



# Everything You Always Wanted to Know About Media Insurance, But Were Afraid to Ask

Presented to American Horse Publications

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[www.axiscapital.com](http://www.axiscapital.com)



# Agenda

## Media Liability Coverage

- Publishers
- Freelancers / Blogging for Others
- Blog Sites (Owned Blog Sites)
- Authors of Books

## Miscellaneous Professional Liability Coverage

- Photographers and Videographers

## Claims

- Defamation (Libel or Slander)
- Invasion of Privacy
- Copyright Infringement
- Trademark Infringement
- Errors & Omissions

## Q & A



# Components of an Insurance Policy

- **Declarations Page**
- **Coverage Agreement (Insuring Agreement)**
- **Definitions**
- **Exclusions**
- **Conditions**



## Declarations (“Dec”) Page

A Dec page specifies basic information about a policy.

- Named Insured and Address
- Policy Period
- Limit of Liability
- Self-Insured Retention (Deductible)
- Premium
- Scheduled Media / Professional Services
- Policy Form
- Endorsements



# Declarations Page



**AXIS INSURANCE COMPANY**  
 303 West Madison, Suite 500  
 Chicago, Illinois 60606

Policy No.:   
 Renewal of:

## MULTIMEDIA LIABILITY POLICY DECLARATIONS

**CLAIM EXPENSE IS COVERED IN ADDITION TO THE POLICY LIMIT. THE SELF-INSURED RETENTION APPLIES TO BOTH DAMAGES AND CLAIM EXPENSE FOR EACH LOSS. PLEASE READ YOUR POLICY CAREFULLY.**

1. **Named Insured** and Address:  
 Horse Enthusiast  
 123 Main Street  
 Anywhere, KS 66223
  
2. **Policy Period:** From June 19, 2015 To June 19, 2016  
 12:01 A.M. standard time at the address of the **Named Insured** as shown above.
  
3. Optional Coverage Agreement B. selected and applicable to limits shown in Item 5. below: Yes  No
  
4. **Policy Limits:**

\$1,000,000	<b>Each Loss</b>
\$1,000,000	Total Limit of Insurance
  
5. **Self-Insured Retention:** \$5,000 **Each Loss**
  
6. **Annual Premium:** \$3,000 Minimum Premium: N/A %  
**State Surcharge/Tax:** \$ N/A
  
7. **Scheduled Media:** All books and other publications produced, published or distributed by the "Named Insured," regardless of the method or mode of distribution.  
  
 All "Matter" disseminated by websites owned or operated by the "Named Insured."
  
8. **Coverage Form:** Multimedia Liability Policy – Claim Expense Outside the Limit of Liability, MM-002  
 Endorsements and other forms attached to this policy:
  - Additional Insured Endorsement, MM-02
  - Multimedia Cyber-Technology Services Errors & Omissions Endorsement (CEOL), MM-36
  - Kansas Amendatory Endorsement, KS-01

## Media Coverage Highlights

- Admitted paper (A+, XV by A.M. Best and A+ by S&P)
- Occurrence policy forms
- “All-Risk” Coverage Agreement
- Defense in Addition to the Limit or Defense Within the Limit
- Limits up to \$20,000,000 – Primary or Excess
- “Damages” includes punitive or exemplary damages where allowed by law (including most favorable venue language)
- Universal (worldwide) policy territory
- No “hammer” clause governing settlement of claims



## Media “Core” Coverages

- Defamation
- Invasion of Privacy
- Copyright Infringement
- Trademark Infringement
- Errors & Omissions



## Defamation

any form of defamation or other tort related to disparagement or harm to the character, reputation or feelings of any person or organization, including libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct or prima facie tort;





## Invasion of Privacy

any form of invasion, infringement or interference with rights of privacy or publicity, including false light, public disclosure of private facts, intrusion and commercial appropriation of name or likeness;



# Copyright Infringement

any form of infringement of copyright



## Trademark Infringement

any form of infringement or dilution of title, slogan, trademark, trade name, trade dress, service mark or service name;



## Errors & Omissions

- **Contextual Error or Omission from Matter/Content**  
means any negligent act, error, omission, misstatement, misleading statement or misrepresentation in Matter in Scheduled Media by or with permission of the Insured.
- **Errors & Omissions from Services**



# Optional Coverages

## Services

- Advertising Services Errors & Omissions
- Professional Services Errors & Omissions (Miscellaneous E&O)
- Technology Services Errors & Omissions

## Cyber

- Security and Privacy Liability – online and offline
- Regulatory Action Defense
- First Party - Crisis Management and Computer System Extortion



## Photographers and Videographers E&O

Protection from claims that allege a professional mistake or oversight that caused a third party – typically your client – a financial loss.



