

# Business Insurance

Reporting Weekly on Corporate Risk, Employee Benefit and Managed Health Care News / \$4

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## Kemper Re and EMLICO settle reinsurance disputes

LONG GROVE, Ill.—Kemper Reinsurance Co. has settled reinsurance disputes with the insolvent Electric Mutual Liability Insurance Co., ending a nasty international legal battle that has spanned more than two years and spread to forums from London to Boston.

Kemper Re parent Kemper Insurance Cos., EMLICO and sole EMLICO policyholder General Electric Co. last Friday announced they have resolved their reinsurance disputes as well as direct insurance claims between GE and Kemper.

See Updates on next page

# Berkshire Hathaway to acquire General Re

By JUDY GREENWALD

OMAHA, Neb.—General Re Corp. will continue to operate separately from other Berkshire Hathaway Inc. reinsurance operations after the merger of the two companies announced late Friday.

The \$22 billion stock deal, which represents a 29% premium over General Re's closing price of \$220.25 a share on Friday, is expected to be completed in the fourth quarter.

Warren Buffett, chairman of Berkshire Hathaway, said the main reason for the merger was "synergy." Specifically, he said, ownership by Berkshire Hathaway will allow General Re to underwrite more reinsurance and retain more of the business

it underwrites, grow globally, gain tax flexibility and "never have to worry about abundant capital."

Mr. Buffett also said he was attracted to General Re's "technical skills, distribution system and worldwide reputation" as well as the funds available for investment.

"More flexibility to invest funds is no small plus," he said.

General Reinsurance still will be the third-largest global reinsurer and the largest U.S. reinsurer after completion of the deal, though it will now have the Berkshire Hathaway financial powerhouse behind it to grow.

After the deal, the combined company will have market capitalization of \$120 billion, including Berk-

See Berkshire on page 35



Mr. Buffett

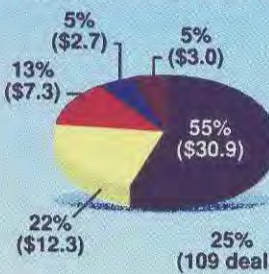


Mr. Ferguson

## M&A momentum continues

1997 insurance-related transactions by sector (dollar figures in billions)

### Transaction values



### Number of deals



Source: Conning & Co.

GRAPHIC BY JOHN HALL

# Industry M&A activity continues at record pace

By GAVIN SOUTER

Insurance industry mergers and acquisitions are continuing at a record pace for the third year in a row.

Mergers and acquisitions this year likely will top last year's \$56.1 billion value of 432 deals, which was up 38% from the \$40.8 billion value of 382 deals in 1996, according to a study by Hartford, Conn.-based Conning & Co. It was released before the announcement Friday that Berkshire Hathaway Insurance Group would acquire General Re Corp.

A host of factors are propelling the deals, the report says. Among them: the excellent financial environment, the desire to grow in a mature market, the need for technology upgrades, taking advantage of outsourcing opportunities, and the desire to expand internationally.

If the planned demutualization of several large insurers goes ahead and the Citicorp/Travelers Group Inc. deal is permitted by regulators and becomes a blueprint for other financial services mergers, then the M&A party could keep going, the report says.

"As the end of this century fast approaches, growing larger to become more competitive is becoming one of the strongest mantras heard within the insurance industry," according to the report.

Insurers, brokers and related service providers are all considering the implications of the convergence of financial services, the need to buy expensive technology, the efficiencies of economies of scale, the advantages and disadvantages of excess capital, and the increased use of multiple distribution systems, the report says.

See M&A on page 14

# California targets age firings

Employers fear bills might increase plaintiffs' litigation rights

By ROBERTO CENICEROS

SACRAMENTO, Calif.—Employers might become easier prey for age discrimination lawsuits if any state legislative attempts to torpedo a pro-employer court ruling pass, those involved say.

The issue is shaping up as one of the biggest employment law battles of California's current legislative session, with employers opposing labor, plaintiffs attorneys and senior citizens, sources representing those factions said.

The fight is over three bills winding their way through the Legislature. At least one is likely to land on Gov. Pete

Wilson's desk, several observers said.

All three bills address the California 4th Appellate District's decision in *Michael J. Marks vs. Loral Corp.*

The court said last year that: "Employers may indeed prefer workers with lower salaries to workers with higher ones, even if the preference falls disproportionately on older, generally higher-paid workers," (*EI*, Aug. 11, 1997.) The state's Supreme Court later let the decision stand by declining to review the lower court's ruling.

But employers worry legislation goes beyond scuttling the *Marks* decision by giving plaintiffs broader litigation rights than they had before the

*Marks* ruling. At the very least, the legislation would restrict employers' ability to make business decisions, employer representatives said.

"Members on our board are wringing their hands over it," said Mark Krause, vp and legal advocate for the Assn. for California Tort Reform in Sacramento. "They are very worried."

The tort association's board is made up of executives from some of California's largest corporations.

Of the three bills, S.B. 1098 presents employers with the most potential harm, said Willie Washington, legislative director for the California Manufacturers Assn. in Sacramento. The

See California on page 33

# Engineering cost savings

Safety program helps company reduce injury, comp costs

By MEG FLETCHER

NEPONSET, Ill.—Martin Engineering's recent award for its safety program is yet another benefit the manufacturer has reaped from an ongoing effort that is dramatically reducing worker injuries, saving the company tens of thousands of dollars and giving the company a competitive edge in winning business.

The rapidly growing family-owned company based in Neponset, Ill., employs about 300 non-union workers nationally in the manufacture and international marketing of products and systems that improve the handling of bulk solids such as grain and coal. The company makes, among other things, conveyor belts and "flow aids" such as pneumatic ball vibrators.

Martin Engineering's revenues rose to \$55 million in 1997, up from \$28 million in 1994.

The company's key strategies for improving

See Martin on page 19



PHOTO: COURTESY OF MARTIN ENGINEERING

A safety program overseen by Mary Lynn Pronschinske, inset, has dramatically cut Martin Engineering's costs.

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**Updates**

**Kemper, EMLICO settle**

*Continued from previous page*

Terms of the deal were not disclosed.

The settlement ends all litigation between Kemper and EMLICO, including Kemper Re's efforts to win a Bermuda judicial review of Bermuda government orders that allowed EMLICO to redomesticate from Massachusetts shortly before it declared itself insolvent in 1995. Kemper Re also will withdraw its support of efforts by the Massachusetts Insurance Division to regain control of the EMLICO estate from partners of Coopers & Lybrand L.L.P. who were appointed joint liquidators by the Bermuda court.

Massachusetts regulators will continue their fight in U.S. courts to win appointment as EMLICO's liquidator, said J. David Leslie, a lawyer with Rackemann, Sawyer & Brewster representing the Insurance Division.

Since late 1995, Kemper Re has waged a complex multinational legal war, charging that EMLICO management and GE knew EMLICO was insolvent and fraudulently conspired to move it to Bermuda, where liquidation laws would allegedly favor GE.

**Kmart told to resume payments**

ARLINGTON, Va.—Kmart Corp. must resume long-term disability payments to a 44-year-old employee suffering from severe depression, a federal court has ruled.

The employee sued the company last year, alleging Kmart violated the Americans with Disabilities Act by not providing equal psychiatric and physical LTD benefits.

A bench trial before the U.S. District Court for the Eastern District of Virginia earlier this month found Kmart was in violation of Title I of the ADA because it provided LTD coverage for physical disabilities through age 65 but terminated LTD benefits for mental disabilities after two years.

"The ADA clearly prohibits discrimination on the basis of disability absent some actuarial justification," wrote Judge Leonie M. Brinkema in the court opinion. "In this case, Kmart offered (Harold Lewis) insurance benefits which provided inferior coverage for mental as opposed to physical disabilities. It has demonstrated no actuarial justification for the dichotomy."

Judge Brinkema ordered Kmart to resume—until he is 65—LTD payments to Harold Lewis, a manager in Kmart's Winchester, Va., store who has been on leave from work due to his severe depression since 1995, as long as he remains disabled within the meaning of the plan. As a result, the plan could end up paying more than \$654,500 in disability payments. Kmart's LTD plan, provided by Aetna Life Insurance Co., is entirely employee-funded. Aetna originally was named in the suit but later was granted summary judgment.

Kmart did not return a phone call Friday seeking comment.

**Insurers seek class action**

CAMDEN, N.J.—A group of insurance companies is seeking class action certification to sue to recover amounts they paid owners of motor vehicles damaged in fires the insurers allege were caused by defective ignition switches.

The action, led by Western Reserve Insurance Co. against Dearborn, Mich.-based Ford Motor Co. and United Technologies Automotive Inc., the switches' manufacturer, is similar to a case State Farm Mutual Automobile Insurance Co. filed against the companies earlier this year.

"It's very similar, in fact, and we met with the State Farm lawyers," said Stewart C. Crawford of Stewart C. Crawford & Associates in Media, Pa. He is representing the group of insurers.

"It's subrogation. The only unique thing is that State Farm is on its own," he said. Mr. Crawford said about 15 insurers are participating in the attempted class action filed in U.S. District Court in Camden, N.J. He said it's "hard to calculate" the total amount of damages they might ultimately seek but that about 20,000 ignition fires involving the companies' policyholders had been identified "so far," at an average cost of \$10,000 per claim.

The attorney said he is encouraging his clients to cross-reference the auto claims against claims paid under other coverages, such as homeowners, that might have paid for losses to personal items or homes as a result of the vehicle fires.

A Ford spokesman noted that a federal judge had denied an earlier attempt by vehicle owners to bring a class-action suit in connection with fire damages they blamed on the ignition switches.

"Essentially, we view Western Reserve's action as a me-too case," the Ford spokesman said. "They're a little late to the party. The judge in New Jersey has already ruled that these cases cannot proceed as a class action for the precise reason that fires in motor vehicles can have a number of causes."

**Court lets airbag suit proceed**

ALBANY, N.Y.—New York's highest court has permitted a lawsuit to proceed against an automaker for failing to install airbags before required by federal law.

In a 6-to-1 ruling, the New York Court of Appeals upheld a lower court's ruling that Caryn Drattel's suit against Toyota Motor Corp. could proceed to trial for permanent injuries she suffered in a 1991 car crash involving her Toyota Tercel.

On appeal to the Court of Appeals, Toyota argued that the federal National Traffic and Motor Vehicle Safety Act, which required airbags

*See Updates on page 34*

**Errors & omissions**

• Dana E. Friedman is senior vp of Corporate Family Solutions and works in its Port Washington, N.Y., office. Ms. Friedman's name was misspelled and her office location was cited as the company's Nashville, Tenn., headquarters in the June 15 issue.

