

# THE FAMILY MEDICAL LEAVE KNOWLEDGE GAP CAN BE COSTLY, CAPTURING FLOOD CLIENT EMAIL ADDRESSES & WHOLESALER COVERAGE FROM TRAVELERS

## The Family Medical Leave Knowledge Gap Can Be Costly

Recently, we briefly explained the [various Employment Practices Liability exposures](#) facing businesses, then delved deeper into [social media with this piece](#). Today, we take on the [Family Medical Leave Act](#) (FMLA) which "entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave."

In these cases the employee filed for, were, or had been out on leave under the Family Medical Leave Act. In all cases motions to dismiss were at least initially thrown out, resulting in increased legal cost by the employers even if they ultimately won the case.

1. While an employee was out on FMLA leave a manager revealed confidential and embarrassing medical information about him, resulting in ridicule, obscene gestures and jokes at the employees' expense upon his return. - *Holtrey v. Collier Cty. Brd. Of Cty. Commissioners*
2. During a discussion about her keeping up with her workload following FMLA leave a manager asked, "So are you planning on being out anytime soon again?" Soon after she was fired for performance and subsequently filed a FMLA suit claiming his comment was clearly in reference to her recent FMLA leave. Despite clear evidence of her underperformance the case was cleared to go to a jury. - *Marshall v. The Rawlings Co.*
3. A miner injured his neck, causing chronic pain which resulted in several operations and multiple absences under FMLA. He was pressured to change shifts which would have resulted in lower pay until the company HR department stepped in. He received poor performance reviews and was denied a promotion due to his absences. When he committed a safety violation he was fired, however, he subsequently won an FMLA suit with a nearly \$1.5 million judgement. - *Smothers v. Solvay Chem., Inc.*
4. An employee's manager sent an email to HR listing the many valid reasons justifying her firing. Also include was a statement that her firing "was justified because she 'submits a request for medical leave.'" Despite the pile of evidence supporting her dismissal, that comment was enough to allow her FMLA suit to go forward. - *Stewart v. Wells Fargo*
5. On a Friday a Director of Human Resources had an intense conversation with the company CEO in which he claimed she quit, while she contends she was only considering quitting. In a series of emails over the weekend she expressed a desire to file for leave under FMLA. The CEO eventually insisted she had resigned on Friday, but the emails did not support him. She won her case including liquidated damages and attorney fees and cost. - *Lamonaca v. Tread Corp.*
6. An engineer took 2.5 months leave under FMLA and subsequently received a lower performance review which included that she had "has missed time due to an injury." She was also transferred to another position where she performed well. In 2015 the company had a reduction in force in which two managers rigged the ranking scores to make her the one laid off. Judgement was in her favor for \$619,000. - *Walker v. Verizon Pennsylvania LLC*

Here are the [most common mistakes](#) employers make regarding FMLA which can result in added expense to correct, a fine, or a lawsuit. Here is a [list of suggestions](#) to avoid such mistakes including most of the cases above. In the end training company executives, managers and supervisors in what the Family Medical Leave Act is and how requests should be handled will go a long way towards avoiding a costly lawsuit. Some states, such as [California](#) as well as [Washington D.C.](#) are now offering their own version of FMLA in which some or all of the leave is paid. This means another layer of rules and regulations of which management needs to be aware to avoid a violation and the potential consequences.

Coverage for these claims, and their high cost of defense, is usually available through the **Employment Practices Liability - Wrap+** from Travelers. Travelers offers modular coverage offered as a stand-alone product on [Big "I" Markets](#) and also as part of **Wrap+ Executive Liability**. EPLI-Wrap+ is currently available to insureds in all states with the exception of: CA, LA, NE, NV, VT and WV.

Log into [www.bigimarkets.com](http://www.bigimarkets.com) to learn more.

## SPECIAL FEATURE

### Capturing Flood Client Email Addresses

Big "I" Flood and Selective need your help capturing your Selective customers' email addresses during the application process. Having this point of contact will allow Selective to keep them up-to-date on important information like bill reminders, claim progress and more.

Thank you for partnering with us to deliver a unique experience for our mutual customers!

If you have questions about this process, contact your [flood territory manager](#).

Learn more about the Big "I" Flood program at [www.independentagent.com/Flood](http://www.independentagent.com/Flood).

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## Wholesaler Coverage From Travelers

A wholesaler sells a product or multiple products in bulk, usually finished goods to retail outlets or raw materials to manufacturers/producers. Retail businesses sell small quantities of goods to the end-user. Sometimes a manufacturer also acts as the wholesaler. A small producer of a product may start out as a retailer (usually online) and build up to selling their product as a wholesaler to other retail outlets. In a hybrid method of selling called [drop-shipping](#) a retailer sells the product to the consumer, but it is shipped by the wholesaler.

Travelers [wholesalers business owner's policy](#) includes coverages that are important to any business. They also offer additional business-specific options that are essential for any wholesaler such as a Transportation Special Form that provides coverage for stock in transit and Selling Price Valuation on finished stock.

