Chapter One: The Genius of the Left Tackle

Most small- and medium-size businesses in America are family businesses, oftentimes multigenerational. These are the types of clients I work with every day. Over the years of building that business, many family members have put in their blood, sweat, and tears to build more than a company, they've built a foundational part of their lives – and it's the most valuable asset they own in the world. Far beyond the value of their retirement plan, far beyond the value of their house, their business and its success and longevity is critical to their existence. It's a bedrock that provides life-support and income for many generations, and it's an asset that must be protected.

Shockingly, I've discovered during my professional career in insurance and risk management that these business owners, especially the construction industry business owners to whom this book is addressed, don't often realize the enormity of value their asset possesses – for both themselves and their future generations. And if they do, they aren't taking the steps to protect it.

There seems to be a misconception on the part of these business owners. They tend to project their past experience onto the future when it comes to risk. The mentality is that the insurance they've always had (based on standard practices, lowest cost, agent recommendation, and industry norms) will work for them into eternity.

But particularly with middle market construction companies, you can't project the past into the future. Prudent risk management revolves around catastrophic loss, what we call *severity* in the business. A business owner shouldn't pay as much attention to the everyday things that insurance and risk-management protect against, such as a fender bender that costs twenty-five hundred dollars – the types of incidents covered under common insurance packages. Owners should be paying more attention to the single, large event that can destroy their business. These are the events that risk management professionals should be working to proactively prevent for the company.

Because of the typical multigenerational nature of the family construction business, there's a lot at stake; and because there's a lot at stake, business owners need to look at a bigger picture when they think about risk management. As someone who has been a practitioner in the field of insurance and risk management for more than thirty years, I see risk through a much bigger lens. Insurance brokers and risk management professionals see what's happening to business owners of all types and sizes over an entire state, region, or even the world. Disaster happens to businesses all the time. I see quick blurbs in the newspaper or on the news at night almost every day where something horrible has happened to a local, regional or national company. But what isn't seen in that news clip is how in only a moment that business, often a family business, was suddenly destroyed in its 80th, 100th, or180th year.

When I see these stories, it is all too clear to me. I have seen construction businesses destroyed in an instant by something that they didn't anticipate and weren't prepared for. The purpose of this book is to help you, the business owner, prepare for those unexpected events by putting a risk management program in place that will actively protect your business for this generation and the next.

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There's a distinction between an insurance agent/broker and what I call a "Risk Advisor," which I will go into in more detail in Chapter 5. For now, suffice it to say that a

Risk Advisor should be a key part of what I call your “trusted advisor network” – a network that includes your attorney, CPA, banker, and other types of consultants that are critical to the operation of your business. The Risk Advisor looks at every operational and financial component of your company, taking a very broad view of your business and what can happen, and brings a unique perspective that is far beyond looking at just insurance policies and coverage. Your Risk Advisor should be in a position to predict not the future but the likelihood of the catastrophic things that could happen to threaten your business and the areas where you really need to focus your time, attention, and resources for the prevention of such a destructive event.

My experience has shown me that the Risk Advisor, if competent, trained, experienced, creative, and full of wisdom, should be the single most important advisor that a medium-size construction company has. The mission of this book is to help the construction industry – an industry that is largely comprised of multigenerational, or soon to be, multigenerational companies – understand the impact, necessity, power, and reach of risk management on their company’s present...and their future.

The Blind Side

There’s a book that was written recently called *The Blind Side.* It’s about the history of football and how football strategy has changed over the last twenty years. I’m from New England where the New York Giants have played a prominent role during the last quarter century. It all began when Lawrence Taylor (or “LT” as he came to be known) began playing for them in the early 1980’s. Taylor was a right linebacker, a feared defenseman who had quarterbacks shaking in their cleats. He famously stated his mission as destroying, or even, killing the quarterback – and it all came to life when he broke two bones in Joe Theismann’s leg in that famous Redskins game.

Most quarterbacks are right-handed and their blind side is the left. When they turn their heads to follow that right arm, they can’t see what’s coming at them from the other side—and if it happens to be Lawrence Taylor fast approaching, then they need the best protection they can possibly have in the left tackle position.

