

2014 Hospitality Law Conference- Lessons From Losses

All too often history can repeat itself. It is important that incidents, near misses and losses are reviewed, analyzed and studied to determine how and why they occurred and what can be done in the future to prevent or mitigate the exposure. This session will review and analyze over 5 years of general liability losses for the hospitality industry in an effort to learn and determine:

- Major loss drivers
- Trending issues
- How and why losses occurred
- What can be done to prevent or mitigate the exposure

Claim loss data for the hospitality industry indicates major loss drivers include:

Workers Compensation (WC)--Same level slips and falls (floors) are the major loss driver for both workers and customer accidents. Workers are also exposed to injuries from lifting and moving furniture, mattresses, cleaning equipment and heavy or awkward items.

General Liability (GL): Premises operations exposures are a primary liability concern due to the nature of the industry with hotel guests on company property. Customer falls includes a wide range of causes such as slips on wet or greasy floors, trips over carpeting, falls on stairs, etc. Unique liability exposures are created from guests slipping in tubs and showers, and also from swimming pool hazards ranging from falls on the pool deck to drowning. Food served inside some restaurants adds an additional exposure from food safety hazards.

Less Frequent but High Severity WC and GL Exposures

- Sprained back moving furniture, fixtures, etc. (WC)
- Slips and falls on wet, greasy, icy floors (WC)
- Falls from heights while inspecting locations (WC)
- Employees involved in vehicle accidents (WC)
- Guests injured from falls in tubs and showers (GL)
- Guests involved in alcohol-related accidents, including vehicle crashes (GL)
- Swimming pool accidents including drowning, slip/falls, struck head, etc. (GL)

What is essential for any organization interested in establishing and maintaining an effective comprehensive workplace safety and health program starts with having a “culture of safety” throughout the entire organization. Management provides support for the safety program by establishing expectations, measuring performance and allocating resources to address injury exposures. They show support for the safety process and is vital for the success of operating a safe business.

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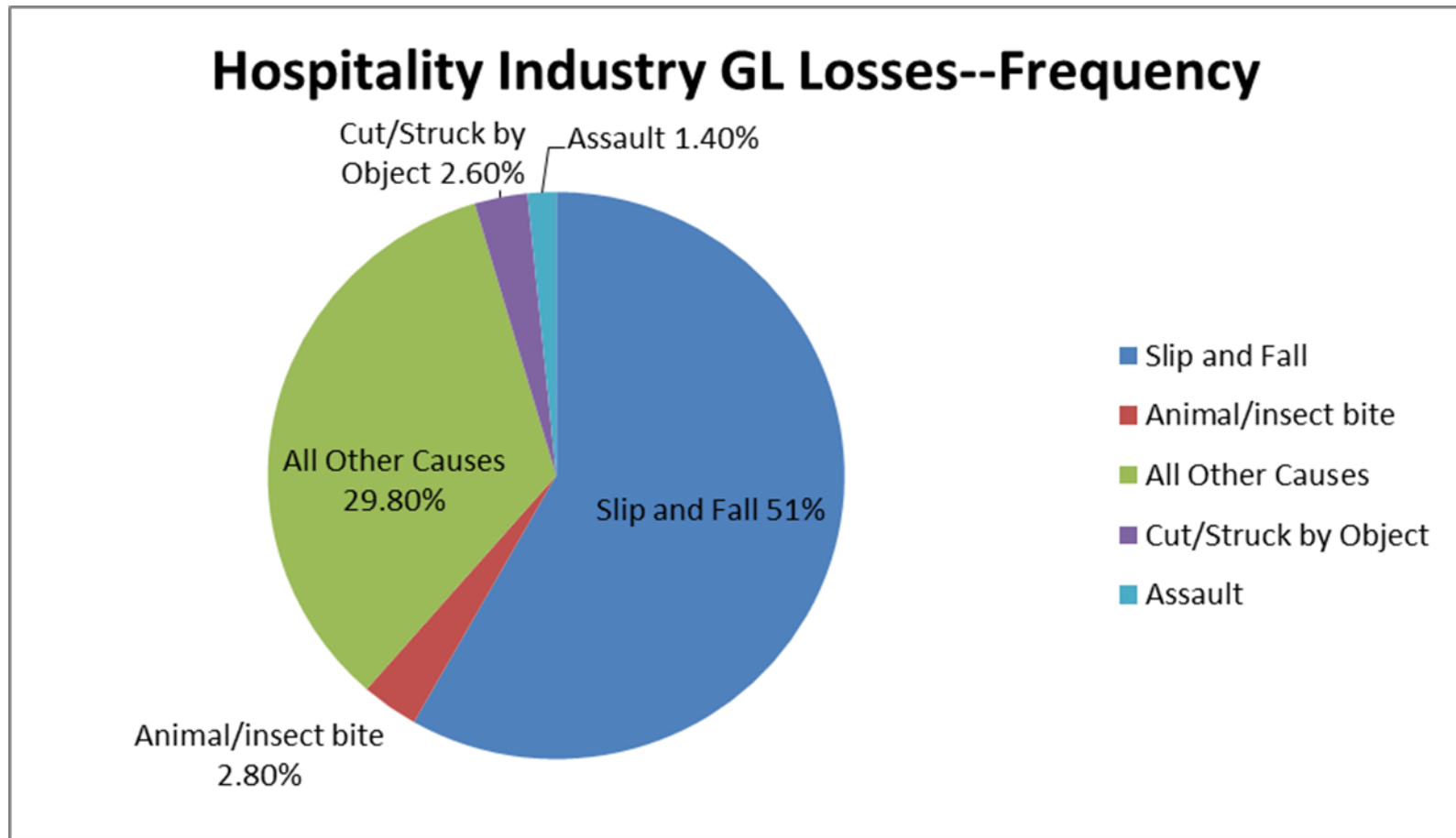
Establishing a “culture of safety” is not an easy process. It will take discipline and commitment from all involved and is an on-going every day process. Here are some best practices in establishing an effective “culture of safety” for the hospitality industry:

- The safety policy, program expectations and philosophy should be part of the business’s formal policy and procedures.
- Recognize and highlight both safety successes as well as opportunities. Require that others in management roles do the same.
- In order to keep safety in the forefront, require that safety be discussed at all staff, internal and department meetings.
- Assign responsibility for the safety program and include safety in the job responsibilities for a management team member.
- Insure an effective mechanism is in place for front line employee feedback involving safety related issues and improvements. (Suggestion boxes, employee safety surveys, etc.)
- Establish safety related goals for each location and department. Goals should be based on past injury rates and exposures. Goals should be for injury rates and program improvements.
- Investigate injuries to determine root causes and take action to improve work practices or enforce policies. Injury investigation should be the responsibility of management at each location.
- Establish task expectations for jobs that involve use of equipment, handling of materials, and exposure to falls. The process of establishing expectations should start with the most significant areas first such as buildings and grounds or food service.
- Communicate job task and safety expectations as part of initial training and as part of regular communications
- Assign responsibility for enforcing safety practices to supervisors and managers responsible for locations.
- Safety should be part of every employee’s performance review process.
- Business should have human resource policies in place that are enforced addressing employees who ignore safety or work in an unsafe manner.

In review of 5 plus years of Hospitality Industry general liability (GL) losses, as with most industries, slip trip and fall lead the cause of loss. In the chart below on a frequency basis (total claims received) slip and fall accounted for over 51% of reported GL losses. From a loss expenditure standpoint, slip trip and fall accounted for over 64.4% of general liability losses paid.

