

PDN's Guide to Insurance

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Business
Resources**

It's boring. It's byzantine. But like taxes or a toothache, insurance is something professional photographers disregard at their own peril. Knock on wood, but fires, floods, theft, banana peels and other bad things can happen to anyone.

Fortunately, a few photographers-most notably ASMP member Dan Kramer-have sorted out the insurance labyrinth for everyone's benefit. And several insurance companies, working with various photo trade associations, have tailored insurance policies specifically for pros.

Comprehensive insurance coverage for professional shooters is still more complicated than homeowner's insurance, but not much. This guide will help you navigate the world of liability, exclusions, riders and floaters-and protect your business from the most common risks.

- * The basic necessities:
- * General liability coverage
- * Third-party property insurance and worker's comp
- * Tailoring insurance coverage to your business
- * Insuring cameras and other equipment
- * Extras worth exploring
- * Finding and pricing coverage
- * For More Information

The basic necessities: insuring against injury and property damage

Some coverage is obvious, and not unique to photographers. Everyone should have auto and health insurance, for instance. In addition to that, photographers are advised to carry disability insurance, which pays a monthly benefit for a certain period of time, or up to a certain age, if you're disabled because of an accident or illness covered by the policy.

"For the self-employed person it's essential," says Scott Taylor, senior vice president of Taylor & Taylor Associates, an insurance brokerage that developed the Prosurance package with photographer Dan Kramer and ASMP. "Most guys don't have a ton of money in the bank, and unless they have a big stock

library, they need that coverage."

General liability coverage

Just as essential as disability insurance is general liability insurance. Photographers are often quick to insure cameras and equipment against losses that can amount to tens of thousands of dollars. But what if someone trips on a cable in your studio, or your generator ignites a fire that burns a bystander on a location? You could be sued for \$1 million or more. "That's serious money," Taylor says. And without insurance, it's serious trouble.

Commercial general liability insurance protects you against legal claims for bodily injury or damage to someone else's property, if it occurs within the U.S. or Canada. Photographers are in error if they think their pockets aren't deep enough to get them dragged into a law suit, warns Seth Resnick, an insurance-savvy shooter based in Boston. "You may be a nobody, but you still have personal assets," he says.

Even if you aren't ultimately liable for an accident, it can cost plenty of money to fight a claim. "The photographer might be innocent, and after a couple visits to court, you're carved out of the suit. But that doesn't mean you haven't run up some legal-defense costs," says James Koenigsdorf of Gilbert-Magill Co., which offers business insurance to members of the National Press Photographers Association.

As a practical matter, it is increasingly difficult to work without general liability insurance. To get shooting permits in many locations, including some major cities, photographers have to prove that they carry liability insurance, says Jim Aquilina of Tom C. Pickard & Co., a brokerage that developed an insurance package for members of the Advertising Photographers of America.

Clients are also increasingly likely to require proof of liability insurance at a minimum before they'll hire a photographer. Rental studios and business-location landlords also may want to see a certificate of insurance. Third-party property insurance and worker's comp

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As broad as it sounds, though, general liability insurance doesn't cover everything. Most policies have explicit (and critical) limitations. For instance, they often exclude injury to employees, and damage or injury resulting from use of an automobile, aircraft or water craft. They also frequently exclude claims resulting from improper model releases, copyright infringements or invasion of privacy.

Kramer recommends that photographers complement their liability insurance with at least two other types of insurance: third-party property insurance and worker's compensation insurance.

Third-party property insurance protects photographers from damage to another person's property when it is in the photographer's care, custody or control. That includes property a photography might rent for a shoot.

Suppose, for instance, that a homeowner has rented his house to you as a location for a shoot, and you end up damaging an expensive vase as you try to move it out of the way. That would not be covered by most general-liability policies, because the house and its contents were in your care, custody or control. Third-party property insurance would close the gap and cover the damage.

Worker's compensation insurance, meanwhile, covers injury to employees while they're on the job. And chances are, any photographer who hires models or assistants—even if it's only for a day or two—needs to carry worker's compensation insurance. That's because legal distinctions between "employees" and "independent contractors" (who are responsible for their own insurance) are often vague. "Each state has its own take on the matter, and you can talk to the same office two days in a row and get two different scenarios," Resnick notes.

As a rule of thumb, an independent contractor gets hired to do a specific job, and the person hiring him doesn't direct or control the means by which the job is accomplished, Aquilina explains. And in contrast to employees, independent workers often have business licenses, use their own tools, work for more than one person, and carry their own worker's compensation insurance. Make-up artists and food stylists, for example, are likely to fall into the independent contractor category.

Assistants and models can be more difficult to classify. Resnick's accountant and attorney have assured him that his assistants are independent contractors. Aquilina maintains that if a photographer hires an as-

sistant—even if it's only for a day or two—and tells her when to show up, directs her to set up equipment, tells her when she can take a break and when she can leave, then a worker's compensation board might decide that person is an employee.

Models might also be considered employees for the same reasons, particularly if they're paid directly by the photographer. If they're paid by a modeling agency, a payroll service or a client, the work status becomes less certain. But generally, the hiring entity is likely to be held responsible for paying worker's compensation insurance, insurance brokers say.

Regardless of the model's employment status, he or she can sue a photographer over an injury. A photographer with both general liability insurance and worker's compensation insurance is more fully protected. "That way, no matter which way the claim falls, you're going to have someone covering it for you," says Taylor. And he recommends buying both policies from the same insurer, so there won't be finger-pointing about who is responsible for the claim.