**Computer maker's win could reduce RSI suits**

By JUDY GREENWALD

BROOKLYN, N.Y.—A court victory by a computer manufacturer in a keyboard injury lawsuit last week is expected to further discourage additional cases in a litigation area that has already lost much of its steam.

After the victory in *Gonzales vs. Digital Equipment Corp.*, defense attorneys say they now expect an even further drop in cases filed against computer manufacturers that charge them with causing repetitive strain injuries

Cases filed on the issue have already declined, apparently because plaintiffs attorneys' have failed to wrest anything more than a single clear lasting victory among the 31 cases that have been tried, according to the Center for Office Technology, a computer maker trade group in Alexandria, Va. And even that one victory is now being appealed, while other cases are pending and others have been settled.

The jury verdict for Digital "sends a resounding message to the plaintiffs bar in these key-

board cases that they don't have merit," said Kenneth King, an attorney with Brobeck, Phleger & Harrison in New York who represented Digital in the litigation.

He added, "As products liability defense lawyers, we see many 'failure to warn' claims, and when you see that a jury can look very carefully at the scientific evidence and the propriety of putting a warning on something and reject a warning claim like this, it's very encouraging."

"The death knell has been  
*See Digital on page 4*

**Feds encourage pensions**

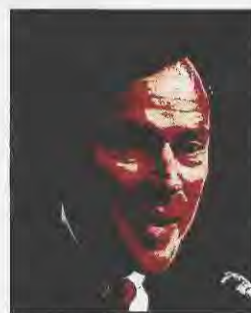
Legislation intended to promote defined benefit plans

By JERRY GEISEL

WASHINGTON—Amid a steady decline in pension coverage, federal policy-makers are beginning to take steps to encourage employers to offer and maintain defined benefit pension plans, the executive director of the Pension Benefit Guaranty Corp. says.

One step the Clinton administration is taking is backing legislation to make it easier and less expensive for small employers to offer defined benefit plans.

PBGC Executive Director David Strauss said the legislation—known as SMART, short for the Secure Money Annuity or Retirement Trust—is an executive branch response to two of the reasons small employers do not offer defined benefit plans: high adminis-



Mr. Strauss

trative costs and too many government regulations.

SMART plans "would lower administrative costs by reducing complexity and permitting simpler reporting," Mr. Strauss said last week before a Washington meeting of the Corporate Legislative Benefits Forum, sponsored by the Assn. of Private Pension & Welfare Plans, the International Foundation of Employee Benefit Plans, and the International Society of  
*See Pensions on page 18*

**Ruling helps home builders**

Damages limited in California

By ROBERTO CENICEROS

SAN DIEGO—A recent California appeals court decision will reduce home builders' liability exposures by limiting damages in construction defect suits to cases where there is actual injury.

The ruling means property owners will be unable to go after builders for anticipated property damage that has not yet occurred, or for perceived diminution of value, attorneys say.

While not expected to immediately draw insurers back to a market many have declined to serve in the face of high jury awards, the ruling is seen as one step toward that end.

"This particular decision is being viewed as pretty favorable in terms of the develop-

ment of case law regarding construction defect in California," said Rick Ehlers, senior vp in Chicago for the construction group of CNA Insurance Cos.

"It's definitely a very strong and positive decision that puts things back in the right direction."

California home builders and insurers have long sought tort reform measures—including a uniform legal definition of construction defects—in hopes of lowering builders' liability exposure. That, in turn, could attract additional insurance capacity to the market (*BI*, Sept. 15, 1997).

There has been little success, however, on the legislative reform front. The June 11 ruling by the California Court  
*See Builders on page 34*

**PBM listing on Aug. 3**

*Business Insurance* will publish its annual Directory of Prescription Benefit Managers in the Aug. 3 issue, which also will contain the Managed Care Market Report.

The directory is published as an editorial service, and there is no charge to be included. Companies must provide prescription benefit management services on a direct, unbundled basis to be included.

The Aug. 3 issue also will feature an Information Resource section on employee benefits. This section lists current educational and informational materials available free to readers.

If your company would like to be listed in the directory or wants to submit materials for the Information Resource section, please call Assistant Directory Editor Matt Scroggins at 312-649-5483 and request the appropriate questionnaire.

Completed questionnaires must be submitted by the extended deadline of June 26.

**Inside**

• We welcome government action to make it easier for employers to offer pension plans and to allow more contributions to them, one of this week's editorials says. **PAGE 8**

• Its acquisition of Tarquin Ltd. will give ACE Ltd. control of more than 9% of Lloyd's capacity for the year. **PAGE 27**

• A database of stolen artwork is expanding to include art seized illegally during the Holocaust era. **PAGE 27**

**Departments**

Advertiser Index.....32  
Ask A Casualty Actuary.....21  
Books & Ideas.....22  
Classifieds.....30

Commentary.....33  
Datebook.....16  
For the Record.....35  
Insurance Services Guide.....28  
International.....27  
Legal Briefs.....22  
Opinions.....8  
Ticker.....35

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PHOTO: AFP

German player Andreas Moeller, right, and a U.S. team member battle for the ball in a June 15 match.

## World Cups get \$3 billion in coverage

By MATTHEW MacDERMOTT

ZURICH, Switzerland—In what is thought to be the world's largest sports insurance placement, the Federation Internationale de Football Assn., the governing body of international soccer, has purchased 4.5 billion Swiss francs (\$3.02 billion) worth of cancellation coverage for the next two World Cup tournaments in 2002 and 2006.

The sum insured is so high that the lead insurer, Albingia Versicherungs A.G. of Hamburg, Germany, is looking to transfer some of the risk into international capital markets.

Juergen Goerling, head of Albingia's sports unit, said the company has started talks with U.S. and Swiss investment banks about securitizing up to 1 billion Swiss francs (\$671.5 million) of the risk.

While a small number of securitization programs already have been placed, the concept is still at the "embryonic stage," and the values involved in the FIFA policy would make it the largest such transfer attempted, according to market sources.

FIFA, based in Zurich, Switzerland, is the organizer and promoter of the World Cup, held every four years.

Its latest insurance program, negotiated with Albingia and German sports broker Himmelseher GmbH, of Cologne, Germany, includes cancellation coverage of 2.1 billion Swiss francs (\$1.41 billion) for

See World Cup on page 33

# Help with work/life balance earns employee loyalty

By JENELL TALLEY

Employers can instill loyalty in their workers and raise productivity by recognizing the importance of their employees' personal and family lives, a new survey concludes.

Management recognition of the importance of personal and family life, often demonstrated through family-friendly benefits programs, was the work place factor with the greatest correlation to employee commitment to the company, according to an Aon Consulting survey released last week.

After the recognition of the importance of personal and family life, the top factors affecting commitment are the direction in which the organization is heading, opportunities for personal growth, the satisfaction an employee derives from the work, and the extent to which the organization encourages employees to challenge the way things are done.

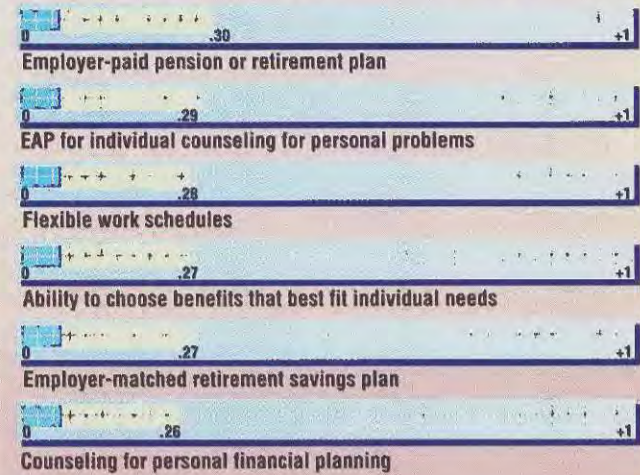
Chicago-based Aon Consulting conducted telephone interviews with 1,800 workers for its "America @ Work" study, which found 17 possible key determinants, or "drivers," of work force commitment.

The study measures employee commitment based on the WorkForce Commitment Index that Aon developed after conducting focus groups with more than 600 American workers in 1996. Commitment is defined as:

See Loyalty on page 6

## Cultivating commitment

Measuring employees' favorable benefit experiences, these offerings showed the strongest correlation with commitment:



Legend: +1 = Significant correlation with commitment is 0.07 or greater  
Source: Aon Consulting America@Work study

## Fire damage to casino insured

Working sprinkler system unable to douse attic fire: Investigator

By DAVE LENCKUS

LAS VEGAS—The extensive property damage and business interruption loss caused by a fire that gutted a casino outside Las Vegas last week despite a functioning sprinkler system is insured by Affiliated FM Insurance Co.

No guests at the Gold Strike Inn & Casino were injured June 16 when the fire was discovered shortly after 1 a.m., according to a spokesman for the Clark County Fire Department.

Hundreds of guests were evacuated from both the 40,000-square-foot casino and the Gold Strike's 178 hotel rooms after the fire was discovered.

But the fire gutted the casino and caused some smoke and heat damage to a few rooms in a three-story wing at the inn, the fire department spokesman said. A 17-story hotel tower was not damaged, he said.

The entire remote facility, which is about 25 miles south of Las Vegas in unincorporated Clark County, has been shut down indefinitely, the spokesman said. The Gold

See Fire on page 35



PHOTO: AP

The Gold Strike Inn & Casino south of Las Vegas sustained extensive damage in a fire last week and has been shut down.

## Public sector should review alternatives

Options could cut costs: Exec

By RODD ZOLKOS

MINNEAPOLIS—Public sector risk managers have an obligation to their entities' shareholders—the taxpayers—to examine new risk transfer options with an eye toward reducing costs, one reinsurance executive contends.

"I don't see any groundswell of public opinion that says, 'I want to pay more taxes, so you don't have to manage risk better,'" said Heidi E. Hutter, chairwoman, president and chief executive officer of Swiss Re America Corp.

Ms. Hutter made her remarks in a speech to the annual conference of the Public Risk Management Assn. earlier this month in Minneapolis.


While it's incumbent on public sector risk managers to examine the various new risk financing options entering the market, the people developing those products

have an obligation to explain them fully to their users, Ms. Hutter said.

Addressing derivatives as one possible risk transfer alternative public risk managers must consider in the future, Ms. Hutter said some highly publicized losses associated with derivatives' use stemmed more from a lack of the users' understanding of the particular instruments involved than from the instruments themselves. "I think that some unfortunate usages of the product have tainted the product in some people's minds," she said. "And I think that knee-jerk reactions to anything are unhealthy."

