

MANAGING RISK



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PDAs pose repetitive motion injury risk.

Employers could face workers' compensation claims related to injuries from personal digital assistants (PDAs), according to a report published in November 2006 by *USA Today*. The American Physical Therapy Association and other occupational organizations are warning that improper use and overuse of PDAs can lead to hand throbbing, tendonitis and swelling, a condition known as BlackBerry Thumb. Alan Hedge, an ergonomics professor at Cornell University, said full-blown symptoms can be severe.

Employers can train people how to correctly hold and use the handheld devices and encourage employees to write brief e-mails, he notes.



Blogs and Liability

The informal give-and-take that makes blogs an effective way to communicate with customers and others can also make them dangerous.

Technorati, a blog tracking service, says more 175,000 new blogs start every day, joining the 66.6 million already in existence. Corporations are joining the blogosphere too, creating blogs to give customers and prospects an informal, online forum for discussing company products or services.

Blogs, or web logs, can give marketers valuable insights into what customers think and want. But they can create the same concerns as other informal means of communication—that someone might be a little bit too honest in their opinions, or share information they shouldn't. And with a blog, those opinions or information become accessible instantly to millions of Internet users.

Blogs and liability

Corporate blogs can create the following liability exposures:

Defamation: Defamation, or false communications that injure someone's reputation or good name intentionally, can be criminal as well as civil.

You do have defenses against defamation claims. Truth is a complete defense, so even if something in your blog injures a competitor's reputation, for example, you cannot be liable for defamation if it is true or substantially true.

The Supreme Court has found that Internet speech is protected free speech, when it expresses an individual's personal opinions. Including a statement on your blog that con-

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Don't Forget Your Fire Extinguishers

Fire extinguishers are an often forgotten part of a loss control program. To make sure they work in an emergency, they need regular inspection and maintenance.

In 2005, approximately 115,000 fires occurred in nonresidential structures, causing 50 deaths and 1,500 injuries, and more than \$2 billion in property damage.

These statistics only give part of the picture of fire's devastation. In addition to direct property damage, businesses can suffer indirect damage from fire, including lost productivity, lost income and loss of market share. Experts estimate these costs at some \$10 billion per year.

Sprinkler systems can help prevent widespread structural damage, so insurers usually discount premiums for businesses protected by sprinklers. Most sprinkler systems work by activating once they sense the heat of a fire. But sprinklers aren't effective for all situations. Sprinklers might not activate soon enough to



prevent extensive smoke damage; they can also damage your building contents—particularly electronics. And if you rent your premises, installing sprinklers might be impractical or impossible.

That's why every business, even ones with sprinklers, needs at least one fire extinguisher per floor. A fire extinguisher can stop a small fire from becoming a large one; however, one

type of extinguisher will not work on all types of fires. For best results, match the type of extinguisher to the type of combustibles in the area:

- Class "A"**—Ordinary combustibles (wood, paper, cloth, rubber, etc.)
- Class "B"**—Flammable liquids (fuel oil, gasoline, cooking grease, solvents, etc.)
- Class "C"**—Energized electrical equipment (wiring, fuse boxes, electric motors, etc.)
- Class "D"**—Combustible metals (magnesium, sodium, zirconium, etc.)

Inspections and maintenance

In time of crisis, a non-working extinguisher is worse than none at all. Every organization needs a procedure for inspecting and maintaining its extinguishers to keep them in working order.

- 1** Assign someone the job of inspecting all the company's fire extinguishers. If you don't have a dedicated safety department, this could be someone with maintenance or operations duties.
- 2** Check each extinguisher for the following at least once a month, more often if a fire extinguisher is located outdoors or exposed to extreme heat, cold, dust or dirt:
 - ✦ **Location.** Is the extinguisher accessible

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Safety first

OSHA, the federal Occupational Safety and Health Administration, and state safety agencies have specific requirements for fire extinguishers at places of employment. Keep in mind, however, that OSHA and state safety agencies exist to protect employees, not property. These agencies generally don't require low-hazard employers to have fire extinguishers if they have a written fire safety policy that requires the immediate and total evacuation of employees from the workplace.

