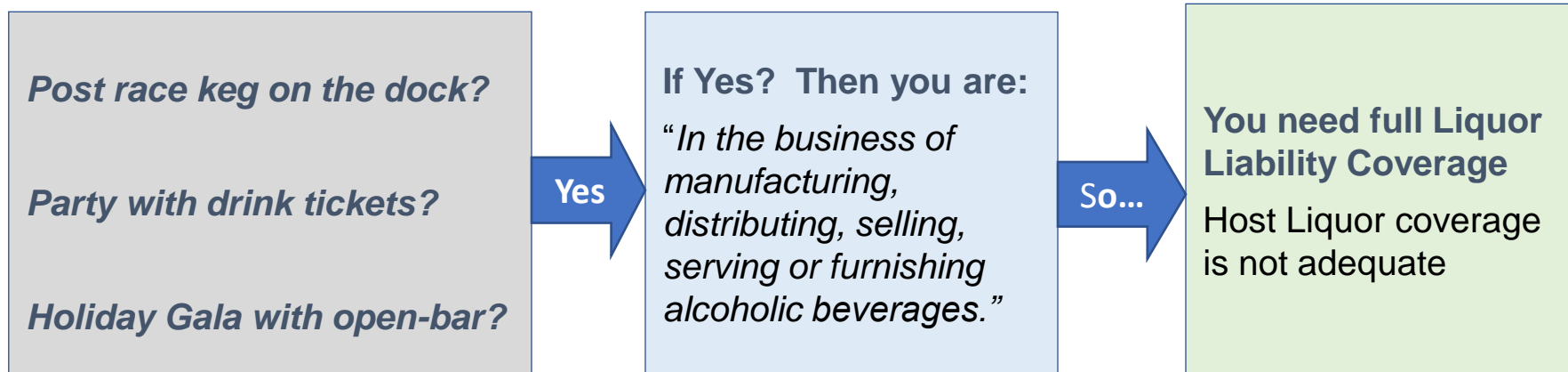


## ***CLAIMS SCENARIO: Intoxicated members gets into accident when driving home after a club event***



Liquor Liability: Does your club host social events and/or regatta parties?

# WHAT TO KNOW: Host liquor coverage is likely not adequate coverage



# WHAT TO DO: Implement smart liquor policies and controls

## Liquor Considerations:

- ✓ Liquor laws vary by **local and state liquor** ordinances, you may need a **Liquor License or Permits**
- ✓ **Do you use wristbands** to distinguish minors from adults 21+?
- ✓ Is your **umbrella policy “over”** your liquor policy?
- ✓ Are your servers **TIPS** trained?
- ✓ Do you provide **food** with the alcohol?
- ✓ Do you have **protocol** for handling intoxicated people?



# ***CLAIMS SCENARIO: Medical Emergencies***



Emergency Safety Drill, 2017  
Pequot Yacht Club, CT  
(Images: Whitney Peterson)


# WHAT TO DO: Plan and practice for emergencies; consider conducting a live “drill”

- Work with local emergency authorities (**Coast Guard, fire department, police, harbor master, etc.**) to develop your plan and determine location(s) for emergency transfers
- **Document and share** your EAP
- **Practice** your plan annually
- Consider staging a **live “drill”**
- Review how **jurisdictions change from water to land**
- **If a crisis occurs:** Follow the 10 US Sailing Crisis Steps

Prepping for Live Safety Drill



Emergency Action Plan Template

SHYC Emergency Response Pick-Up Locations			
			
Name	Description	Address	Nearest Cross Street
<b>A</b> Sachems Head Yacht Club	Enter between 2 stone pillars, between 59 & 66 Chimney Corner Circle. Walk over bridge.	61 Chimney Corner Circle, Guilford CT	Prospect Ave. and Falcon Rd.
<b>B</b> Sachems Assoc. Dock/Ramp	Back of harbor. Dead End of Colonial Rd.	Between 539 and 600 Colonial Rd, Guilford CT	Uncas Point Rd.
<b>C</b> Sachems Head Assoc. Pier	First right after 219 West Uncas Point Rd.	Next to 219 West Uncas Point Road, Guilford CT	Old Sachems Head Rd.
<ul style="list-style-type: none"> <li>• IF IN THIMBLE ISLANDS: <b>Stony Creek Ferry Dock</b>, 4 Indian Point Rd, Branford, Stony Creek Village.</li> <li>• IF NEAR FAULKNER'S OR JACOBS BEACH: <b>Guilford Town Marina</b>, End of lower Whitfield Street.</li> </ul>			
Emergency Numbers		SHYC Main Numbers	
911		Clubhouse & Launch: 203-453-6207, VHF #72	
Guilford Police/Fire: 203-453-8000, 911		Sailing Director: Scott Leppert, 860-817-7305	
Guilford Town Marina: VHF #16, 203-453-8092		Commodore: Rob Wilber, 203-627-6599	
US Coast Guard: VHF #16, 203-466-4401		Fleet Captain: Peter Ganz, 203-623-7240	

