

## Write It Down!

By Charles T. Wilson

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Do you remember the adage, "Compliment in writing and in public; criticize in private – and verbally"?

How do you think that advice stands up in today's world of restrictive insurance policies and rampant lawsuits? The risks of non-documentation are staggering in today's business environment.

Legal advisors, HR specialists and risk managers concur that documentation of business problems, client concerns and employee complaints is an excellent practice. Both clarity and memory suffer without the written word.

- Putting an idea into writing makes you think more carefully and understand more clearly what you recommend or propose to do.
- Our memories are often deficient. Written notes are what you need to fill these gaps.

Here are some insurance claim examples of how good documentation can save you money – and migraines.

Recently a colleague suffered an office equipment theft. She couldn't find the records to prove she owned a digital camera and told the claims adjuster the receipt was with the missing item. This raised suspicions, caused a long delay and resulted in a partial settlement of her claim. Insurance contracts require you to "prove your loss". Keep evidence of ownership like receipts and pictures separate from valuables and in a fireproof safe. Make copies for your insurance broker.

'Slip and fall' losses are a frequent occurrence in some businesses, and unfortunately these incidents can be faked easily. One shopping mall installed closed circuit cameras, and kept records of regular maintenance. This documentation helped successfully defend several nuisance lawsuits, and

made other alleged "injuries" disappear as soon as the cameras were introduced. You need these documents and videotapes to show that you are not negligent.

A recent court case involved a customer of a computer service firm who said he received faulty advice that caused loss of data and a week of lost sales when they couldn't respond to orders on their website. Unfortunately the small computer firm had no contract describing the work to be done and no written notes of recommendations. It was impossible to show that they were not to blame, and they ended up paying a substantial sum to settle the claim. Not surprisingly, they had no insurance coverage for this 'errors and omissions' loss.

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Lawsuits alleging discrimination in employment practices (hiring, promoting, training, firing) are regular news items. Recently a hardware firm could not produce a hiring guide or training records to show that they asked appropriate interview questions – based on job needs and the skills of the candidate. They spent over \$25,000 and three weeks on their defense. The insurance company paid to settle, but their time, hassle and deductible were out of their own pocket.

They now use a pro-active human resources consultant, train regularly and have written procedures to ensure their employment notes are completed in a timely fashion.

Here are other documentation issues to consider:

- Make sure a current business income worksheet is stored off site. A business interruption claim without documentation is a nightmare;

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- Ensure your building and equipment appraisals are accurate so you don't have to fight your insurance company in the middle of a claim;
- Keep all your liability insurance policies to defend you and pay claims that may arise many years later.

Three steps you can take to avoid the risks of non-documentation are:

1) Write it down – make it a habit;

- 2) Keep it an appropriate amount of time, either until a problem or a dispute is fully resolved, or sometimes forever (for example, if a future claim is possible); and
- 3) Store it in a secure, accessible place.

By avoiding these risks, your business will benefit from clearer thinking, better customer relationships, fewer stress calls to your attorney and more money in your pocket.

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