

# Trip down a concessionaire's lane

By Drew Brien

With warm weather and longer days ahead, many of us will be looking for ways to spend more time outside. Some may take the dog to the park, while some may opt for a quick round of golf. Speaking of golf, there is a unique risk for members who own and operate golf courses in their communities. Combining great scenery, recreational opportunities, and food and beverage operations, there is a lot to manage.

We know our members do not specialize in running restaurants, nor do they want to take on the increased risks of serving alcohol. It is not uncommon to lease the food and beverage portion of the clubhouse to a concessionaire that is better equipped to handle the ins-and-outs of a challenging industry. This is exactly what one member did.

A few months after the lease agreement was in place, a restaurant patron was moving from the patio into the restaurant when she tripped over a raised doorsill, falling and injuring her shoulder. She underwent two shoulder surgeries and eventually submitted a claim seeking over a million dollars in damages from the member.

The lease agreement between the member and concessionaire required the concessionaire provide liability insurance, which named the member as an additional insured. There was a clear standalone hold harmless and indemnification paragraph that placed the burden on the concessionaire to defend, indemnify and hold harmless the member from all claims and/or lawsuits arising out of their operations. The injured claimant filed a lawsuit naming the member. However, because the lease agreement required the member to be listed as an additional insured on the concessionaire's commercial general liability policy, we were able to tender the defense of the lawsuit to the concessionaire's insurance carrier. The concessionaire's insurance carrier successfully defended the member and settled with the claimant during litigation.

If you have clubhouses, community centers, etc. and are thinking about leasing these spaces out to concessionaires or other vendors, reach out to your WCIA Risk Management team to learn about the potential risks involved and the best way to reduce or transfer those risks.