# Propellers: Consider installing prop-guards on your junior sailing safety boats

## KNOW THE FACTS:

- **Propeller Accident Statistics:** In 2016, the USCG reported 171 propeller accidents, 175 propeller injuries, and 24 fatalities.
- **New York State Prop Guard Legislation:** In response to the Centerport Yacht Club accident, a state law is under consideration in NY requiring prop guards on all vessels used to instruct children (8/28/17)

## DEVELOP A CULTURE OF SAFE BOATING AT YOUR SAILING ORG:

- Train your staff on powerboat skills – host a **US Powerboating Class** for your staff each summer
- Consider installing **prop guards** on boats used around children
- Require sailing coaches and staff to use **engine cutoff switches**
- Before starting engines, **check the area** around the propeller
- Never approach anyone in the water in **reverse**
- **Never put the boat in gear** if there is a swimmer or sailor nearby in the water or on swim platform
- **Stop the engine** when there is a risk of contact with someone who is in the water
- Do not allow anyone to bow-ride, ride on the gunwales, or **sit on the pontoon of a RIB**
- **Communicate changes** in direction or speed to passengers



# WHAT TO DO: If ever facing a crisis situation

## US Sailing's 10 Crisis Steps:



1. Act as quickly, responsible, humanely and openly as you can.
2. Form a small management committee but speak with one voice.
3. Immediately contact all people with a connection by telephone.
4. Call for independent review.
5. Send no emails unless absolute security is guaranteed.
6. Inform your insurance agent and listen to what they say.
7. Listen to your lawyer, but do not sound like one.
8. Respect the public's need to know, while also respecting victims' privacy.
9. Be accurate; say nothing unless you know it to be true.
10. Take ritual seriously -- honor rescuers; consult clergy, psychologists and other specialists. Respect PTSD. Grief counseling is extremely valuable.

# ***CLAIMS SCENARIO: Wrongful Employment Practices***



Employment Practices Liability Insurance (EPLI):  
Protection for litigation alleging discrimination, wrongful termination, failure to promote, sexual harassment (non-physical), retaliation, and more.  
*Many EPLI policies offer free legal advise prior to a claim/suit.*

# WHAT TO KNOW: EPLI claims are frequent and complicated

- EEOC claims have been on the rise as more employees are aware of their rights, and media coverage has publicized many high profile employment disputes
- Top trending EPLI cases in 2017: harassment, illegal background checks, wage-and-hour, health-related employment discrimination
- Most frequent EPLI cases in 2017: Retaliation, Race, Disability, Sex, Age, National Origin, Religion
- 6 of 10 employers will face an employee lawsuit (within 5 year period)
- **Small employers with less than 100 employees** account for 50% of claims
- **Defense is time consuming and expense:** defense costs can be \$300,000; timeline for resolution can be 18-24 months
- **Settlements:** Settlements, even if employer is innocent, average between \$20,000 and \$40,000 (plus defense costs)
- **Compensation Awards:** Average more than \$200,000



\*Source: US Equal Employment Opportunity Commission; American Bar Association, 2016; Advisen

# WHAT TO DO: Manage and mitigate your Employment Practices Liability risk

1. If you **suspect a claim might be filed against you**, contact your insurance broker and your insurance company immediately; **don't attempt to *handle* it or cover it up**
2. Develop a **strong employee handbook**; work with an experienced, local employment attorney
3. Be **consistent** in how you treat and interact with all employees
4. Set **specific governing rules for everything, and follow the rules** and procedures you put in place
5. Be sure to **document** any and all employment related activities
6. If you hire foreign nationals, be certain they have **valid working papers**
7. Provide **anti-harassment, and anti-discrimination training** to all supervisory and management level staff
8. Make sure you have **adequate EPLI coverage** in place



# ***CLAIMS SCENARIO: Injured at Work: Workers Comp and Jones Act***



## **Workers Compensation and Protection & Indemnity:**

- WC insurance companies don't generally cover claims that happen on the water
- Protection & Indemnity policies that cover employee injuries on the water may not cover injuries occurring at water's edge
- WHAT TO DO: Consider using the same insurance company for WC and P&I coverage, so there is no question who pays the claim
- Every sailing org with people working on the water needs Jones Act Coverage

