

# ASAE: CLAIMS EXAMPLES



## PROFESSIONAL LIABILITY FOR FAILURE TO EDUCATE

An association that provides continuing education and technical certifications discovered a problem in its testing processes, which resulted in erroneous failing scores for hundreds of students, but the problem was so widespread and the results of the overall testing integrity were questioned to the point that a class action lawsuit was brought against the association, alleging negligence, breach of contract and violations of various state consumer protection laws. AXIS provided a defense and settlement through mutually agreed upon mediation.

## CONTINGENT BIPD

Insured was a metals industry association that was retained to perform safety inspections, training and certification for the plaintiff's employer, a recycling company. The plaintiff was injured when he was struck by metal wires attached to machinery he was operating while working on site. Plaintiff alleged that the industry association failed to inspect the machinery and related operational details and failed to warn plaintiff and other employees of unreasonable hazards and dangerous conditions on the worksite, among other allegations. The plaintiffs also alleged that the industry association did not provide adequate safety instructions. AXIS is defending the industry association under its coverage for contingent bodily injury and property damage to the extent alleged to arise from the association's written safety reports conducted on the worksite.

## CONSUMER PRODUCT SAFETY COMMISSION ENFORCEMENT ACTION

The insured is an organization that performs safety tests and issues certifications of safety for swimming pool products. A product manufacturer selected the insured to test and certify all of its products but later was the subject of a Consumer Product Safety Commission enforcement action. The manufacturer then sued the insured, alleging that it suffered damages in having to respond to the enforcement action, to recall 1 million of its products, to redesign and manufacture new products, and in reputational harm. The plaintiff alleged, in addition to alleging fraud, that the insured did not follow industry standard in performing its safety tests and did not adequately train its testing personnel. AXIS defended the lawsuit and successfully settled the claim.

## ANTI-TRUST

An association developed clinical practice guidelines for physicians for the diagnosis and treatment of a disease. A group of patients filed a federal antitrust lawsuit against the association and health insurance companies based on denials of coverage for certain medications. The lawsuit alleges the insured conspired with the health insurers to create guidelines that would disqualify medications from coverage, resulting in increased medical costs to the plaintiffs. AXIS is defending the insured under the policy's coverage provision for the defense of antitrust claims.

## CONTACT

Valerie McDonald  
SVP, MPL Product Manager  
(860) 707-1706

[Valerie.McDonald@axiscapital.com](mailto:Valerie.McDonald@axiscapital.com)



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ASAE SELL SHEET

The above case studies are actual claim scenarios. Insurance policy coverage ultimately depends upon the facts of each case and the terms, exclusions, and limitations of each policy.

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