In the existing market, players on both sides of the risk transfer equation have the same goal—developing better ways to achieve that risk transfer, the Swiss Re America CEO said. And speaking of her own company's commitment to crafting

See PRIMA on page 10



**Inside:**

**Public cost of risk rises 8%**  
page 12

**Operating methods key for pools**  
page 13

## Entities must plan in advance

Property susceptible: Experts

By RODD ZOLKOS

MINNEAPOLIS—Because public entities are increasingly susceptible to catastrophic property losses, they must have plans in place for dealing with various risks before they ever occur, public risk management experts say.

Governmental entities are concentrating more and more of their value in single areas, which exposes more of their property to a disaster, noted Joseph J. Tonda, risk manager of Contra Costa County, Calif. Another exposure exists because many government buildings are very open to the public, which can make them extremely vulnerable to terrorism or other criminal attacks.

In addition, older government buildings often lack sprinklers and security systems, he noted.

Combine all that with an apparent rise

in anti-government organizations and the potential threat from disgruntled citizens or employees and public entities exposure is even greater, Mr. Tonda said.

"Put them together and you've got a potential explosive situation there, and we're all susceptible to that," he said.

Speaking as part of a panel titled "Design for Disaster" at this year's annual conference of the Public Risk Management Assn. earlier this month in Minneapolis, Mr. Tonda used his own county's situation to illustrate the potential risks facing public entities.

In 1995, Contra Costa County sustained a nearly \$15 million loss in arson fires at four county courthouses over a three-week period.

The fires in Contra Costa County limited the operations of four county departments and eight divisions. Approximately

See Exposure on page 10

# Digital

Continued from page 2

sounded for a while over this litigation, given the plaintiffs' lack of success, and I think it's done, over, finished," said Michael A. Cerussi Jr., a partner with Cerussi & Spring in White Plains, N.Y., who is national trial counsel for International Business Machines Corp. "This was their last blast."

In the consolidated case brought against Maynard, Mass.-based Digital Equipment Corp. by nine plaintiffs, a jury in U.S. District Court in Brooklyn last week exonerated Digital on all counts, including charges that the company was negligent in failing to place a warning on its equipment of possible injury and that the equipment was defective because of a lack of warning. The jury deliberated five hours following the six-week trial.

Plaintiffs in the case included Patricia Geressy, who had won a \$5.3 million verdict against Digital in 1996 (*BI*, Dec. 16, 1996). In April 1997, U.S. District Court Judge Jack B. Weinstein threw out the verdict and called for a new trial after new evidence suggested her injuries were caused by a neck condition unrelated to her work as an executive secretary for the Port Authority of New York & New Jersey (*BI*, May 5, 1997). The case subsequently was consolidated with that of the other plaintiffs.

RSI remains a hot issue in the workers compensation field. For instance, according to the California Labor Division's census, repetitive trauma disorders jumped 18.5% and accounted for nearly 34,000 of the 66,600 occupational illnesses that California employers reported in 1996 (*BI*, Jan 26).

But data compiled by the Alexandria, Va.-based Center for Office

Technology, a computer maker trade group, suggests it may be a dying issue insofar as litigation against keyboard manufacturers is concerned.

According to COT, few new cases have been filed over the past two or three years, and the trend over the past 18 months has been for plaintiffs to discontinue or settle their cases before trial.

Of the 400 cases that have been pending in the U.S. District Court in Brooklyn, for instance, 300 have been settled or discontinued by plaintiffs, leaving 100 active cases.

In U.S. District Court in Manhattan, 20 of the 40 cases have either been discontinued by plaintiffs or settled, while almost 100 of the 300 RSI cases in state court in Manhattan assigned to Administrative Judge Stephen G. Crane have been settled or discontinued.

Ms. Geressy was originally one of three successful plaintiffs in her liti-

gation against Digital. The \$302,000 verdict in favor of a second plaintiff, former legal secretary Jill Jackson, was set aside by Judge Weinstein on a post-trial motion because the statute of limitations on her claim had expired.

Judge Weinstein let stand the \$274,000 jury verdict in favor of the third plaintiff, Jeanette Rotolo, a former billing clerk with the Long Island Jewish Medical Center, and it is now the only victory to date by plaintiffs attorneys on the issue, according to COT. That case is now being appealed in federal appellate court in Manhattan.

"There's been a real downward trend in filings because, as this case reiterates, juries and judges do not believe that there's any signs that show any causality between using a keyboard and muscular skeletal disorders," said Sherry Saunders, COT's director of communications.

Juries recognize that the causes of

these injuries "are much more complex than might initially seem, and it's probably based on a multitude of things, including the design of the work area, the task the person is involved in, their overall general health and what they do also off the job," said Ms. Saunders.

She noted research indicates that people with certain health problems tend to be more prone to these disorders, including those who are overweight, have high blood pressure or smoke, as well as women who are pregnant.

An analogous situation, she said, is tennis elbow, which is not caused by the racket itself. "It's the swing, it's the tension you have in your arm and it may be you have weak joints, but it's not the racket."

"We would really hope that this would close the door on future keyboard litigation suits, because it shows the courts consistently reject the cases," said a spokesman for Houston-based Compaq Computer Corp., which acquired Digital earlier this month.

The jury verdict in this case is particularly significant because nine plaintiffs were involved, said George Newcombe, a partner with Simpson Thacher & Bartlett in New York who has defended similar cases.

The more plaintiffs, "the less likely the defendant will win, as a general matter, so the fact there were nine plaintiffs and the defendants still won is very significant, and really shows these cases are not going to be accepted by juries and have no merit," said Mr. Newcombe.

Dan Adams, an attorney with Bowman & Brooke in Minneapolis who has also defended these cases, agreed.

He noted he recently scored a victory himself in May, when a jury in federal district court in Worcester, Mass., exonerated his client, San Jose-based Wyse Technologies Inc., in a case brought by Massachusetts state employee Dianne Driscoll, who had claimed she developed carpal tunnel syndrome, a form of RSI, from the use of a Wyse keyboard. **BI**

## WHERE PUBLIC ENTITIES TAKE REFUGE.

Directors & Officers Liability  
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 • Entertainment & Sports • General Liability • Errors & Omissions • Surety • Financial Institution Risks • Public Company D&O • Healthcare Liability • Public Entity Risks  
 • Miscellaneous Professional Liability • Employment Practices  
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## CalPERS approves contract

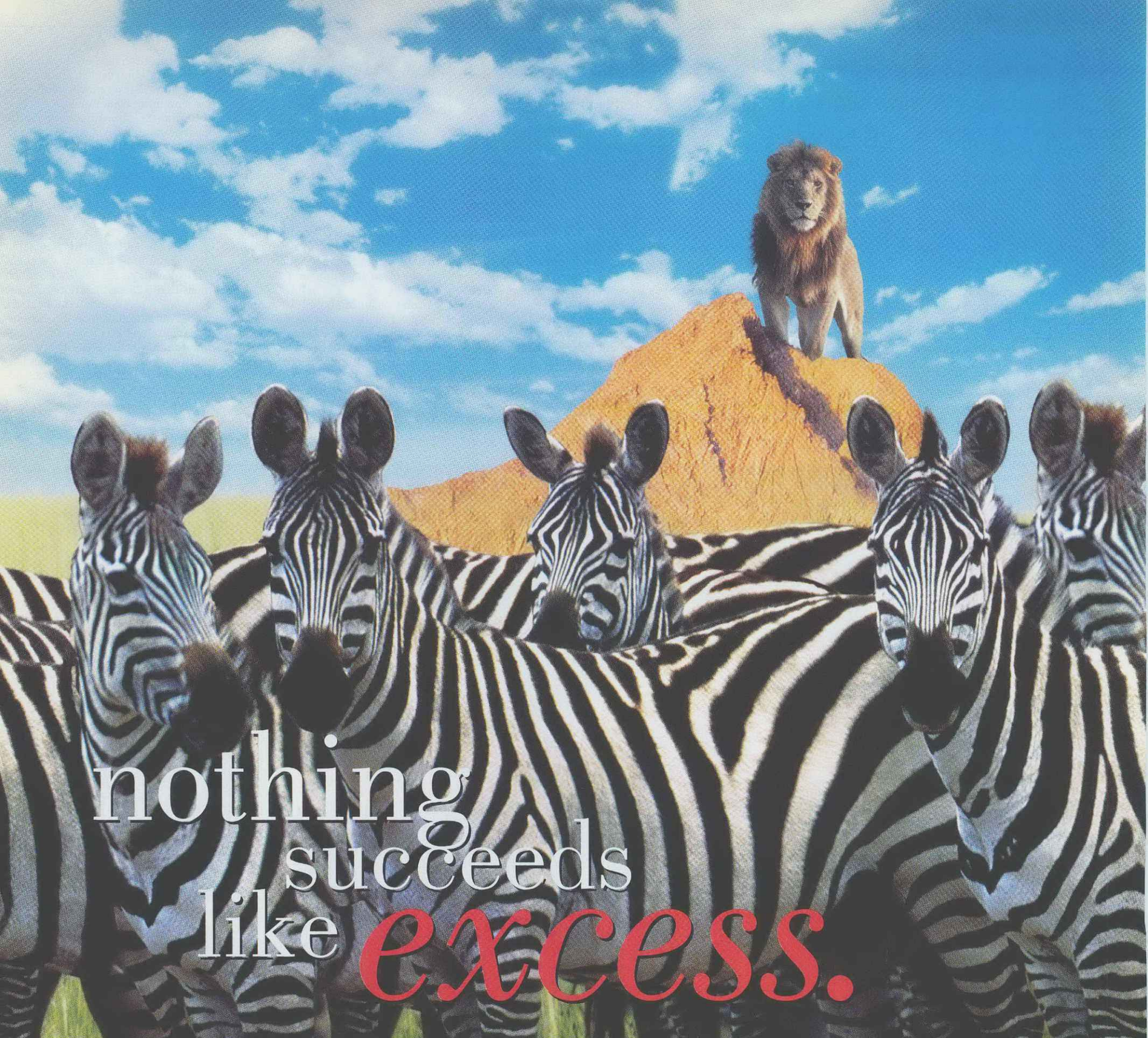
SACRAMENTO, Calif.—The board of the California Public Employees' Retirement System, as expected, approved a contract with Kaiser Permanente last week that calls for a 10.75% premium hike in its basic health plan in 1999 (*BI*, June 15).

The agreement approved last week, first by CalPERS' health benefits committee and then by the full board, also calls for CalPERS staff to collaborate with Kaiser on a quarterly review of Kaiser's relevant business and financial activities as well as an audit of its rating data and methodology.

CalPERS earlier balked at Kaiser's proposed 12% rate hike for next year.

Margaret Stanley, CalPERS health benefits administrator, said in a statement: "We do think that this sets a good example for the rest of the industry for greater purchaser involvement in the HMO decision-making process. We do think it's a good idea that should spread."