# CLAIMS SCENARIOS: Trailers & Towing



# WHAT TO KNOW & DO: Understand what is primary, and what is and isn't covered (Driving & Towing)

	Driver	Vehicle	Trailer	Cargo	Insurance Considerations
#1	Parent/ Member	Driver Owned	Club Owned	6 Member Owned Opti	Member's car insurance is primary for liability. Club's auto insurance is excess for liability and primary for trailer damage (if scheduled & registered). Each member's own insurance covers their own Optimist.
#2	Instructor/ Employee	Driver Owned	Club Owned	Club Owned RIB	Instructor's car insurance is primary for liability. Club's auto insurance is excess for liability and primary for trailer damage (if scheduled & registered). Club's insurance covers RIB if hull insurance was purchased.
#3	Instructor/ Employee	Borrowed Member Car	Club Owned	Club Owned 420s	Member's car insurance is primary for liability. Club's auto insurance is excess for liability and primary for trailer damage (if scheduled & registered). Club's insurance covers 420s if hull insurance was purchased.
#4	Club Manager	Club Owned Van	None	Club Owned Gear	Club's insurance is primary, except for equipment which is limited to type of equipment and dollar enhancement limit of property policy.
#5	Instructor/ Employee	Club Owned RIB	Towing Over Water	Member Owned Opti	Club insurance is primary for liability and property damage to member owned Optimists.

- **Primary Insurance** always follows the auto insurance on the vehicle.
- **Club Owned Trailers** should be scheduled on commercial auto policy and have current registration (license plate) – laws/coverage varies by state.

## ***CLAIMS SCENARIO: Dock damage greater than dock valuation***



Dock claims from severe weather can be significant!

# WHAT TO DO: Appraise your docks and insure to value

## Do Not Be Underinsured and Out of Luck:

- It is not uncommon in dock claim situations for clubs to discover that they have undervalued their dock systems

## Take Action:

- Appraise your docks and piers **for replacement value every 3-5 years**
- Remember the **dock system includes more than the dock itself**: floats, pilings, utilities, and ramps all need to be included in the covered value
- Plan for **how to protect your docks in severe weather**



## ***CLAIMS SCENARIO: Electrocution on Land or in the Water***



# WHAT TO DO: Take action to minimize shock drowning

## Take Action – Prevent Electric Shock Drowning (ESD):

- **Post signs** and don't allow swimming in or near docks powered by 120v AC power
- Make sure **Ground Fault Circuit Interrupters (GFCI)** are installed on shore power pedestals and marina wiring circuits
- Have your **powered docks regularly inspected by qualified electricians** who are familiar with National Fire Protection Association Codes
- Have **boats inspected** by an electrician with current ABYC Electrical Certification or an ABYC Certified Technician
- Consider **alternate locations for JR Sailing Swim Tests** (not on powered docks)
- Connect with the **Electric Shock Drowning Prevention Association**



# WHAT TO DO: Take action to minimize risks of electrocutions of all types

## Take Action - Prevent Electrocution of Sailors:

- Conduct an **annual walk-through inspection** of all dry-sail areas, parking lots, and launching areas for overhead wires, transmission lines, and power lines
- **Post signage and implement safety measures** to identify and mitigate any electrical safety hazards
- Remind instructors and sailors to **look-up for overhead wires and hazards** every time when unloading, rigging, launching, and derigging



# CLAIMS SCENARIOS: *Trespasser injured on your property*



1. Club sued by non-member injured while biking (trespassing) on closed club property
2. Club sued by non-member severely injured when trespassing to jump onto a rented water trampoline

## WHO IS LIABLE?

- *The club can be sued and held liable for failing to warn people of the risks of trespassing on your property*

## WHAT TO DO:

- Post **No Trespassing** signs
- Minimize **attractive nuisances**
- Install **security cameras**
- **Lock** club house doors after hours

# ***CLAIMS SCENARIOS: Stumbling over a speedbump; tripping over an open manhole***



# WHAT TO KNOW & DO: Minimize safety hazards on land

## Know Your Local Sidewalk Laws:

- **Claim:** Member injured by falling into open sidewalk manhole
- Many States/Towns have immunity from liability claims caused by sidewalk accidents
- You may be required to maintain and keep clear the sidewalk in front of your property
- Mark any temporary hazards with proper safety/warning signage or orange cones

## Make Speed Bumps Highly Visible:

- **Claim:** Injury caused by unmarked speed bump
- Paint speed bumps a high contrast, highly visible color
- Post signs warning of speed bumps
- Notify members of new speed bumps



# ***CLAIMS SCENARIOS: Cyber Fraud & Social Engineering***



1. Funds wired to fraudulent routing #
2. Check mailed to fraudulent location



1. Theft of credit card data
2. Theft of Personally Identifiable Information (birth date, SS #, driver's license #, health records, etc.)