However, local building codes might require fire extinguishers on hand. Under OSHA regulations, a business can have fire extinguishers, but still require employees to evacuate once a fire alarm sounds.

If your emergency action plan designates certain employees to use portable fire extinguishers, they will need proper training. Make sure they understand the priorities when fire occurs:

- 1** Activate the building's alarm system or call 9-1-1.
- 2** Help evacuate others as necessary.
- 3** Keep safety in mind. Try to fight a fire only if it is small and containable, if you're safe from smoke and you have an escape route.

For more information on fire extinguisher and other safety rules that might apply to your business, contact OSHA or your local safety agency. ■

tents are the opinions of posters might lessen your exposure, as well as using qualifying language such as “may.” But calling something opinion does not make it so, and a statement may be defamatory if it implies a false assertion of fact. True opinions cannot be proved or disproved.

What happens when third parties post defamatory material to your blog? In late 2006, the Supreme Court of California ruled that the federal Communications Decency Act of 1996 limits recovery to the “original source of the statement,” or the third party who posted the material. Still, if you find defamatory material on your blog, you should remove it immediately and print a retraction.

Discrimination/harassment: Statements on your blog can expose your company to discrimination or harassment claims. For example, off-color jokes and sexist or racist statements have no place on a corporate blog. Remove them immediately and issue an apology.

Privacy violations: Printing protected information, such as an individual’s photo without permission (unless they’re a public figure) or other private information, such as personal health or financial information, can lead to violation of privacy lawsuits. Remove it immediately and, if appropriate, notify the individuals involved.

Copyright infringement: A September 2006 article in *Risk Management Magazine* said, “Attorneys note that blogs are often con-

sidered to be legally similar to newsletters under copyright laws.” As with newsletters and other printed materials, a blog can violate copyrights when it reproduces articles or other copyrighted content without permission.

To protect your firm from this exposure, ensure it owns all materials, including video clips, graphics and photographs, posted on the site. If not, get permissions from the copyright holders.

What about materials posted by a third party? The owner of the copyright can sue your firm if a third party wrongfully posts copyrighted materials. You can obtain some protection by including a statement on your blog that posters agree that they have the right to post any copyrighted materials. Still, you will want to review postings to ensure use of any material that might be copyrighted falls into the “fair use” exception. The Copyright Act allows limited reproduction of copyrighted works for “fair uses,” such as criticism, comment, news reporting, teaching, scholarship and research. The line between fair use and copyright violation varies with the situation; for more information, see [the government copyright website](#).

Other intellectual property violations: As with copyrights, ensure your blog doesn’t wrongfully use trademarks owned by others or post information that might be the trade secret of a competitor or other party. Remove any offending materials immediately.

Securities law violations: Corporate blogs

can violate securities law when:

- ✱ postings appear to solicit securities sales from people you don’t have a preexisting relationship with
- ✱ they hype a company that is registering for a public offering or
- ✱ they disclose material information not available to the public to those who use it for insider trading.

Have your compliance department or attorney review any materials that might fall into these categories; in the meantime, remove them from the blog.

Managing the risks of blogging

The following steps can further minimize the risks of corporate blogs:

- 1 Require any third-party posters to register before posting, including their name and email address.
- 2 Appoint someone to regularly review new content for appropriateness and legality.
- 3 Develop a blogging policy that spells out what employees can and cannot include in corporate blogs. Warn them not to reveal trade secrets, personal information on fellow employees or clients or financial information that could violate securities law.
- 4 Include disclaimers on your blog, including that opinions are those of the posters and not necessarily the corporation; that links to external sources are provided solely as a courtesy to visitors and not an endorsement or guarantee of their contents; and

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and not blocked?

- ✱ Does it have adequate pressure? On extinguishers with gauges, the needle should be in the green zone – not too high and not too low.
- ✱ Are the pin and tamper seal intact?
- ✱ Are instructions for use of the extinguisher posted in a visible location nearby?
- ✱ Is it in good condition? A dented, rusted or dirty extinguisher might not work properly. Either clean and test or replace it.
- ✱ Shake dry extinguishers to prevent settling, if the manufacturer recommends doing so.