—By Judy Greenwald



nothing  
succeeds  
like *excess.*

*Excess Casualty Protection of a Different Stripe*

To survive in the wild, zebras rely on excess, using their camouflage to herd together in excessively large groups that make it virtually impossible for a predator to identify a single victim. Like this lesson in excess protection in nature, you also need to ensure your excess casualty survival with a call to Zurich-American.

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**ZURICH**

# 401(k) advice put on the Web

## Pilots, health plan workers sign on to learn, invest

By **CHRISTINE WILLIAMSON**  
Crain News Service

Two companies with special communication challenges are among the first wave of 401(k) plan sponsors to go to the World Wide Web for employee investment advice.

The Dallas-based Southwest Airline Pilots' Assn. and San Francisco-based Blue Shield of California, each with about 3,000 participants in their 401(k) plans, hired The 401(k) Forum in San Francisco to provide their employees specific and customized advice for investing their 401(k) plan assets.

Employees in each company will be able to access a company-specific Web site on the Internet and create personalized and secure home pages that will permanently store complete information about their 401(k) accounts. After answering a survey about their total financial picture, risk tolerance and retirement goals, 401(k) Forum's optimization model will create for each employee a customized asset allocation, based on the investment options available in their 401(k) plans. Employees eventually will be able to implement the suggested allocation instantly.

David Fisser, chairman of the 401(k) committee of the Southwest Airlines Pilots' Assn., said he looked at traditional print education programs, but they were too slow and cumbersome for a group as technologically sophisticated as airline pilots.

"We're in instant-gratification mode; we're used to moving at 450 knots an hour. With a tool like The 401(k) Forum, pilots can get everything done instantly via the Internet. It's perfect for our demographics."

The pilots, said Mr. Fisser, are accustomed to doing all their scheduling via CompuServe now, as the work force is scattered all over the country, works around the clock and never really comes into the "office."

"We don't have a traditional work force, and we don't have a traditional work place. There's no time or even a place to come in for an employee meeting. We needed a different way to impart information to our group, and the Internet seemed the best way," he said.

Pilots have been asking for specific asset allocation advice, Mr. Fisser said, and he was concerned they get some education along with very consistent advice. The methodology The 401(k) Forum uses to construct its asset optimization model is also very close to the way the pilots' association's 401(k) committee thinks, said Mr. Fisser.

The Southwest Airline Pilots' Assn. offers its participants an unbundled plan package, with 10 investment options from multiple managers. Hewitt Associates L.L.C. in Lincolnshire, Ill., is the \$411 million plan's record-keeper. Pittsburgh-based Mellon Trust is the trustee.

The new investment advice program from The 401(k) Forum will be introduced July 1.

Blue Shield of California had tried many forms of print investment education materials, but it wasn't clear that employees were reading and absorbing the message, said Susan W. Hasselkuss, benefits administrator of the \$80 million 401(k) plan.

"We wanted to provide more education for employees in a form they could access from home. Because our production workers are on the telephone, we can't free them up to work on their 401(k)s at work. We had to make it convenient for them and in a format they will use," said Ms. Hasselkuss. Employees had requested more direction and some expressed a need for investment advice, which

prompted the company to use 401(k) Forum, rather than a straight educational program.

The Blue Shield plan uses bundled services from American Express Retirement Services in Minneapolis. Six investment options are managed by American Express and one is from an outside manager, the PAX Socially Responsible Fund. Ms. Hasselkuss said the company is considering adding a small-capitalization stock fund as an eighth option. The 401(k) Forum advice program started June 1.

Not all the bells and whistles a plan participant eventually will be able to get on the Web sites are quite ready yet, said David A. Peckman, vp-marketing at The 401(k) Forum.

The company is working hard to reach full automation. Next on the list

is the establishment of a direct link to a plan's record-keeping system to put account balance information onto the Web site. Next will come transaction capability, so employees can instantly implement investment changes recommended by their personal profile.

The 401(k) Forum now has six clients for its advisory service, with many more companies close to making deals, Mr. Peckman said.

The cost of the participant advice service ranges between \$20 and \$50 per person per year, with one-time startup costs between \$25,000 and \$75,000. All current clients pay fees from corporate coffers.

*Christine Williamson is a reporter for Pensions & Investments, a sister publication of Business Insurance.*

# Loyalty

Continued from page 3

- Teamwork behavior.
- Willingness to recommend an employer and its products and services.
- Intention to continue working for a current employer.

Aon categorized the 17 drivers into five areas: work/life balance; benefits and compensation; organizational culture, leadership and direction; management of change; and employee selection, training and development.

Aon Consulting based its commitment correlations on a scale of -1.0 to +1.0, with a score of 0.07 or greater indicating a correlation between an individual factor and work place commitment.

Within the area of work/life balance, management's recognition of the importance of personal and fami-

ly life measured 0.53 on the commitment correlation scale, ranking it as the factor most significantly influencing work force commitment.

Within the same area of work/life balance, how well coworkers meet expectations in supporting an employee's needs as a person and not just as a worker measured 0.40 on the scale, while how well the balance between the job and other parts of life meets workers expectations measured 0.30 on the scale.

Among benefits-related factors that drive commitment are how well benefit expectations are being met, which measured 0.38; satisfaction with the company's benefits communication, which measured 0.36 on the correlation scale; and the employee's perception that his or her benefits are competitive with what other organizations offer, which measured 0.32, according to the survey.

The survey also found that 57% of

*Continued on next page*

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Continued from previous page  
workers think that employee benefits are the most important factor in attracting and keeping employees. Forty-four percent of workers said that, after salary and benefits, the degree of personal and family time allotted is most important.

"Benefit plans, by their nature, recognize personal factors of a worker's life and significantly impact a family's finances," the survey says.

About 66% of the survey respondents said they are satisfied with their employers' benefits communications, and those who are satisfied are significantly more committed to their employers' success, according to the report.

The survey also lists 23 specific benefit offerings that survey respondents had positive experiences with and that have a significant correlation to commitment.

The five that showed the most sig-

nificant correlation with commitment are: employer-paid pension or retirement plans, 0.30; employee assistance programs that provide individual counseling for personal problems, 0.29; flexible work schedules, 0.28; the ability to choose benefits that best fit an employee's needs, 0.27; and employer-matched retirement savings plans, 0.27.

The five benefit offerings that ranked at the bottom of the list are prescription drug cards and long-term care insurance, both of which ranked 0.07 on the scale; vision insurance, 0.09; dental insurance, 0.10; and on-site or near-site day care for children, 0.11.

Initially, it was surprising that employee assistance counseling ranked so highly, said David Stum, president of Aon Consulting's Loyalty Institute. "But as you look at the other parts of the study, you see that employees are more stressed out than ever, so those programs would

be important," Mr. Stum said.

Employees now consider traditional benefits such as medical coverage as entitlements, and they take for granted that these traditional benefits will be provided. For that reason, non-traditional benefits, such as individual counseling and flexible work schedules, do a more powerful job of retaining employees, said Mr. Stum. "The trick is for employers to figure out which (non-traditional) benefit is most useful," he said.

Mr. Stum said that the low commitment correlation with on-site day care facilities does not contradict the key finding of the importance of management's recognition of family life. He said that on-site day care refers to a specific service that will be a priority only to a relatively small percentage of the workers surveyed, whereas many employees want management to recognize the importance of their home lives.

"Management recognition covers everybody who has something going on in their lives other than work," not just people with children, Mr. Stum said.

Employees were asked questions about experiences they've had with specific benefits. The survey also asked them how important they considered each benefit and its availability at their job site.

When benefits are examined from the standpoint of availability rather than experience with the benefit or importance of the benefit, the ability to buy stock measured 0.20 on the commitment correlation scale, profit-sharing plans measured 0.17, defined benefit pension plans measured 0.16, employer-provided stock measured 0.15, and cash bonuses measured 0.14.

Within the area of work/life balance, how well coworkers meet expectations in supporting an employee's needs as a person and not just as

a worker measured 0.40 on the scale, while how well the balance between the job and other parts of life meets a worker's expectations measured 0.30 on the scale.

The survey also found a strong relationship between job stress and job commitment.

Job stress causes 53% of respondents to feel burned out and demonstrate less commitment to their employers. That percentage is up from 39% in a life-stage needs survey that Aon conducted in 1995. The additional stress may be the result of increased time spent at work. In 1998, 23% of respondents report that they work an average of more than 50 hours weekly, up from 13% of respondents in 1995.

Personal life stress, which has a less-significant impact on commitment than does job stress, was reported by 28% of employees, up from 27% in 1995.

Since 1995, the number of work days missed for job-related stress has increased 36%, according to Aon.

The survey also found that the average employee misses 11.5 days each year to handle personal and family matters. When sick time is included, the number increases to 15.1 days per year, up from 13.6 absences per year in 1995, said Pam Brown, survey systems manager of Aon Consulting's Loyalty Institute. In general, though, the time missed from work to deal with personal issues does not indicate a lack of commitment, the survey states.

Mr. Stum said that employers and employees have a different impression of work/life balance. "I'm not sure if employers understand how much work/life changed because of mergers, acquisitions and downsizing," said Mr. Stum. "They may (only) understand in theory what having two jobs or working 12 hours a day means. Our study found that senior managers answered (work/life questions) much differently than employees and first-level supervisors."

Employers can implement programs to help employees balance their work with their personal lives, the survey authors suggest.

Preventive medical care benefits, flexible work schedules, employee assistance programs and family/employee-friendly time-off programs lessen work absences and foster appreciation for the employer.

One example of a family/employee-friendly program is a time-off bank, said Ms. Brown. These programs vary from company to company, but each provides time off for a variety of reasons without requiring employees to distinguish between various types of leave, such as sick leave or vacation time, Ms. Brown said.

For example, an employee would not have to differentiate between time needed off to take a child to the doctor and time required for a personal checkup. These programs also allow employees to take off portions of days instead of requiring them to take off whole days.

The programs can include a variety of options, Mr. Stum said. Some examples are an employee who asks for and receives time off to assist a spouse who has had a baby, to attend an out-of-city conference with a spouse or to go on a hiking trip with family members.

Copies of "America @ Work" are available at no charge. To request a copy, call 800-438-6487. The study is also posted on Aon Consulting's World Wide Web site, <http://www.aon.com>.

At the end of August, Aon will publish additional information about benefits and compensation. The book will build on and further detail the "America @ Work" findings.



## Opinions

## Retiring burdens on plans

HOW OFTEN IS IT that President Clinton and the Speaker of the House Newt Gingrich, Senate Majority Leader Trent Lott and House Minority Leader Richard Gephardt are on the same stage talking about the same subject?

That happened earlier this month when the nation's top political leadership as well as about 200 government leaders and others met at a conference in Washington known as the National Saver Summit.