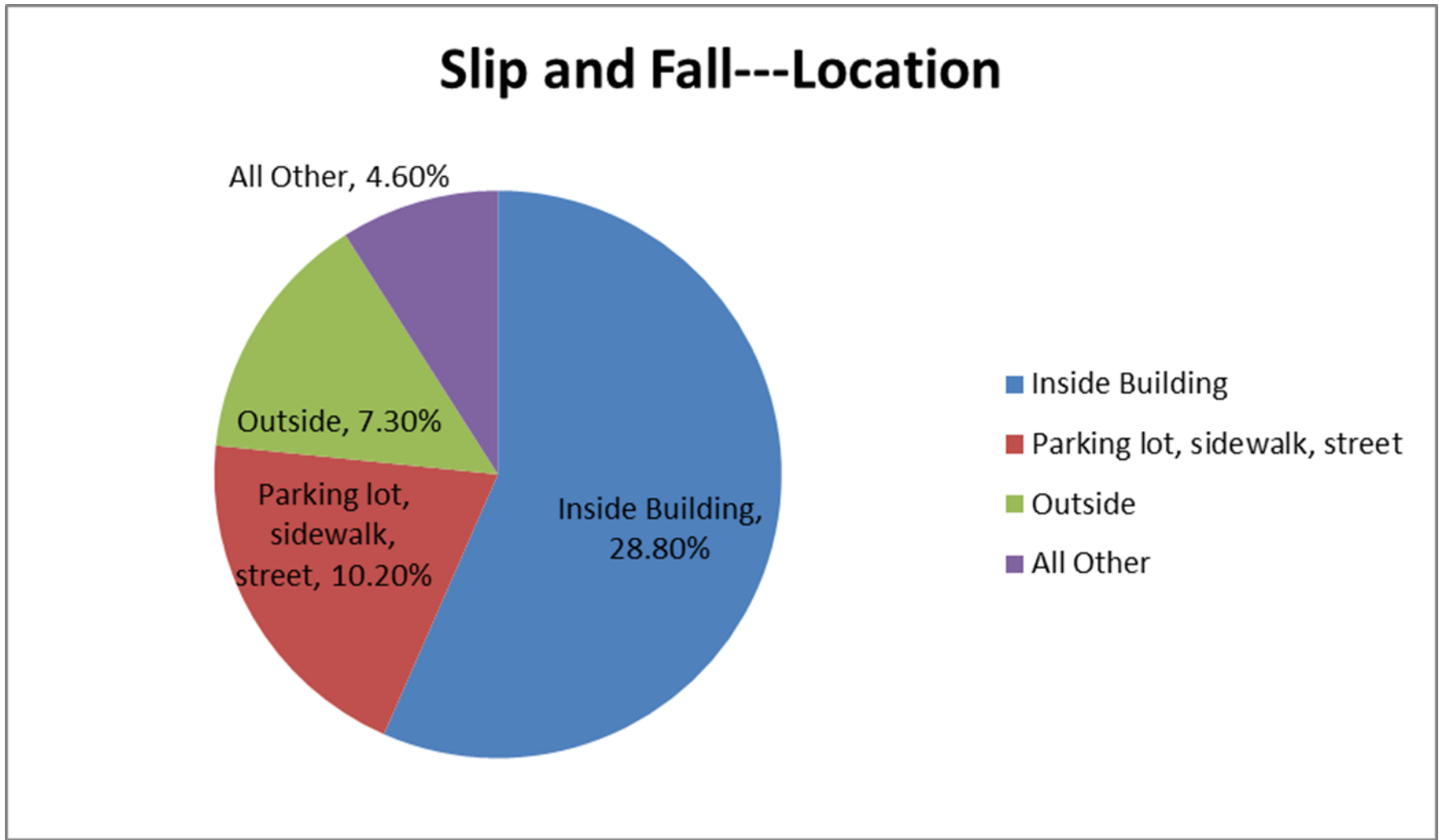
Per this study, 64.4% of loss paid in the hospitality industry was attributed to the slip, trip and fall cause of loss.

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Since this cause of loss is so significant, it is important to break down and analyze where, how and why these falls are occurring. The below chart further breaks down slip, trip and fall losses by area. The chart illustrates inside building falls account for more than 56% of total falls reported. Many of these falls were same level falls.

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Appropriate risk management for the prevention of inside falls should include being a combination of maintaining facilities in good condition, maintaining physical conditions that reduce the potential for falls, and having policies that provide direction on behaviors that make falls less likely. Some important practices to have in place should be:

Liberty Mutual Loss Control service is advisory only. We assume no responsibility for management or control of customer safety activities nor for implementation of recommended corrective measures. This report is based on information supplied by the customer and/or observations of conditions and practices at the time of the consultation. We have not tried to identify all hazards. We do not warrant that requirements of any federal, state, or local law, regulation or ordinance have or have not been met.

