



## CONTACT US

**Phone:**  
248.321.8941

**Fax:**  
248.305.5154

**Email:**  
info@clairmontadvisors.com

**Website:**  
www.clairmont-advisors.com

## I CAN BUY INSURANCE FOR THAT?

### Immigration Enforcement Investigations

Are you following proper immigration laws including management of I-9 forms for your employees? Your employment practices liability (EPL) policy may not automatically cover you for an investigation by U.S. Immigration & Customs Enforcement.

A Notice of Inspection (NOI) to an employer from U.S. Immigration & Customs Enforcement requires the production of I-9 forms and may involve a subsequent investigation.

Employment practices liability insurance policies have become a staple in most business insurance programs. However, many businesses do not know that certain immigration exposures involving employees can be insured under his kind of policy, at least for defense costs.

**Please Contact Us for Additional Information.**

## The Insurance & Risk Report

MARCH 2015

This Issue addresses what we have phrased "fine print" risk management - a concept where risk is transferred or limited through the use of contract provisions with customers, landlords, vendors and others.

When used properly, these provisions can be extremely effective (and often free!) techniques to limit, transfer or avoid certain risks. For example, such clauses can:

- Restrict the place where your business can be sued and the time in which the suit can be brought;
- Limit the amount of and kind of damages you might be subject to;
- Waive jury trials in business litigation against you;
- Require that suits against you be brought in a particular state; and
- Block another party's insurer from seeking reimbursement monies from you.

We also comment on a recent Michigan court which required a homeowner to return insurance claim monies after the insurer learned that the homeowner increased the fire hazard and did not let it know.

We author these articles ourselves based upon our experience as insurance attorneys and risk managers. We hope that you find them of interest. If we can be of assistance to you, please **contact us**.

### "Fine Print" Risk Management:

#### KEY CONTRACT CLAUSES THAT MIGHT LATER SAVE THE DAY

The more risk management work we do, the more we find the power in using the so-called "fine print" contract provisions to reduce or transfer risk for businesses.

Many companies believe that buying insurance offers the complete protection needed for the business and sometimes do not consider that contracts they sign can either avoid, limit or transfer risk from them or to them regardless of their insurance.

Having a good attorney can help limit liability but it is also a good idea to have a competent insurance professional who can contribute to how the insurance provisions of a contract should read and advise you on what coverages you have for liability you are assuming in any agreements.

Here are some types of protections these clauses can offer:

1. Transfer your liability for injuries or damage to some other company or person.
2. Provide that any lawsuit against you must be filed in Michigan.
3. Limit the time period another party has to bring a lawsuit against you.
4. Pay your attorneys fees if you win.



**MELISSA HIRN**  
ESQ.



**MICHAEL S. HALE**  
ESQ., JD., CPCU, AAI

**Our Experts Have Been  
Published In The Following:**

Insurance Law & Practice (ICLE)  
Michigan Lawyers Weekly  
The Michigan Bar Journal  
The CPCU Journal  
The Michigan Agent Magazine

**Looking to Assess  
a Claim Denial?**

Commercial or personal lines claim denial or reservation of rights? We can help assess the viability of the insurer's decision and provide input on the claims process.

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5. Restrict the dollar amount and type of damages you can be subject to pay.
6. Waive another party's rights to a jury trial.
7. Waive the rights of the other party's insurer to seek reimbursement of monies from you.

Want additional information or sample language for such clauses? **Contact Us.**

**Insurer Gets Money Back After Learning  
of Increased Hazard That Caused Fire**

A new 6th Circuit Court of Appeals Decision presents serious issues to commercial and personal insureds on increases in risks not disclosed to their insurance companies.

In this February 2015 unpublished decision, the federal appeals court decided that a homeowner who accidentally started a fire while legally manufacturing and growing marijuana was not entitled to coverage because the homeowner had increased the hazard of the insurer without disclosing it.

The homeowners policy excluded coverage for losses occurring while a hazard had been increased by a means within the control and knowledge of the insured. Further, the policy required notice to the insurer of any change that could affect the premium.

The insurer initially paid the homeowner \$160,209.50 for the fire loss but the court ordered repayment of that amount because of the increase in hazards provision of the policy.

**Lesson:**

Businesses, in particular, need to be cautious that they are notifying their insurance agent (and perhaps the insurer directly) of any changes that increase the hazard to the insurer over that which existed when the policy was written.

But, where is the line drawn? Does the insured have to call the insurer daily to advise of the status of the business? The court addressed this question from the standpoint of whether a reasonable person would have notified the insurer of the marijuana growing business which, in this case, it answered "yes."

While the business may not know if the premium would be affected, there is still a duty to advise the insurer of the change in the business.