That bipartisan gathering to discuss retirement issues is yet another sign, a very welcome one, about the sea change in government attitudes about pension plans and retirement security.

It was only a few years ago that congressional and administration staffers engaged in a nearly annual legislative ritual of whacking the guts out of pension plans.

Among the proposals put in place during those pension plan bloodbaths were ever more complicated non-discrimination rules and lower and lower limits on maximum benefits that could be funded through pension programs.

In that kind of climate, is it any wonder that the number of defined benefit plans has declined so much?

That former indifference to the ramifications of bad government policy toward corporate pension programs appears to be over. Now, the trend in Congress is to advance and enact legislation that encourages employers to offer and maintain pension plans.

Consider that during the last two congressional sessions, measures were enacted that cut back on some of the red tape employers had to deal with in administering their plans.

And we think the stage is set—perhaps not this year, but during the next congressional session—for enactment of the bipartisan Retirement Security Act, which goes even further in eliminating unnecessary



administrative burdens and enhancing the appeal of pension plans to employees than proposals enacted to date.

The reason for this refreshing change is simple: Policymakers recognize that policies must be put in place soon to assure that as baby boomers begin to retire in the next decade, they will have adequate income from private pension plans.

Constructive government action to enact legislation incorporating changes, such as making it easier for employers to offer pension plans and to allow employers and employees to contribute more to those plans, will go a long way to assure that retirement savings are adequate for the next big generation of retired workers.

## Tailor benefits to promote loyalty

IT SHOULD COME as no surprise to employers that employee benefit programs are regarded by workers as a key factor in attracting them to and keeping them at a particular company.

But the benefits that result in the greatest degree of commitment—and those that inspire workers the least—may be a surprise to some.

As we report this week, a new survey by Aon Consulting Worldwide found that more than half of workers surveyed—57%—say employee benefits are a key draw for employment.

Employee benefit communication and a sense that benefits were competitive with other employers were important to benefits satisfaction among workers, the survey found.

Employee benefits were among several factors the survey examined for their ability to inspire loyalty and commitment to a company. The most important factor, the survey found, was management recognition of the importance of personal and family life to workers.

It stands to reason, therefore, that employers that offer benefit programs designed to help workers balance the demands of their job with their obligations or interests off the job would be even more effective at inspiring loyalty.

Such programs, which have grown increasingly popular among employers and employees, include flexible scheduling, telecommuting and dependent care resources (BI, June 15).

The Aon survey found that benefits that generate the greatest employee commitment or loyalty to their company were employer-paid pension or retirement programs, followed, in descending order, by employ-

ee assistance programs, flexible scheduling and flexible benefit plans.

The survey's biggest surprises came in its list of benefit plans that had the least correlation to employee commitment to their employer.

At the bottom were prescription drug cards and long-term care insurance, both weighted equally low by respondents.

The next lowest, in ascending order, were vision insurance, dental insurance and onsite or near-site day care centers.

That last one—day care—is surprising because so many employers have identified a need for reliable and convenient day care for workers as a key work/life benefit.

It is important to note that some benefits may not have a high correlation to employee loyalty simply because some benefits, such as health care coverage, have been taken for granted because virtually all major employers provide them.

When benefit programs are viewed in terms of availability, rather than personal experience, employees' top choices strayed from pension and welfare plans and were focused on stock offerings and options, company matches for retirement savings and cash bonuses.

Before employers rush out and dump the benefit plans listed as offering the least bang for the buck, they should survey their own workers on what benefit offerings are most important to them. They may find a very different lineup is key to inspiring the loyalty and satisfaction that benefit plans are designed to provide. And keeping workers happy is the key to keeping them productive.

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# PRIMA

Continued from page 3

new risk transfer products, Ms. Hutter said, "In our own firm, candidly, if it doesn't pan out, it's research and development."

In addition to derivatives, which Ms. Hutter believes could be used by entities to optimize their risk profiles, other emerging product structures Ms. Hutter believes risk managers will need to consider are: securitization, which could produce additional insurance capacity without the credit risk potential of an insurance contract; contingent liquidity facilities,

which allow entities access to cash when needed without incurring debt prematurely; and multiline/multiyear insurance programs, which she said would allow for more efficient risk management.

Already in the marketplace to various degrees, the new product structures will become ever more prominent, Ms. Hutter said, because, "out on the horizon, we see pressures on the industry."

Public risk managers must consider the various risk transfer options emerging as part of their overall need to maintain "stability" for their entities, Ms. Hutter suggested.

She posed the rhetorical question,

"Why is stability needed?" answering, "I think another way to phrase it is, 'Why does anyone buy insurance anyhow?'"

Among the primary reasons, she suggested, are predictability and accountability.

"It's not responsible to operate on a 'We'll see what happens tomorrow basis,'" Ms. Hutter said. And in public entities, which are reliant on taxes for most of their funds, there's even less flexibility to see what tomorrow brings than in their private sector counterparts.

Also, planning and budget cycles tend to be longer than in private sector entities, making it difficult for

public bodies to "raise prices" immediately if needed to offset a loss.

"Of course, you have a steady income base, but you have to balance that against cyclical costs of risk," Ms. Hutter said. She noted that while a soft market is a short-term boon to public entities, with public entities typically budgeting on the basis of historic costs, a hardening insurance market can create significant problems.

With their ability to spread significant amounts of risk over a large taxpayer base, public entities have much in common with Lloyd's of London, Ms. Hutter suggested.

But, she said, as with Lloyd's, when

public entities' losses greatly exceed the expectations of those bearing the risk, it might become difficult to get those ultimate risk-bearers to accept the cost.

As risk managers look to maintain stability, instability is driven by several factors. Among them, Ms. Hutter said, are economic cycles that manifest themselves in ways such as interest rate fluctuations.

"In addition to the economic impacts, we have the natural catastrophes, and these don't listen to anything Chairman Greenspan says."

Then there are cycles in the insurance market itself. In the present soft market, industry competition, coupled with the impact of liability tort caps and sovereign immunity in many states, have made public entities a coveted market segment.

"I don't see any significant change in the near term," Ms. Hutter said. "Ultimately, inadequately priced products will have to have a correction."

But, she said, "my own view is that the market is likely to continue to decline for several more years unless there is a significant trigger event."

And, Ms. Hutter said, in the current market it would probably take more than one such trigger event to provoke any significant change. E

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## Exposure

Continued from page 3

124,000 files had to be restored and 200 workers had to be moved, creating additional security considerations as they were relocated to temporary facilities.

In such situations, losses can add up quickly, said Chris Stafford, vp at claims adjusting firm Maxson Young Associates in San Francisco. "It's very easy to spend excess of \$5 million relocating any significant government agency such as a court or a jail," he said.

In that context, it's important that public entities know up front that they have the insurance coverage in place to deal with any and all catastrophic losses.

"Do you have adequate valuable paper coverage?" Mr. Stafford asked Contra Costa County, he said, spent an average of more than \$50 per document freeze-drying and restoring documents damaged in the courthouse arsons.

"It's a very expensive proposition, very labor-intensive and literally can take years," he said. "Do you have the limits you need for that type of exposure?"

Public library losses can be much easier to deal with after a disaster if you manuscript into your insurance coverage the valuation of the library's books, Mr. Stafford said.

"Sometimes a simple look to see where your values are can really lessen your exposures," he said.

Mock catastrophe drills also might be something to consider before a loss occurs, Mr. Tonda said. They are good tools to prepare for dealing with a catastrophic loss situation. And risk managers, he said, should "pre-test" how their entities' insurance policies will respond by reading them for any gaps in coverage.

"In a major disaster, in many cases your insurance will not be enough," said Ted Davidson, president of broker Robert F. Driver Associates in Newport Beach, Calif.

In trying to establish value at risk, make it simple, he said. Ask what is your maximum financial loss, determine major perils and minor perils, add up all the expenses: renting space, moving costs, restoration of valuable paper, and buy a limit that exceeds that amount.

"Every entity can have a flood loss," Mr. Davidson said. "As a general rule, See Exposure on page 12"



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# Public entities' cost of risk up 8%: Survey

By **RODD ZOLKOS**

Public entities' average cost of risk increased 8.1% between a 1994-95 survey and the 1996-97 version, though the portion spent on workers compensation—the largest component of governments' cost of risk—declined slightly over the period.

The second biennial version of the Cost of Risk Evaluation in State and Local Government conducted by the Public Risk Management Assn. and Deloitte & Touche L.L.P., released earlier this month at PRIMA's annual conference in Minneapolis, also showed growing sophistication among public entity risk management programs.

Among counties and schools, the percentage that reported employing a full-time risk manager increased since the prior survey; up to 89% of counties from 85% in the earlier report and up to 82% of schools from 75% in the earlier survey.

Also, an increasingly large percentage of respondents reported paying brokers on a fee-for-service basis rather than commissions.

The latest survey indicates that 59% of the entities compensate brokers on a fee-for-service basis and 41% on commission, a considerably lower percentage than the

75% that reported paying their brokers on a commission basis in the first survey.

Overall, 53% of those questioned reported using two or more brokers to place their coverages.

This year's survey showed governments' total average cost of risk to be \$6.7 million, up from the \$6.2 million reported in the prior study. The survey's authors attributed the increase to larger self-insured claims in the property and workers compensation areas.

Components of the cost of risk in the survey included the sum of property insurance premiums and retained losses; the sum of liability insurance premiums, pool entry



fees and retained losses; the sum of workers comp premiums, pool entry fees, retained losses, and safety and loss control expenses.

The survey showed workers compensation continuing to represent the lion's share of governments' cost of risk, 56% on average, though that figure is down from the 58% workers comp represented two years earlier.

Property costs, meanwhile, increased as a percentage of the overall cost of risk, to 13% from 8% in the prior survey. The survey showed an overwhelming percentage of governments—82.4%—purchasing "all risk" property coverage, with nearly all—94.2%—buy-

ing that coverage on a replacement cost basis.

Liability's percentage of the total cost of risk was down, representing 31% of the total in the latest survey as opposed to 34% in the earlier version. Liability insurance premiums make up 62% of the liability risk cost, with retained losses representing the other 38%.

Overall, the survey showed essentially no change in the percentage of governmental entities employing full-time risk managers: 72% of those responding to the current survey vs. 73% in the prior version.

Likewise, there was no change in the size of the average public entity risk management department, with the average overall number of

full-time employees in risk management departments holding steady at six. State risk management departments reported the largest average full-time staffs at 19 and city departments the smallest with five employees.

The most recent state and local government cost of risk survey gathered information from 19 states, 70 counties, 134 municipalities, 34 schools and/or universities, and 37 other types of entities, such as utilities, pools or special districts. It examined risk costs for fiscal year 1996.