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Website Discrimination

Does your website discriminate? Target’s does, ruled a federal judge in the Northern District of California, who said that federal and state antidiscrimination laws apply to retailers’ websites.

The National Federation of the Blind filed a class action suit against Target in February 2006. The named plaintiff said Target’s website was incompatible with software that allowed him to use the Internet for shopping by reading aloud alternate text in place of graphics.

Although the California court ruled in favor of the plaintiffs, courts in other districts have ruled that laws requiring businesses to accommodate the disabled apply to physical locations only. Organizations

doing business online will want to watch legal developments in this area; however, to avoid alienating potential customers, check your website for accessibility. ■

Top Ten Occupations for Injuries/Ilnesses

1. Laborers (non-construction)
2. Truck Drivers (heavy)
3. Nursing Aides/Orderlies
4. Construction Laborers
5. Truck Drivers (light)
6. Retail Salespersons
7. Janitors and Cleaners
8. Carpenters
9. Maintenance/Repair Workers (general)
10. Stock Clerks/Order Fillers ■

Michelle joined The Addis Group in November 2006 as the property & casualty operations assistant supporting the overall administrative needs of the agency, particularly in the areas of carrier relations, agency licensing and quality assurance.



Michelle Colon

Prior to joining The Addis Group, Michelle provided administrative support to the president of Atlantic Fire Equipment Co., Inc. She also has 11 years' experience with Morefar Marketing as a senior underwriter of professional liability and employment practices liability insurance.

Michelle lives in Drexel Hill with her husband Toby and their three children, Jessica, Ryan and Emily.

Bill serves as claims manager for The Addis Group. Bill acts as an advocate for The Addis Group clients to ensure that claims are being handled effectively and efficiently. This includes overseeing insurance carriers and third-party administrators with regards to the adjustment of claims and determination of coverage as well as communicating with The Addis Group clients any developments on claims as they occur.



Bill Tompkins

Bill began his career in the insurance business working as a claims representative for a third-party administrator handling workers' compensation claims. His duties included the investigation of claims, determination of coverage and the negotiation of settlements for multi-state jurisdictions. Bill joined AV International where he assumed the role of senior adjuster. He was responsible for the handling and servicing of workers' compensation for large self-insured entities. Bill was quickly promoted to unit supervisor, where he managed a group of claims representatives and claim support employees. Ultimately, Bill

was promoted to director of risk management, where he managed and coordinated all services including administration, accounting, safety and claims for more than 20 self-insured entities.

Bill is a member of the Philadelphia Insurance Society where he received the Trish Finnegan Award in 2002 for academic excellence. He has served as the president of the Philadelphia

Workers' Compensation Claims Association since 2004. Bill also co-founded the Pennsylvania Claims Management Network, which is an organization comprised of third-party administrators, insurance carriers and bureau representatives. The purpose of this network is to discuss the developments and procedures regarding workers' compensation in the state of Pennsylvania.

Bill resides in Oreland with his wife Gayl and their two children, Shannon and Matthew. Bill enjoys spending time with his family as well as playing and coaching soccer. Bill is a coach for Eastern Pennsylvania's Olympic Development soccer program as well as an instructor for their state-run coaching courses.

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- 3 Create a checklist of items to examine during the inspection. Have your inspector complete a checklist for each fire extinguisher each time he or she does an inspection.
- 4 Conduct regular maintenance on all extinguishers. At least once a year, every fire extinguisher needs to be tested. This should be done by a professional.

For information on premium discounts for having fire extinguishers, sprinklers and other fire protections, please call us. ■

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- that the company owns the copyrights to any postings and can use them in marketing materials or for other purposes. An attorney can help you develop disclaimers tailored to your company's exposures.
- 5 Archive blogs, in case a problem arises.
 - 6 Make sure you have adequate liability insurance. The standard general liability policy covers businesses, except publish-

ing businesses, from claims of libel and slander and invasion of privacy. As long as you aren't making money from your blog, your liability coverage might apply in these cases. However, a specialized Internet liability policy can provide more comprehensive coverage. For more information on these nonstandard policies, please call us. ■



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