

## Free Report

### NEW CALIFORNIA CONDO AND HOA DECISION

By Leland J. Hendrie CLU  
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Based on recent court decisions some confusion has been created as to whether or not an HOA and their management company would both jointly be liable should any person performing any labor or service for an HOA be injured. If the injured worker doesn't have worker's compensation, a recent State Worker's Compensation Appeals Court ruled that the HOA and the management company can be jointly held liable.

While it doesn't require the HOA or the management company to carry worker's compensation when the HOA has no direct employees, it does leave both subject to potentially catastrophic liability.

When you hire an independent contractor or a contractor who is responsible to provide worker's compensation for its employees, you may still not be protected. If you get a Certificate of Insurance from the contractor showing worker's compensation insurance, this will not guarantee that the policy will not lapse for non-payment or some other reason. You may also get a hold-harmless agreement from the contractor and this will only be as good as the financial strength of the contractor.

Do you hire part-time employees, seasonal employees or independent contractors? This is a very important question as it will determine who is responsible should a worker be injured. While they may appear to be independent contractors, they may actually end up being considered as direct employees. All too often the HOA or management company assumes that they won't be responsible for any worker's injury, only to find out later that they are. History shows that the courts overwhelmingly find in favor of the injured person when there is a dispute over who should have been responsible for insuring the injured person. This may sound unfair, however the worker is the one that is the first concern of the courts and worker's compensation system.

This is a serious risk that needs to be insured against. When insurance is available for a nominal cost, the Association and management company should not take on this huge financial risk.

For more information about HOA and management company worker's compensation, please contact Kevin L. Hendrie at (800) 640-4743 or at (714) 534-6310 to insure that you have the proper coverage in place for this risk.

A handwritten signature in black ink that reads "Leland J. Hendrie". The signature is written in a cursive style.

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Author, Speaker, and Consumer Advocate



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