*PRIMA members may obtain free copies of the survey results, and non-members may purchase complete copies of the results for \$95 plus \$8 shipping and handling, from PRIMA by calling 703-528-7701 or by visiting PRIMA's World Wide Web site at <http://www.primacentral.org>.*

## Exposure

*Continued from page 10*  
look at what's in the flood zone. You're going to lose 100% of that."

"Very, very few people buy enough earthquake," he said. "They just buy it because they have to."

And when a catastrophic loss does hit, it's important to keep appropriate records detailing the costs of the recovery, Mr. Tonda said.

"If you're going to have a loss, set up your loss ledgers and document it. You'll get reimbursement, but only if you have documentation," he said.

It's important to document extra expenses such as renting temporary space, furniture and equipment, overtime, security services and moving costs, Mr. Tonda said.

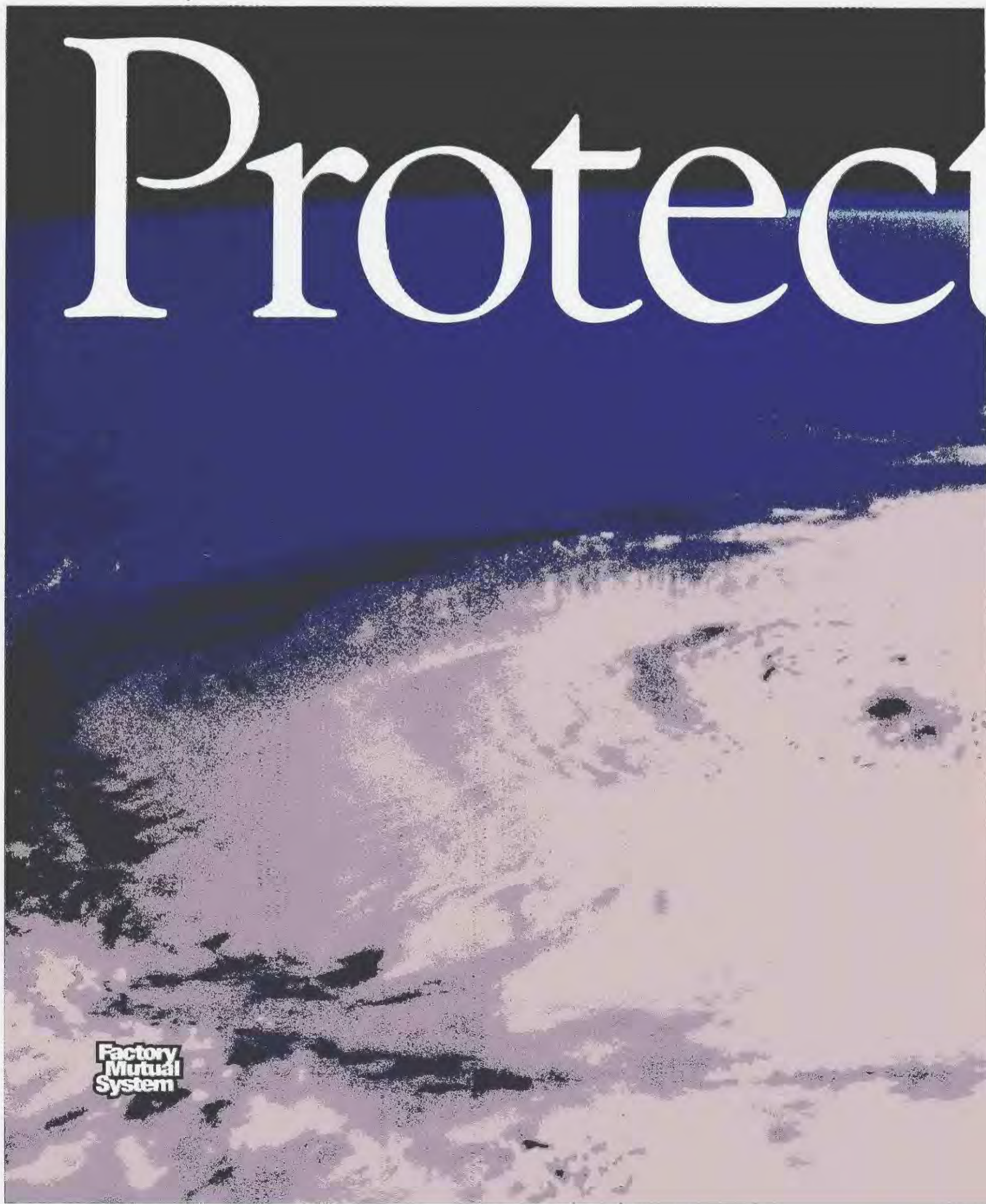
And government agencies also should have pre-approved purchasing powers for such situations so they don't have to go through the request for proposals process when a catastrophe occurs and instead can move quickly with recovery operations.

Faced with such a loss, it's important that public sector risk managers take advantage of all the resources available to them, such as outside contractors, both for physical repairs and accounting services; various experts, such as computer and document restoration experts; adjusters and brokers, Mr. Tonda said.

"The broker knows what's covered and what's not covered in your policy," the risk manager said. "I don't know how many catastrophic losses you've been through. These were the only catastrophic losses I've been through. The broker and the adjusters see them all the time."

Mr. Stafford said he's been adjusting catastrophic claims for public entities for almost 25 years, and in almost every case the risk manager has had no prior experience with a major loss. But, he said, "While this may be your first experience with a major disaster, it's usually not the adjuster's."

Risk managers of other public entities that have had similar experiences also can be valuable resources. "If this ever happens to you, call someone who's been through it," Mr. Tonda said. "They're great resources." **BI**



# Individual pools make their own future

## Panel advises municipal self-insurance pools to meet members' needs

By **RODD ZOLKOS**

MINNEAPOLIS—The future of municipal self-insurance pools likely will rely more on how individual pools operate as a business rather than any general trend in risk pooling, a panel of experts concludes.

In the current insurance market climate, successful pools will be those that show they are best able to meet their members' needs, the panelists agreed during a session entitled, "Does Pooling Have A Future?" at

this year's annual conference of the Public Risk Management Assn. earlier this month in Minneapolis.

"In my opinion, it's not so much does pooling have a future," said Gary Martin, senior vp at Aon Risk Services in San Francisco. Instead, Mr. Martin said, the question is "Does your pool have a future based on what's going on?"

Pooling itself isn't likely to disappear for several reasons, Mr. Martin said. Among them is the fact that there is currently about \$6 billion in premium generated by the approximately 500 public entity self-insurance pools.

"Basically, there's not a great reliance by the public sector on purchasing insurance," he said. As a result, the traditional insurance

industry has instead developed a product and service base to serve public entity pools.

And new elected officials are coming into office who lack familiarity with the market forces that

**A key to their survival is that pools need to be in control of their own costs and need to do so in such a way that those costs are elastic, according to Marvin Townsend.**

But, he said, the ongoing soft commercial insurance market is leading some public risk managers to re-evaluate their self-insurance programs.

prompted the move to self-insurance in the public sector.

In that environment, and with no political urgency to pool to obtain lower coverage costs, "I think

your pool growth now is strictly subject to market forces because you've lost the main reason pools came together," Mr. Martin said.

The convergence of insurance and the banking industries will be another factor affecting interest in pools, as there will be increased use of investment capital by large financial institutions to help governments streamline their financing of risk across the board.

Complicating matters further is the fact that those financial institutions are companies "that have the ears of your elected officials and chief financial officers," Mr. Martin said.

In his consideration of the question before the panel, "Does pooling have a future?" Marvin Townsend, director of the Texas Municipal League Intergovernmental Risk Pool in Austin, Texas, said, "Our response is 'Of course.' I don't know why we're even asking the question."

But, he conceded, there are some valid concerns with the status quo.

One is that some pools have become so controlled by the insurance companies or other service contractors with which they do business that they've lost touch with local government. Another concern is some pools are not taking enough risk.

A key to their survival is that pools need to be in control of their own costs and need to do so in such a way that those costs are elastic, according to Mr. Townsend. If they lose members they need to be able to cut costs to offset the loss.

Another key consideration is that pools need to view equity as a real strength, he said.

"To me, you need to be keeping your members' equity. You need to be using it to their advantage," Mr. Townsend said. That equity allows a pool to take on risk and generate interest income, and the Texas pool executive advised pools to take on all the risk they can and let their equity grow rather than their reinsurers' equity.

Returning equity to members builds false expectations among members, Mr. Townsend said. More appropriate would be reducing members' rates when times are good.

He also suggested that pool officials should "Challenge your actuaries' conservatism" and make their own decisions about how much risk the pool should take.

Mr. Townsend advised pool officials to avoid "crutches" such as depending on members' loyalty.

"I never have understood what loyalty was," he said. One thing members will listen to is price, he suggested, "and that's about the only thing."

Other crutches to avoid, he said, are the notion that members can only leave once a year and the idea that the pool is serving only good risks.