Literally, because of LT, football took on a new dimension, and the left tackle position on the offensive line suddenly became one of the most important positions on the team.

Simultaneously, Bill Walsh, the famous coach of the San Francisco 49ers, built an offensive strategy based on short passes. Showcased best by Joe Montana and his successor, Steve Young, they were able to move the ball down the field and win three Super Bowl Championships with the new strategy. The key element was the ability of the left tackle to protect the blind side of the quarterback.

The story of Lawrence Taylor, the left tackle and the new offensive strategy correlates directly to your company. Why? Because you damn well better know the answer to this question: **“Who is your left tackle?”**

Everyday you get up, you bid on jobs, you try to execute on the contracts that you have in place. You’re building things. You try to make money. You’re doing all the things that a construction company owner does, but you have a blind side that contains all those risks that can potentially destroy your business. *The risks that exist in our world today are on a much larger scale than they’ve ever been before.*

Early in 2008, I happened to play in a celebrity golf tournament in Connecticut called “The Ahmad Rashad Celebrity Classic” to benefit the Boys and Girls Club of Hartford, Connecticut. Lo and behold, one of the players there was Lawrence Taylor.

As we played golf that day, there were leader boards staggered around the course showing who was winning. I happened to be playing with Ahmad Rashad, and we were playing pretty well. Our team was zigging and zagging and putting a good number up on the board, but there was no way we could get past Lawrence Taylor, who held the lead most of the day. Later in the tournament, I heard Ahmad Rashad, who is a pretty big guy, talking to some other really big guys, football and baseball players, questioning whether Lawrence Taylor really could have had such a low score. They all said to each other, “Well, you go ask him.” The others would say, “No, you ask him. You do it.” No one wanted to confront LT. Case in point, Lawrence Taylor was a mean and fierce competitor – quarterbacks had a reason to be up at night staring at the ceiling wondering what might happen to them if he got through that offensive line on Sunday afternoon.

As a business owner, do you ever go to sleep at night staring up at the ceiling, wondering what’s going to get through your offensive line? There’s a world out there full of Lawrence Taylors ready to destroy your business. I’m guessing that as you look out at your construction operations, you see heavy equipment, you see workers exposed to extreme and stressful work environments, you see large fleets of automobiles and trucks on the highway every day – subject to weather conditions and other drivers. All of those things look like potential accidents waiting to happen, full of what ifs.

In 2001, a salesperson in a pickup truck, working for a building supply wholesaler, was talking on his cell phone. He was inattentive, ran a stop sign, and plowed into a vehicle, injuring a seventy-eight-year-old passenger. She sued the owner of that pickup truck, which was a large multi-state company, and the jury ultimately awarded her **twenty-one million dollars**. I think that is a frightening statistic for any company to see because probably all of us have gotten distracted while driving, whether it’s by a cell phone or something else. It just takes one moment, one quick point of distraction, and catastrophe wipes out a company built and sustained for generations.

I had an experience with a client earlier this year in which a job site crew had just finished a safety meeting when the foreman, who was sitting in a loader and wasn’t paying attention, dropped the bucket on another worker’s leg and just about caused an amputation. If it weren’t for the quick response and medical attention he received, this worker probably would have lost the leg and it would have been a multimillion-dollar loss instead of a quick recovery.

It only takes a moment. It doesn’t take more than one multi-million dollar catastrophe to either leave a business with an uninsured loss or in a position with such exorbitant insurance premiums that their budgets don’t allow for them to compete with their competitors.

Force yourself to take a reality check and ask this question, “if one of your workers were involved in an automobile accident where someone was seriously hurt as a result of talking on their cell phone, could you afford a twenty-million-dollar jury verdict?”

Another sobering example occurred several years ago when a bridge contractor had an employee working in an elevator shaft. It was their most experienced and safest employee, and it was the end of the shift. This employee thought to himself, *I just need to* *do one more task, take one more minute,* and he stretched himself beyond the safe zone and fell thirty or forty feet down the elevator shaft, landing on his back and his legs. The worker would have been killed if there hadn't been a bunch of loose pieces of plywood stacked in the bottom. As it was, he broke the femurs in both legs but wasn't killed.