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- Instruct employees and guests to use appropriate building entrances. Snow/ice may not have been removed from all entrances and inside areas may not have walk off mats.
- Discourage employees from wearing inappropriate or loose fitting shoes to work (W/C exposure).
- Encourage employees and guests to report unsafe acts or conditions. Frayed carpets, broken equipment, curled up mats; water on the floor over should be immediately reported and addressed.
- Keep corridors, foyers, and stairwells clear and clear of obstructions.
- Have "Wet Floors" signs and clean up carts strategically stationed near entrances
- Verify stair treads and risers are in good condition
- Develop and implement policies on spill notification and clean up
- Keep all floor coverings (e.g., rugs, mats, etc.) in place and verify they have non-slip surfaces.
- Inspect and maintain floor surfaces in good repair and free of obstructions or hazards to traffic flow, such as loose or raised carpet edges, flaking or chipping concrete, missing floor tiles, broken stair edges, objects left on the surface, etc.
- Cover concrete floors with a resilient floor covering where appropriate.
- Use entranceway floor mats, with a non-slip surface and regularly change them during periods of inclement weather.
- Inspect and maintain threshold plates and doorway features for defects.

Along with major loss drivers and loss trending some significant serious losses will be reviewed for discussion. Two types of serious loss that affect the hospitality industry along with slip and fall include:

- Legionella---obtained from hotel spa, pool or hot tub
- Salmonella---obtained from hotel's restaurant food preparation

Legionella facts:

- Each year, between 8,000 and 18,000 people are hospitalized with Legionnaires' disease in the U.S.; however, many infections are not diagnosed or reported.
- CDC reports that nearly two-thirds of cases tend to occur in the summer and early fall.
- More than 60% of cases involve males.
- Individuals with compromised immune system or in poor health and the elderly are more susceptible to infection

Legionella best practices for prevention include:

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- Establish water system maintenance program.
- Document inspections, testing and maintenance
- Maintain formal water temperature logs
- Maintain formal water testing logs
- Document chemicals used
- Establish cleaning/disinfecting schedules
- Establish corrective protocols for positive tests
- Training and/or hiring qualified experts
- Maintain manuals and resources

Salmonella facts:

- Salmonella is a type of bacteria that causes intestinal infection and occasionally typhoid fever.
- Symptoms include fever, cramps, diarrhea and nausea, usually occurring within 6 to 72 hours.
- It is the most common foodborne illness from bacteria in the U.S.
- Over 1,020,000 cases are estimated annually.

Salmonella prevention tips include:

- Analyze food handling processes and operations
- Demand hand cleanliness
- Hygiene Precautions
- Avoid temperature abuse
- Thoroughly cook ground beef, poultry and eggs
- Food handlers should not work when ill

It is hopeful at the end of the discussion industry loss trending as well as effective risk management practices will be emphasized and reviewed. The U.S. hotel and motel industry consists of about 40,000 companies that operate 50,000 individual locations, with combined annual revenue of over \$120 billion. The typical hotel has about \$7 million in annual revenue and approximately 100 employees. The majority of hotels are part of a chain.

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An effective risk management program helps the business identify its risks and exposures. Learning from losses is part of that process. Once the risk and exposures are identified and appreciated, the business can attempt to prevent and mitigate the exposure and associated costs of loss.

Additional Resources for More Guidance-

- American Hotel and Lodging Association: News, statistics, publications, newsletters. <http://www.ahla.com/>
- Cornell University School of Hotel Administration: Industry news, in-depth articles on hotel and restaurant management. <http://www.hotelschool.cornell.edu/>
- Hospitality Net: Industry news, supplier news and list, events, links. <http://www.hospitalitynet.org/index.html>
- Hospitality Trends: Industry, management, technology news; market research. <http://www.htrends.com/>
- Hotel Executive.com: Hotel management best practices. <http://hotelexecutive.com/>
- Hotel Interactive: News, articles. <http://www.hotelinteractive.com/home.aspx>
- HVS/American Hospitality Management Company: Articles on hotel management. <http://www.american-hospitality.com/>
- Lodging Magazine: News, trends, statistics, publications. <http://www.lodgingmagazine.com/>
- ServSafe Alcohol Safety <http://www.servsafe.com/alcohol/training-and-certification>
- Tips Alcohol Training and Certification <http://www.tipsalcohol.com/>