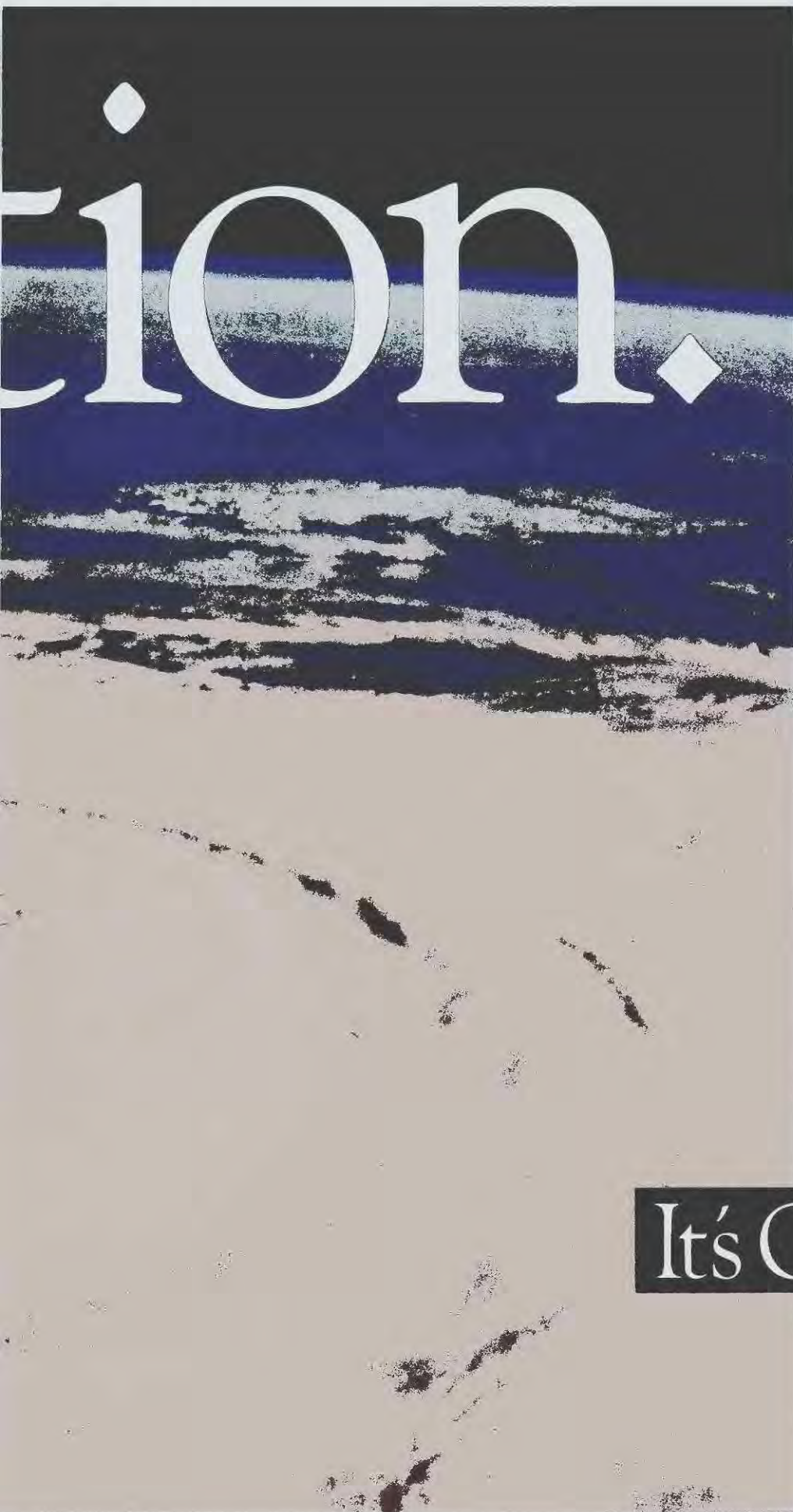
Pool officials also need to be wary of the notion that "you are a hero if you give money back," or the idea that they can't afford to pay top salaries.

They also need to avoid the idea that contracting out or "privatizing" services is inherently good. "You all wouldn't be here if privatization is automatically good," Mr. Townsend said.

Saying he sees some pools "traditionally in a business plan of non-growth," Aon's Mr. Martin said that pools need to avoid having stagnant business plans.

They should view the human capital of their members as a resource and a source of information, he said, and they must be prepared to meet members' needs.

See Pools on next page



"Everybody talks about the weather, but nobody does anything about it."

—Charles Dudley Warner, 1890

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## Pools

*Continued from previous page*

"You know what your members' needs are out there," Mr. Martin said. "Step out and have the conviction to do it."

Harold Pumford, chief executive officer of the Oklahoma Municipal Assurance Group in Oklahoma City, said his pool is in the process of doing just that, looking to provide a greater range of services to its members.

In diversifying its portfolio of service offerings beyond the traditional insurance sphere, the Oklahoma pool's plan is that "when you have a real bad year you can remain in business," Mr. Pumford said.

The Oklahoma pool is looking at providing members such services as human resources management, employment testing and the like, as well as ways the pool can help members

deal with cash-flow interruptions.

"Are there ways in which municipalities can cooperate to address those kinds of issues and should the pool be allowed to do so? We think so," Mr. Pumford said.

The Oklahoma pool also is considering becoming involved in joint purchasing for members and serving as an investment pool.

All the while, however, it's important that the pool never forgets "where we came from," Mr. Pumford said. It will always have to be "a long-term source of coverage," he said. But, "that doesn't mean we can't look at new areas."

That sort of approach ultimately will decide which pools will be among those that survive the current wave of competition for public entity business from traditional insurers, Mr. Martin concluded.

"Does pooling have a future for you depends on how you operate your pool," he said. **BI**

## PRIMA draws 2,000

### New executive director takes helm

MINNEAPOLIS—

This year's 19th annual conference of the Public Risk Management Assn. drew more than 2,000 risk management professionals to the Minneapolis Convention Center June 7-10.

During this year's conference, titled Navigating the Changing Currents, PRIMA introduced its new executive director, James F. Coyle, deputy superintendent of the U.S. Fire Administration National Academy.

Mr. Coyle takes his new post July 1, replacing Dennis Kirschbaum, who is leaving



PRIMA after eight years as the organization's executive director to pursue a graduate degree.

Also at this year's conference, Thomas A. Vance, risk manager of

Anaheim, Calif., was presented PRIMA's 1998 Public Risk Manager of the Year Award, co-sponsored by Coregis Insurance Co.

Next year's 20th annual PRIMA conference, titled Creating the Perfect Climate, is scheduled for June 6-9, 1999, in San Diego. For more information, call PRIMA at 703-528-7701.

## M&A

*Continued from page 1*

On the other hand, some insurers are shedding lines of business in the belief that they must become more focused to become more competitive.

"Both chants are heard within the M&A marketplace today. Neither one is the correct perspective on becoming more competitive, and either one can be effective depending on the circumstances," Conning's report says. "However, regardless of the strategic approach being used, ultimately, restructuring within the industry is intensifying because conditions are perfect for buying and selling," the report states.

In the first quarter of this year, total transaction values were \$22.5 billion, compared with \$12.2 billion in the first quarter of 1997, and the number of transactions increased to 104 from 97 in the year-earlier period.

All sectors of the insurance industry are being affected by the increased activity, the report says.

Property and casualty insurers are expanding or finding niches in a mature market by buying and selling, the report says. Last year, 55% of the total industry merger and acquisition transaction value was generated by the property/casualty sector.

"Their desire to expand distri-

**'In commercial lines, consolidation has become one of the few ways to increase top-line growth,' the report says.**

bution channels, penetrate niche markets or improve geographic spread will be strong for at least the next few years. As a result, we do not see consolidation in the sector tapering off soon," the report says.

Mergers and acquisitions among brokers and agents will continue apace as brokers also try to grow in a low-growth environment by buying competitors and expanding abroad, the report says.

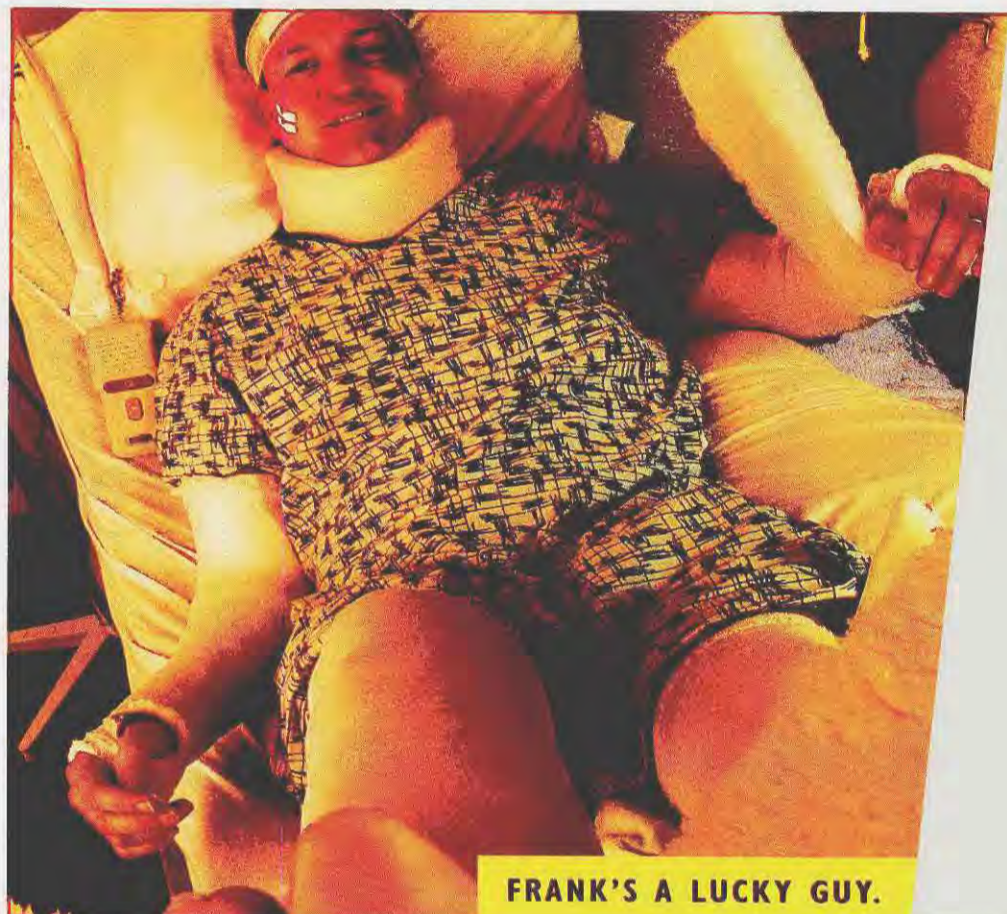
"In commercial lines, where pricing is as soft as a marshmallow, consolidation has become one of the few ways to increase top-line growth, because organic growth is almost non-existent," the report says.

The insurance services sector is seeing more activity as insurers outsource more services. In particular, software companies servicing the insurance industry are growing and are buying competitors, the report says.

Health insurers and managed care companies have seen less merger and acquisition activity than some other areas over the past two years, but that is likely to change as the valuations of managed care companies have been reduced as profits have fallen in the competitive market, said Nancy Carini, an analyst at Conning who wrote the report.

"The whole health care industry is in transition. Provider groups are growing, and the managed care companies will need to grow to deal with those companies," she said.

Copies of "Mergers & Acquisitions and Public Equity Offerings—The Best of Times, the Worst of Times," cost \$550 and can be obtained by calling 888-707-1177.



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## Datebook

### JUNE

**JUNE 28-JULY 1. Workshop on serving internal customers** in Vancouver, British Columbia, sponsored by the Insurance Marketing Communications Assn. \$525 for members, \$625 for non-members and \$175 for spouses or guests. Bill Hadley, IMCA, 9710 N. 80th Place, Scottsdale, Ariz. 85258; 602-443-8860.

**JUNE 28-JULY 2. Healthcare Financial Management Assn. 1998 Annual National Institute** in Nashville, Tenn., sponsored by HFMA; \$874 for members and \$974 for non-members. HFMA, 2 Westbrook Corporate Center, Suite 700, Westchester, Ill. 60154-5700; 800-252-HFMA.

**JUNE 29. Brokers Liability** seminar in London, sponsored by EuroForum; £499 (\$824) plus VAT. EuroForum, 45 Beech St., London, EC2Y 8AD England; 44-171-878-6888.