As a result of that accident, the Experience Mod Rate of this contractor went through the roof. The insurance premium went through the roof because all of a sudden, the underwriting community could see in vivid detail just how much money a claim with this contractor could cost them, so no one wanted to write their insurance. It put this construction company on the edge of viability, and it all only took a moment.

An Experience Mod Rate is something that you are all probably familiar with relative to workers' compensation. It's a number that compares your workers' compensation claim experience to other contractors that do the same thing. That mod rate is 1.00 if you're average with everybody else. It's less than that if you're better. It's more than that if you're worse. Every contractor's goal should be to get their Experience Mod Rate, or EMR, to the lowest point possible. Later in the book, we'll talk about some of the ways that we can help contractors accomplish that.

You don't always get what you pay for

When my firm talks with prospective clients, two of the things we focus on are 1) What you get for your insurance premium, and 2) What you get for the commission paid to your insurance agent or insurance broker.

Ours is an industry that hasn't evolved very much in the thirty plus years I've been practicing. It's still an industry in which a company pays a premium to an insurance company and then an insurance company pays a commission to the agent or broker who placed that business. It's rare that a contractor looks at those numbers and says, "What am I getting for that money? What's my return on that investment?" Our industry is still way too transactional and we're going through a period right now when Risk Advisors, or the better insurance brokers, are starting to offer a different value proposition than what's been offered in the past.

Traditionally, insurance agents and brokers are very transactional. They're selling insurance policies, and then, servicing those insurance policies. But if you're just buying insurance and treating it as a transaction, you're not looking at that bigger picture, let alone your blind side. You're not looking at the value of that asset and all the different risks that threaten it. In today's world, construction company owners need someone who offers much, much more than the least expensive policy and reactive service. They need someone who offers a much richer value proposition, someone who can look holistically, creatively, and proactively at their business; someone who can see all of the different risks. Today's construction company owners need more than insurance, they need a trusted advisor that will help them protect their most valuable asset.

As our world and its complexity grow, the blind side of a business gets bigger and bigger at an exponential rate. Later in this book, we'll explore compensation, which I think is long overdue for dramatic change. Insurance brokers and agents shouldn't be paid standard commissions by insurance carriers. They should be paid a fee agreed upon by their client for the work, advice, and counsel they're going to provide. If you really want someone to be your left tackle, to protect your blind side, maybe it costs more money than you're used to paying in the form of a commission; but in return for that, you're going to receive a commitment from a Risk Advisor that the blind side is going to be protected. There are going to be guarantees in terms of performance, the compensation will be equal to the performance. There's going to be a larger team of professionals that protect you in many ways beyond simply insurance policies.

Think about it this way. Somebody said in a seminar that I attended recently that the two biggest sections of the phonebook are attorneys and pizza parlors. And as I've traveled around the country, from time to time when I'm in a business or in a hotel room and I see phone book, I'm reminded to check that theory. It's not that I have anything against attorneys; attorneys provide a very valuable service to all of us. I use attorneys all the time. But there are lots of attorneys out there on the personal injury side who are after your blind side, when your blind side is left unprotected, they benefit.

I happened to be in Charleston, South Carolina, and the phone book had just arrived at the office I was visiting. I decided to test the theory, and I looked inside. As you typically find these days, there was an attorney on the inside cover. In the Charleston phone book, the attorney section runs from page 50 to page 125. It's 75 pages long! The whole phone book is only 773 pages. So ten percent of the phone book is attorneys – ten percent!

I asked a couple of my business associates who were in the room with me how many pages they thought attorneys took up in the phone book. One guess was eight and the other was twenty. So needless to say, most of us don't realize how big the legal profession is and how well they advertise. It isn't just the phone book, it's on the sides of busses and overpasses and billboards. Personal injury is a big business, and it's probably your biggest blind side.

