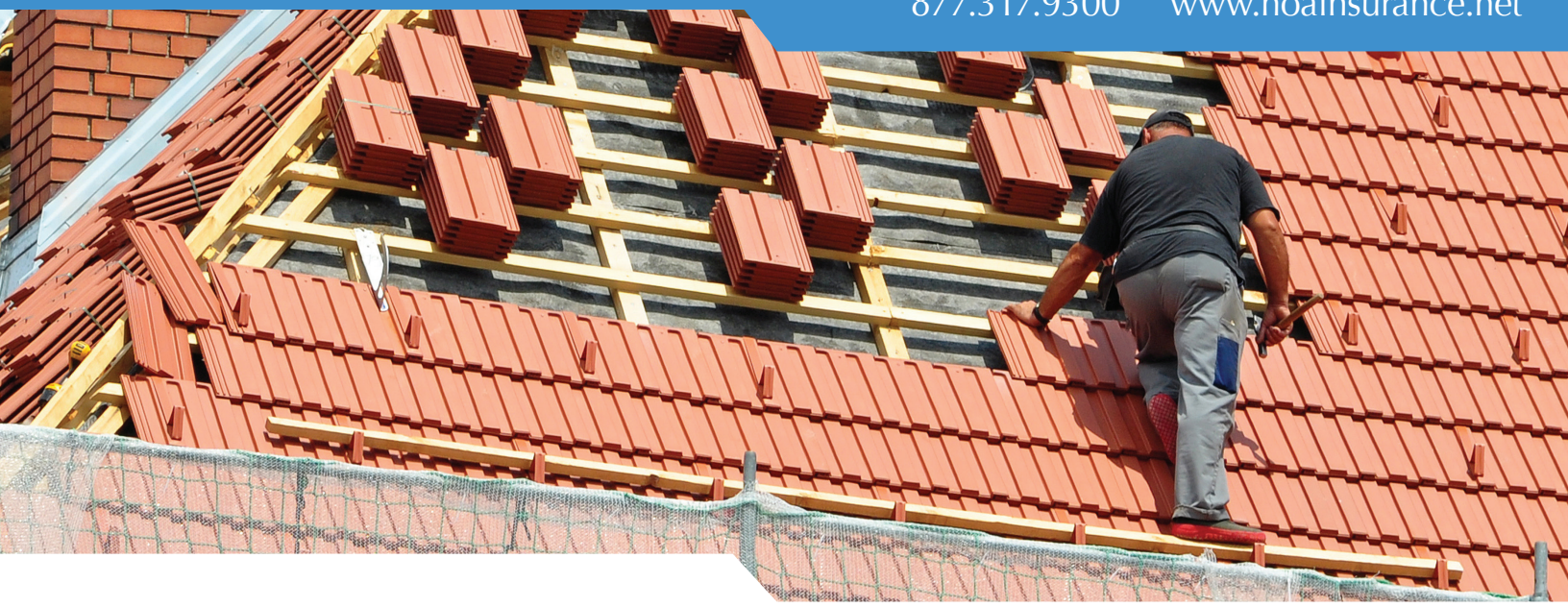

Workers Compensation

The news is rife with horror stories about lawsuits and judgments concerning Workers Compensation matters. A management company or Association Board must be aware of the latest rulings and how they can potentially impact you.

Socher works with the management company and Association board to make sure that all proper procedures are in place in the process of hiring contractors or vendors. Call us today at 877.317.9300 or visit www.hoainsurance.net for more information.

At Socher Insurance Agency we pride ourselves on staying on top of what is happening in the marketplace and in keeping our clients apprised of any new exposure they may face from administrative rulings or court precedents.

Whether you are the management company or Association hiring employees, contracting with vendors, dealing with general contractors who are responsible for providing all the services, or utilizing member-volunteers, or if an Association member hires a contractor who accidentally uses the common area in the course of his services to the member, you must be sure that you are covered for the actions taken by any of these groups.

Here are three recent examples of issues you could encounter:

- In San Jose, a contractor's employee was working on a gazebo, fell off, and broke his arm. The general contractor's workers compensation policy had lapsed and the Association was deemed to be the employer. There was no lawsuit involved, but the Association had to pay the costs.
- Two incidents took place in Concord at a planned development detached dwelling (townhouse) community at which two different unit owners hired general contractors. During the course of their work, both contractors utilized the common area (one was installing hardwood floors and set up his power saw in the common area). In separate incidents, workers brought in by the contractors were injured and in neither case did the worker have medical insurance nor the contractor have workers compensation insurance. Because the workers were in the common area when they were injured, the Association was deemed to be the employer.

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- You should be aware of the recent California Court of Appeals case entitled *Heiman v. Workers Compensation Appeals Board*. In that case, a management company hired a company to install rain gutters in the Association's common area. During the installation, one of the company's employees was seriously injured. The company was uninsured (and unlicensed), so the injured worker looked to the management company and the Association to pay for his medical care. Because the contractor did not have a workers compensation policy to cover its injured worker, the Workers Compensation Appeals Board (WCAB) assigned payment obligation equally to the contractor, the Association, and the management company. Subsequently, the management company took the WCAB to court and argued that it should be excused from liability because it was merely acting as the Association's "agent." The court upheld the WCAB's findings and ruled that the management company could not escape liability simply because they were acting as the agent of the Association.

In addition to the obvious conclusions that management companies and Associations should hire only properly licensed and insured contractors and that they should have their own "backstop" coverage should the contractor's coverage fail, these cases shed new light on the potential liability matters that management companies and Associations face.

Socher Insurance Agency will work with the management company and Association board to make sure that all proper procedures are in place and needed precautions are taken in the process of hiring contractors or vendors. We will also review your policy to ensure that you have adequate coverage and protection against the various situations and circumstances that might arise during your dealings with contractors, vendors, and volunteers.

Never be satisfied with the comment "that will never happen here."

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