One last note: Worker's compensation policies will not cover people hired in any state in which your insurance carrier is not licensed. And it doesn't cover people hired in the states of Washington, West Virginia, Wyoming, Ohio, Nevada or North Dakota. To find out about coverage in those states, contact the state's worker's compensation board or insurance commission for more information.

Tailoring insurance coverage to your business

General liability insurance, third-party property insurance and worker's compensation insurance cover the major business risks. But photographers face other risks, too, depending upon the type of work they do. To assess other risks and insurance needs, consider these questions:

*** Do you work exclusively in your studio? If it's destroyed by a fire, you might need coverage not only for lost equipment, but also business-interruption insurance. That would cover the cost of setting up business temporarily at another location while you repair or replace your studio.**

*** Are you a freelance news photographer on the run, who might occasionally leave a camera bag in an unlocked car while you dash across a street to shoot a fire? You should look carefully at exclusions written**

into policies for lost or damaged equipment. Many don't cover theft from an unlocked vehicle, or require visible signs of entry as a condition for covering the loss. You might need a policy that's "a little forgiving," Kramer says.

*** Do you have assistants who use their own cars to run your errands? You might need non-owned and hired automobile liability insurance. This protects you for bodily injury or property-damage claims that might arise if your employee plows into another car while on the job. (The coverage doesn't include the assistants' injuries, or damage to their cars, however).**

*** Are you a photojournalist working in war zones? Most life insurance policies are automatically suspended when photographers enter combat zones. But affordable life insurance is now available for war photographers who complete an approved combat safety course. (See the list of other resources at the end of this article for more information.)**

Insuring cameras and other equipment

You may already have insured your tools of the trade against loss or damage. But brokers and photographers recommend that you consider the following when reviewing those equipment insurance policies:

• Make sure your policy really insures your gear. If you think your homeowner's or renter's insurance policy covers your equipment, think again. "Typically, if you're a pro and you're using your gear to make money, a homeowner's policy will not cover a loss," Koenigsdorf says.

• Coverage should be for replacement cost, not depreciated value. "Most people know that if it's not replacement value, it's valueless," Kramer says. But we'll mention it here, just in case. If you've insured your \$2,000 camera for its depreciated value, that might turn out to be \$200 when you file your claim. If there happens to be a \$500 deductible on your policy, "you don't get anything," Kramer says.

• Policies will not pay more than the value you have listed for the equipment. So use up-to-date information on equipment-replacement value, which is readily available from camera dealers, Koenigsdorf advises.

• Is your equipment covered no matter where you go? Some policies cover your gear in the U.S. and Canada only. Other policies offer worldwide coverage. With some policies, such as the one offered to NPPA

members, you can add international coverage to a basic domestic policy for an additional premium.

• Is rented equipment covered? If you're a frequent renter, you may want this coverage.

• Is earthquake damage covered? Many policies exclude it. If you live or work in a shaky state, this coverage is worth considering.

Extras worth exploring

PHOTOGRAPHERS ALSO MAY WANT TO CONSIDER GETTING COVERAGE FOR:

• Errors and omissions. This coverage is for lawsuits that arise from such issues as faulty model and property releases and allegations of copyright infringement or invasion of privacy. (As discussed above, coverage for those risks is often excluded from general liability insurance policies).

• Portfolio. This covers the cost of re-creating your portfolio if it is lost, stolen or destroyed.

• "Valuable papers." This is designed to cover a re-shoot after your film has been lost by fire, theft or water damage. It excludes lab errors, camera malfunction and bad film. But indemnity insurance is available for those situations, too.

Finally, photographers sometimes ask about insuring their stock collections, but the coverage tends to be more expensive than it's worth, according to photographers and insurance brokers. "If you have a million images, and you value each one at \$1,500, you can be sure the premium would be too high," says Resnick. Instead, he insures his collection by digitizing the images and storing them in various locations. The stock agencies he works with also have originals, he says. (Stock agencies, by the way, typically require photographers to indemnify the agency for loss or damage.)

Finding and pricing coverage

After shopping around, Resnick went with ASMP's Prosurance plan. Such a packaged plan, put together by a professional organization, is probably the best bet, Kramer says. ASMP, APA, NPPA and the Professional Photographers of America all have developed insurance plans with their members' needs in mind. The brokers who work with these organizations already have written policies for thousands of photographers, so you don't have to explain the profession to them.

The cost, of course, depends on what coverage you're buying. But Kramer says the packages are usually the most cost-effective.

"Whichever one you get, it will cost you less than putting it together from individual items," he says. "I know-I've tried it. I've done comparison shopping, and when you start saying, 'I need a pound of this and a pound of that,' it gets pretty pricey."

Kramer's parting advice is, don't put it off. Do your research, shop around to assure yourself you're getting the best deal, ask your savvy photographer friends about their coverage-and then get yourself insured.

"It's good not to drag your feet," Kramer says. "It's a time where lawsuits are like snow flakes-they pile up."

For more information:

Ad rates are for furnished film (neg, RRES/133 line screen) and color proofs. Digital files are acceptable, but the following charges apply.

For information about insurance for freelance photographers working in war zones, contact Bill Carver, Lionsgate Safety, Ltd., in London. Telephone: 081 2847 400; or John Owen, Freedom Forum, 0171 262 5003.

Advertising Photographers of America:	(800) 272-6264
American Society of Media Photographers:	(609) 799-8300
National Press Photographers Association:	(800) 289-6772
Professional Photographers of America:	(404) 522-8600
Taylor & Taylor Associates:	(212) 490-8511
Tom C. Pickard & Co., Inc.:	(800) 318-9840
Gilbert-Magill Co.:	(800) 522-2460