This might shock you, but my company has come up with a philosophy in which we don't believe in insurance brokers competitively bidding for clients based on the cost of the insurance. Yes, it's traditional, it's the industry norm, but it has created a system that rewards the broker that produces the lowest premium. There are no points for quality, longevity, service, protection, prevention, or foresight. We've taken a stand against this industry norm because it's long overdue for a radical change and we don't believe it helps our clients.

Are you ready for this one? In reality, the insurance broker has very little to do with the size of the premium paid by their clients. There are two much more important causes for a premium to be high or low. One is the insurance company and how competitive they want to be at any given time. Their competitiveness can include everything from having a slow quarter at the regional office to an underwriter needing increased production to make their budget for the year. Maybe a manager will get a bonus for top line growth (ignoring profitability), so he or she is able to lowball the premium. The second big determinant is simply the claim experience of the contractor. It has very, very little to do with any talent on the part of the broker.

The typical insurance agent or broker focuses on the price of insurance and keeping the customer happy in the short term, **not** the preservation of the customer's business. He or she doesn't bring any tough love to the relationship. Instead, they tell you, the client, what you want to hear (that they can get you the cheapest insurance), instead of what you need to hear. Meanwhile, you're thinking, "Phew, I have my insurance, everything's fine now." But, sometimes businesses really need to change what they're doing in order to protect themselves. If an insurance agent just focuses on keeping you happy by selling you cheap insurance and leaving you to think that you're fully protected, I think they're doing you a disservice. That's just a blind adherence to an industry norm that needs to change.

So, we ask the question philosophically, "Why should the broker be rewarded for something he or she didn't do?" What I say to people, somewhat tongue-in-cheek, is, "Whoever gets the stupidest underwriter wins." If you're reading this book, you understand the game where insurance carriers are allocated among competing brokers and, at the end of the day, the lowest price wins. What I'm going to suggest and reinforce throughout this book is that you have to look at insurance differently than you ever have before; you have to ask this question first, "Which combination of Risk Advisor and insurance carrier protect my blind side best?" Once that question has been answered, then look at the cost. And then look at cost even more broadly as I'll explain later.

Keeping this in mind, I think that most insurance brokers consider their jobs to be more like those of salespeople than like Risk Advisors. Their goal is to keep your business. In other words, because they get paid a commission they don't want to lose your business and lose their income, so they'll do whatever it takes, competitively, to keep your business.

I want to flip that concept on its head and say that my goal as a Risk Advisor isn't to keep your business; it's to keep you *in* business. If your business is multigenerational, then insurance protection is akin to family protection. You want to protect your company at all costs and you need a trusted advisor whose expertise is to help you do that.

Protect your blind side. Remember, you can't project your past experience into the future. The battle that I fight most often is with a contractor who looks at everything that's happened in the past and says, "Well, it's never happened before, so I don't believe it's ever going to happen." That's misguided thinking.

I have a friend who owns a construction company and also happens to be a ski patroller, and every year, I go to Vermont to ski with him. Now, I've been skiing for forty years and I've never been hurt. But in the chairlift my friend will point out, for example, a tree on a trail and tell me how someone hit it last weekend and how injured he or she was and what hospital they went to. Or he'll point out another spot and tell me how someone went flying, landed on someone else and put them in the hospital. I let him tell me a couple of his horror stories, and then I tell him, "Please, I don't want to hear any more." Because the wrecks, as he calls them, are so spread out among the twenty, thirty, forty or even hundreds of ski trails, most people never see them. But he sees them because he's involved in them as a patroller or hears the stories from his peers. It's easier, and much more pleasant, for me to ski down a trail without thinking that catastrophe is just around the next turn, but in reality, it is.

In my role as a Risk Advisor, I'm a lot like that ski patroller. I see the bigger picture, and even though you might not want to hear it, my role is to point out the things that I know happen to other people and to alert you to the probabilities. Catastrophes happen every day, so you need someone to help consider the consequences and prepare for them, even if it's a bit unpleasant and even if, especially if, it's a complete reversal from the way you've handled risk and insurance in the past.