



Sweeping Industry Faces Rising Tide of Litigation: Experts Urge Proactive Measures

by Ranger Kidwell-Ross

On August 6, 2024 Jay Presutti, of East Coast Industrial Services, Inc., held a "Virtual Sweepers Roundtable Discussion." The topic was to discuss the increase in lawsuits against power sweeping companies, many in which the companies had no liability but were named in the suits due to the language allowing that in the contracts they'd signed.

One of WSA's members recorded the event and provided the WSA office with the audio of the event. We have analyzed that information for our WSA members and this has resulted in the article shown below. Note the article is written from the audio; we have no way of confirming the underlying premises provided by Presutti and others.

The power sweeping industry is grappling with a surge in lawsuits, many of which are unrelated to the actual services provided. Industry leaders and experts are sounding the alarm, urging contractors to take proactive measures to protect their businesses from unwarranted legal action.

Jay, from East Coast Industrial Services, recently hosted a conference call with industry professionals to address this growing concern. "In the past 45 days, we've received three lawsuits, none of which we belong in," Jay stated, highlighting the urgency of the situation.

The lawsuits discussed ranged from slip-and-fall incidents on gravel to alleged oil spills in parking lots. In many cases, sweeping companies are being named in suits despite having no direct involvement in the incidents. This trend is putting significant financial strain on businesses, with insurance costs skyrocketing as a result.

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Legal expert Josh Ferguson emphasized the importance of contract language and documentation. "The key to the process is pushing back and being willing to take that risk that you may have to walk away here and there," Ferguson advised. He stressed the need for contractors to carefully review and modify contract terms, particularly those related to additional insured status and indemnification clauses.

Insurance professionals on the call, including representatives from Nationwide and World Insurance, echoed these sentiments. They highlighted the importance of quality control processes and thorough site inspections before taking on new accounts.

The industry is also seeing a troubling trend of third-party litigation funding, as explained by speaker Aaron Schnicke from Nationwide. This practice involves investment firms backing lawsuits in hopes of larger settlements, often leading to "nuclear verdicts" that can devastate businesses.

To combat these challenges, industry leaders are advocating for several strategies:

1. Implementing stronger contract language and addendums to limit liability
2. Improving documentation practices, including detailed site inspections and hazard reporting
3. Educating customers about the reasons behind these new measures
4. Collaborating with industry associations to establish standards and push for legislative changes
5. Being willing to walk away from contracts with unreasonable terms

The call participants also discussed the importance of building relationships with local and regional customers, who may be more receptive to reasonable contract terms compared to national chains or third-party management companies.

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As the industry faces these challenges, it's clear that a united front is necessary. "We're a small industry, and we can't be walked on by insurance, by attorneys that want to just pull us into everything," Jay concluded, urging contractors to work together to protect their interests and ensure the long-term viability of the sweeping industry.

With the threat of litigation looming large, sweeping contractors must remain vigilant and proactive in their risk management strategies. By adopting best practices and advocating for fair treatment, the industry can hope to stem the tide of unwarranted lawsuits and continue providing essential services to communities across the country.

In our next WSA Update we will expand upon this information for WSA members.

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