# WHAT TO KNOW: Social Engineering Fraud is happening to marine companies, clubs, and non-profits

**What is Social Engineering Fraud?** When an employee is intentionally misled into willingly sending money or diverting a payment based on fraudulent information that is provided to them in a written, electronic, or verbal communication such as an email, fax, letter or phone call.

## Accelerating Reality:

- 100,000+ attacks on businesses per day
- 270% increase in victims of compromised emails in 2015 (*data: CIA*)
- 45% of small businesses (many nonprofits) were attacked in 2014 and the number increases each year...

## WHAT TO DO: Strive to minimize the risks of a cyber breach or falling for a social engineering scam

- **Train your employees and officers.** It starts with awareness and education. Remind employees to think before acting/clicking if something seems not quite right.
- **Implement controls.** Evaluate and improve your internal controls, network controls, network protection, data security. Take Action!
- **Consider insurance solutions.** Not every crime can be prevented. Consider insurance solutions through crime and/or cyber policies and endorsements. Know what is and isn't covered.



## ***CLAIMS SCENARIO: Mismanagement of club's financial assets***



Would your Officers or Board Members be named in a lawsuit against the club?

# WHAT TO KNOW: The stakes are high with D&O

## D&O: What is at Stake:

1. Assets of the club or sailing organization
2. Board members' personal assets
3. Reputations of club, organization, flag officers, members
4. Time
5. Ability to recruit members and directors
6. Ability to get new flag officers, board members, leaders



# WHAT TO KNOW: Directors & Officers need broad coverage

## Club Officers and Directors are at risk for complex lawsuits

- Management errors and omissions (E&O)
- Unintended financial mismanagement
- Violation of state/federal laws
- Race management errors and omissions
- Membership discrimination



## Coverage comes from multiple policies

- Bodily injury and property damage covered on General Liability policy
- Decision making covered on a separate D&O policy (additional policy)
- Club's Umbrella should cover over D&O policies
- Board members should make sure their Personal Umbrella responds for volunteer activities and board positions

## ACTION STEP: ENAGE WITH YOUR INSURANCE AGENT!

- Be proactive **and ask questions** about your insurance – your agent is your advisor, use them as a resource!
- Make sure you **understand your coverage and exclusions**
- Form an **insurance, safety, and risk management sub-committee**
- Involve **your board members and flag officers**
- Conduct a **strategic insurance review** at least every 2-3 years



# ACTION STEP: Ask your agent/broker these questions

1. Does our policy exclude swimming?
2. Do we have full liquor liability coverage, and is it under our umbrella?
3. Do we have coverage for flood and wave wash damage to our docks/piers?
4. Would a dock claim be depreciated?
5. Is Regatta Liability built into our policy?
6. Does our umbrella policy go over our MOLL and Marine GL policies?
7. Do we have flood insurance coverage on each building?
8. Do we have restoration coverage on our clubhouse?
9. Does our yacht policy have a navigational limit?
10. Are there seaworthiness warranties on our boats?
11. Do we have Jones Act coverage on our instructors, launch drivers, and dock hands?
12. Does our policy cover sexual molestation and abuse?
13. Are member, employees, and volunteers included as “additional insureds” on our policy?
14. Do we have hull and liability coverage on borrowed boats?
15. Do we have coverage for race management errors?
16. Do we have coverage for accidental fuel spills?
17. Do we have volunteer accident coverage?



# ACTION STEP: Implement a Safety Program

## Be Proactive About Safety:

- Storm preparedness and CAT management
- Safety drills & plans
- Clubhouse and restaurant standards
- Dock safety and maintenance
- Pool and beachfront safety
- Clean marina environmental standards
- Junior sailing safety
- Emergency medical procedures
- Quarterly Safety Committee meetings
- Club safety signage

## Utilize Available Safety Resources:

- Club Safety Manual
- Junior Sailing Safety Guide
- Standard Forms
- Dock Safety Guidelines
- Hurricane Response Plan
- EAP & Emergency Plan

Safety materials are available at  
[www.burgeeprogram.com](http://www.burgeeprogram.com)



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