Travelers Select provides a complete range of coverage solutions and services for business, spanning the entire breadth of the small commercial marketplace. Products and services include all core commercial insurance lines, featuring the industry-leading **Master Pac<sup>SM</sup>** and **Pac Plus<sup>SM</sup>** products, commercial auto, workers compensation, property, general liability and umbrella. They also offer a variety of specialty coverages, including boiler and machinery, inland marine, crime and electronic data processing.

Their goal is to keep their insurance solutions in sync with the changing needs of small businesses, with a particular focus on the following key economic segments:

- Apartments
- Buildings
- Businesses
- Condominiums
- Contractors (small trade)
- Wholesalers
- Garages
- Manufacturers
- Offices
- Religious Institutions
- Restaurants
- Stores
- Technology

Travelers Select is submitted under the product name **Small Commercial** on [Big "I" Markets](#). ACORD Applications and three-year loss runs will be required. Travelers is available in all states except AK, FL, HI, LA, RI & TX.

Our other Small Commercial carriers:

- **Chubb Small Commercial Insurance (SCI)** leverages superior underwriting expertise and world-renowned claims, account services, and financial strength to offer solutions for small businesses with up to \$10M in revenue. Chubb recognizes that not all coverages fit the needs of every business and that is why they have crafted a customizable suite of state-of-the-art insurance products to fit your client's specific needs. Available in all states except FL, LA, AK & HI.
- **CNA Small Business:** CNA Small Business currently offers a market for a broad variety of businesses, representing Healthcare, Financial Institutions, Professional Services, Business Services, Technology, Retail, Real Estate, Wholesalers and Manufacturing. BOP, Workers Compensation, Commercial Automobile, and Umbrella and Miscellaneous Professional Liability products are available. CNA is available in all states except AK & HI.

If you have any questions about Travelers or the **Small Commercial** product, please contact Big "I" Markets Commercial Underwriter Tom Spires at [tom.spires@iiba.net](mailto:tom.spires@iiba.net) or Claire McCormack at [claire.mccormack@iiba.net](mailto:claire.mccormack@iiba.net).

## WEBINARS

### VU Webinars and Lightning Learning

Virtual University

**WEBINARS** - Two-hours with CE in select states.

- September 18 - 11:30 a.m. EDT - [9 Rules for Reading an Insurance Policy Based on the Law of Insurance Contracts](#)
- September 25 - 1:00 p.m. EDT - [Rules for Developing the Correct Premium](#)
- September 27 - 11:30 a.m. EDT - [3 Keys to Getting the Named Insured Correct](#)

View the complete calendar, registration links and see what states have CE approval online. Registration includes live webinar, on-demand recording and a transcript.

**LIGHTNING LEARNING** - Twenty minutes each with a focus on [ACV: Bad Things Happen if You Don't Use Replacement Cost](#)

- September 19 - 11:30 a.m. ET - What is the TRUE Meaning of ACV?
- September 26 - 11:30 a.m. ET - Can Labor be Depreciated?

Register once for the monthly Lightning Learning package and receive all sessions for one low price. Registration includes live presentations and on-demand recordings.

VU Webinar and Lightning Learning questions can be [sent to VU staff](#). The 2019 calendar and all links are [available here](#).

### Agency Risk Management

E&O Risk Management

- September 18 - 2:00 p.m. EDT - [Agency Risk Management Essentials: Personal Lines Back to Basics](#)

Personal lines coverage placements are one of the leading causes of insurance agents errors & omissions claims. Agencies that have an exposure to these types of coverages will not want to miss this webinar!

During the session, to take place Wednesday, Sept. 18 at 2 p.m. EDT, panelists will talk about why these types of claims keep happening to good agents, and how agencies can avoid becoming another statistic.

## TWO FOR TUESDAY TRIVIA

Prizes will be to the first response with the correct answers and then four selected at random from all received by 6 p.m. EDT on Wednesday. Win a \$5 gift card (Starbucks, Dunkin' Donuts, Baskin Robbins, or Krispy Kreme).

**Congratulations to this week's winners - Rebecca Carroll (WA), Mary Packnick (CT), Darla K. Menger (CO), Doreen Herlinsky (NJ) & Chris Orletski (FL).**

1. According to Goldleaf a [surety bond](#) is needed in conjunction with what type of contracts? - **SERVICE, SOME CONSTRUCTION & MANUFACTURING AND SUPPLY**
2. On this day in 1897 London taxi driver George Smith is the first to be fined for what? - **DRUNK DRIVING**
3. One of Caliper's key components for mental toughness is ego-strength. What does the word ego mean in Latin? - **I**

### TIE BREAKER

TB - Singer Sir Tom Jones reportedly had what unusual body part insured for \$7 million by Lloyds of London? - **HIS CHEST HAIR**

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## LAST WEEK'S MOST CLICKED LINKS

Here are the top three items that got BIM agents clicking from our [last edition](#)... see what you missed!

1. ["9 Rules for Reading an Insurance Policy Based on the Law of Insurance Contracts" Webinar Link - 9/18](#)
2. [Travel Insurance - Travel Insurance International](#)
3. [AIG - Affluent Homeowners](#)

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## BIG "I" MARKETS SALE OF THE WEEK

Congratulations to our agent in Nebraska on a **Bonds - Bid, Contractor, Performance, Surety** sale of **\$9,313** in premium!