## What does that look like?

- Professional mistakes
- Breach of contract
- Professional negligence



## Why E&O?

- Unable to recreate the event and reshoot.
- Helps pay for costs such as legal defense and fees, settlements and judgements.
- Protects in the case of fraudulent claims, as legal investigation and defense are still required for claims that are groundless, false or fraudulent.





## Claims

**Claims typically fall into five main categories:**

- **Defamation**
- **Invasion of Privacy**
- **Copyright Infringement**
- **Trademark Infringement**
- **Errors & Omissions**
  - **From Matter/Content**
  - **From Services**



## Defamation Claims

- A magazine runs an article comparing the products of various manufacturers of horse tack. In doing so, the magazine attached grades to each manufacturer's products rating their performance. A manufacturer who received uniformly low ratings sues for defamation and trade libel, alleging that the methodology used in the rating system was flawed and deliberately designed to benefit its competitors.
- A magazine publishes an article about poor conditions in a horseback riding stable, including allegations made by former employees of animal neglect due to cost cutting by the stable owner. The owner files suit against the magazine for defamation, claiming that he can demonstrate he has adequately cared for all animals in his custody, and that the magazine failed to contact him prior to running the story.



## Invasion of Privacy Claims

- A publisher commences an advertising campaign for its magazine publications. As part of that campaign, the publisher uses a photograph of a child enjoying a horse show. The photograph was provided by a stock photo house who represented that rights to the use of the photo had been obtained. The parents of the child in question file suit, alleging that they never granted permission to the photo stock house to use the photograph for advertising purposes. The stock house is not capitalized and does not have insurance.



## Copyright Infringement Claims

- An inexperienced reporter writes a story about grooming methods for horses. The reporter believes it would be helpful for the reader if illustrations of the various grooming techniques accompany the story. Figuring that anything on the internet is public domain, the reporter uses screen captures of internet images to illustrate the story without seeking a license. The copyright holders sue the reporter and the publication in which the story appeared, for copyright infringement.
- A magazine wishes to post a video on its website of an interview. The editor decides that the video would be more appealing if music played in the background. They consult outside counsel about how to do so legally, but only disclose that they wish to play music over their website, and so they are counseled to secure a license to stream, and do not secure a synchronization license. The owner of the musical composition sues for copyright infringement.



## Trademark Infringement Claims

- A new magazine launches with a title which had not undergone trademark review. Shortly after publication, a claimant files suit for trademark infringement alleging they had filed a registration for their own fledgling publication with the same title.



## Newsgathering Tort Claims

- A magazine staff photographer is tasked with photographing on location at a horse ranch. She arrives at the ranch and finds a worker at the front gate. The photographer asks permission to shoot on the property, to which the worker agrees. The photographs are later published in the magazine. The owner of the ranch sues, alleging that the photographer trespassed on their property, because no permission had been obtained. When the photographer responded that they had received permission from the worker, the owner responded that the worker was an itinerant laborer and not vested with the authority to speak on behalf of the ranch.



## Errors & Omissions Claims

- A photographer is hired to take the official photographs of a jumping competition, which the organizer intends to use for future fundraising. The organizer is pleased with the photographs as they appear on the camera's screen. The photographer stops to eat on the way home from the shoot and his car is broken into in the parking lot. His camera, which he left in plain view on the passenger seat, is stolen along with the SIM card containing all the photographs. The organizer of the competition sues for negligence in failing to properly safeguard the photographs, and argues that the competition's fundraising efforts will suffer as a result.



## Errors & Omissions Claims

- An equestrian magazine runs a “nuts & bolts” story about how to properly birth a foal. There is no disclaimer preceding the article. A reader sues alleging that they followed the instructions carefully, but the foal died notwithstanding. The reader alleges that the magazine assumed a duty to provide accurate information in that regard, and breached that duty.
- An orthodontist pays for an advertisement to run in a local magazine in which “before and after” photographs appear (the first showing a set of teeth desperately in need of orthodontics, and the second showing a perfect set of teeth, presumably as a result of the orthodontist’s expert services). Unfortunately, the magazine reversed those photographs. The orthodontist sues for loss of reputation and business arising from the magazine’s gaffe.





# Q&A



## AXIS Insurance

- Historical long-term market for Media Liability and Professional Liability business with commitment to books of business.
- Long-term relationships with national associations/program business.
- Innovative products keeping pace with the ever changing electronic/digital landscape.
- Resourceful Underwriters with significant knowledge of the business and deep bench strength.
- Flexibility to tailor coverage to meet individual needs.
- Ability to bundle multiple coverage's in a single policy.
- Claim staff consists of attorneys that specialize in the First Amendment, intellectual property and E&O.
- Admitted paper and AXIS financial strength.