**JUNE 30-JULY 1. "Exit Strategies for Discontinued Lines of Business"** seminar in London, sponsored by EuroForum; £899 (\$1,485) plus VAT. EuroForum, 45 Beech St., London, EC2Y 8AD England; 44-171-878-6888.

### JULY

**JULY 7. "Negotiations—From Novice to Expert in One Day,"** seminar in Chicago, sponsored by the Insurance School of Chicago; \$110. Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2520.

**JULY 8-9. Directors' & Officers' Liability Insurance and Employers' Liability Insurance** conferences in London organized by IBC Global Conferences Ltd; £937.65 (\$1,548.53) for both. One-day registration available. Bookings Department, IBC Financial Focus, 57-61 Mortimer St., London, England W1N 8JX; 44-171-453-2706.

**JULY 12-15. Creating Success in a Global Marketplace** seminar in Sydney, Australia, sponsored by the International Insurance Society Inc. \$1,500 for members and \$1,800 for non-members. International Insurance Society Inc., 101 Murray St., Fourth Floor, New York, N.Y. 10007-2165; 212-815-9291.

**JULY 13-14. Managing Vendor/Partnering Relationships** course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$550 for members and \$650 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

**JULY 13-15. Insurance Conference on Psychological and Neurological Injury Claims** in Sun Valley, Idaho, sponsored by MED/Psych Corp.; Tuition waivers available for insurance employees, \$385 for non-insurance employees. Dr. Pamela Silvain, 4984 Palm Coast Parkway N.W., Suite 5, Palm Coast, Fla. 32137; 904-446-4300.

**JULY 15. Workers' Compensation in Illinois** seminar in Collinsville, Ill., sponsored by Lorman Education Services; \$169 for one registrant, \$159 each for two or more registrants from the same firm. Lorman Education Services, P.O. Box 509, Eau Claire, Wis. 54702; 715-833-3940.

**JULY 15. "Feeding the Monster—The Courts and Legal Cost Control,"** seminar in Chicago, sponsored by the Insurance School of Chicago; \$110. Insurance School of Chicago, 175 W. Jackson Blvd., Suite 2200, Chicago, Ill. 60604; 312-427-2520.

**JULY 15-16. The Components of Benefit Technology** course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$550 for members and \$650 for non-members. Registrations Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-

786-6710, ext. 8257.

**JULY 19-22. National Symposium on Workers' Compensation** in Dearborn, Mich., sponsored by the School of Labor and Industrial Relations at Michigan State University; \$595 for government employees and \$695 for all others. School of Labor and Industrial Relations, Michigan State University, 422 S. Kedzie Hall, East Lansing, Mich. 48824-1032; 517-355-9591.

**JULY 20-21. Property/Casualty Claims Management** conference in Atlanta, sponsored by the Institute for International Research; \$1,395. Customer Service Manager, Institute for International Research, P.O. Box 102914, Atlanta, Ga. 30368-2914; 888-670-8200.

**JULY 20-21. Servicing the Alternative Market** conference in New York, sponsored by the Institute for International Research; \$1,395. Customer Service Manager, Institute for International Research,

P.O. Box 102914, Atlanta, Ga. 30368-2914; 888-670-8200 or 941-951-7885.

**JULY 20-23. Essentials of Public Sector Benefits Administration** course, in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$1,100 for members and \$1,300 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-33-IFEBP or 414-786-6710, ext. 8257.

**JULY 21-22. Reinsurance for Property/Casualty Companies** seminar in Toronto, sponsored by Fells Road Group Inc. and Michael Conn Associates; \$950. Fells Road Group, Inc., 271 Route 46 West—D207, Fairfield, N.J. 07004; 973-227-5955

**JULY 21-24. "Public Issues: The Changing Face of Managed Care"** seminar in Boyne Falls, Mich., sponsored by the Michigan Assn. of Health Plans; \$175 for members and \$250 for non-members. Michigan Assn. of Health Plans, Attention

Betty J. Pendery, P.O. Box 19333, Lansing, Mich. 48901-9333; 517-371-5181.

**JULY 22. "Marine Insurance in a Global Economy—Explore Current Market Conditions"** seminar in Chicago, sponsored by the Insurance School of Chicago; \$110. Insurance School of Chicago, 175 W. Jackson Blvd., Chicago, Ill. 60604; 312-427-2520.

### AUGUST

**AUG. 3. 401(k) Strategies for Multiemployer Trustees** seminar in Seattle, sponsored by the International Foundation of Employee Benefit Plans; \$225 for members and \$275 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

**AUG. 3-4. Managed Disability** course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$550 for members and \$650 for

non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

**AUG. 4. Multiemployer Plan Mergers** seminar in Seattle, sponsored by the International Foundation of Employee Benefit Plans; \$225 for members and \$275 for non-members. IFEBP, Registrations Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

**AUG. 5-6. Benefit Communication Strategies** course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$550 for members and \$650 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6710, ext. 8257.

**AUG. 10-12. The Fundamentals of Finance and Accounting for Non-Financial Managers in the Insurance Industry** conference in Brussels, Belgium, sponsored

*Continued on next page*

**YOU SHOULD KNOW US**

Continued from previous page

by the Management Centre Europe; 90,000 Belgian francs (\$2,426) for members and 100,000 Belgian francs (\$2,695) for non-members. Other prices may apply. The Accounts Department, Management Centre Europe, rue de l'Aqueduc, 118 B-1050 Brussels, Belgium; 32-2-543-2100.

**AUG. 11-14. "Captive Cafe: A Stop on the Road to Controlling Risks"** conference in Burlington, Vt., sponsored by the Vermont Captive Insurance Assn. \$350 for members and \$550 for non-members before June 30, \$425 for members and \$625 for non-members after June 30. VCLIA, 1 Lawson Lane, Fourth Floor, Burlington, Vt. 05401-8445; 802-658-8242.

**AUG. 11-15. Joint Educational Conference** in Naples, Fla., sponsored by the Florida chapters of the Risk & Insurance Management Society; \$70 for members and \$80 for non-members. RIMS, c/o Kim Rigby, P.O. Box 40466, 500 Water St.,

Suite J907, Jacksonville, Fla. 32203; 904-359-1892.

**AUG. 17-19. Positioning Plans for the Future: Benefits Conference for Public Employees** in Seattle, sponsored by the International Foundation of Employee Benefit Plans. \$675 for members and \$825 for non-members before July 6, \$750 for members and \$900 for non-members after July 6. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-33-IFEBP or 414-786-6710, ext. 8257.

**AUG. 19-21. Workers' compensation** conference in San Francisco, sponsored by the National State Trucking Assn.; \$200 before July 1 and \$250 after July 1. NSTA, 3000 Washington Blvd., Baltimore, Md. 21230; 410-644-4600.

**AUG. 20. Professional development** seminar in San Diego, sponsored by the Risk & Insurance Management Society, San Diego chapter; \$95 before Aug. 13 and \$125 after Aug. 13. Chapter Treasurer

Ellen Vinck, Southwest Marine Inc., P.O. Box 13308, San Diego, Calif. 92170; 619-283-2348, ask for Mitch Diehl.

**AUG. 24-25. Flexible benefits** course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$550 for members and \$650 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-33-IFEBP or 414-786-6710, ext. 8257.

**AUG. 24-26. Construction Industry Benefits** conference in Seattle, sponsored by the International Foundation of Employee Benefit Plans; \$675 for members and \$825 for non-members before July 13, \$750 for members and \$900 for non-members after July 13. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-33-IFEBP or 414-786-6710, ext. 8257.

**AUG. 25-26. Operating Captive Insurance Companies** conference in Brussels, Bel-

gium, sponsored by the Management Centre Europe; 81,000 Belgian francs (\$2,183) for members and 90,000 Belgian francs (\$2,426) for non-members. Other prices may apply. The Accounts Department, Management Centre Europe, rue de l'Aqueduc, 118 B-1050 Brussels, Belgium; 32-2-543-2100.

**AUG. 26. The Impact of the ADA on Workers' Compensation** seminar in Peoria, Ill., sponsored by Heyl Royster Voelker & Allen; \$169 each or \$159 each for two or more attendees from the same company. Lorman Education Services, P.O. Box 509, Eau Claire, Wis. 54702; 715-833-3959.

**AUG. 27-28. Alternative Risk Financing** conference in Brussels, Belgium, sponsored by the Management Centre Europe; 81,000 Belgian francs (\$2,183) for members and 90,000 Belgian francs (\$2,426) for non-members. Other prices may apply. The Accounts Department, Management Centre Europe, rue de l'Aqueduc, 118 B-

1050 Brussels, Belgium; 32-2-543-2100.

## SEPTEMBER

**SEPT. 12-16. Advancing America's Agents** conference in Cincinnati, sponsored by the National Assn. of Life Underwriters; \$260 before July 13 and \$300 after July 13. NALU Convention Registration, P.O. Box 75048, Baltimore, Md. 21275; 410-752-3318.

**SEPT. 13-18. "The Innovative Edge: Serving Medicare and Medicaid Beneficiaries Today and Tomorrow"** conference in Baltimore, sponsored by the American Assn. of Health Plans; For the Medicare or Medicaid conference before Aug. 21, \$775 for members and \$975 for non-members, \$975 for members and \$1,175 for non-members after Aug. 21. Contact the AAHP for more pricing options. AAHP, Department Number 0612, Washington, D.C. 20073-0612; 202-778-3269.

**SEPT. 14-15. Integrated Risk Management** seminar in New Orleans, sponsored by CIGNA Reinsurance; \$1,395 for main conference. IBC USA Conferences Inc., 225 Turnpike Road, Southborough, Mass., 01772-1749; 508-481-6400.

**SEPT. 14-16. Marketing and Managing Specialty Niche Insurance Programs** conference in Boston, sponsored by the International Quality and Productivity Center; \$1,395. International Quality and Productivity Center, 150 Clove Road, P.O. Box 401, Little Falls, N.J. 07242-0401; 800-882-8684 or 973-256-0211.

**SEPT. 14-18. Fundamentals of Global Benefits Management** seminar in Brookfield, Wis., sponsored by the International Foundation of Employee Benefits Plans; \$1,375 for members and \$1,625 for non-members. IFEBP, Registration Department, P.O. Box 69, Brookfield, Wis. 53008-0069; 888-33-IFEBP or 414-786-6710, ext. 8257.

**SEPT. 16-18. Advanced pension** conference in Bloomingdale, Ill., sponsored by Corbel; \$695. Also **Feb. 17-19, 1999** in Orlando, Fla. Corbel, 1660 Prudential Drive, Suite 400, Jacksonville, Fla. 32207; 800-326-7235, ext. 1237.

## OCTOBER

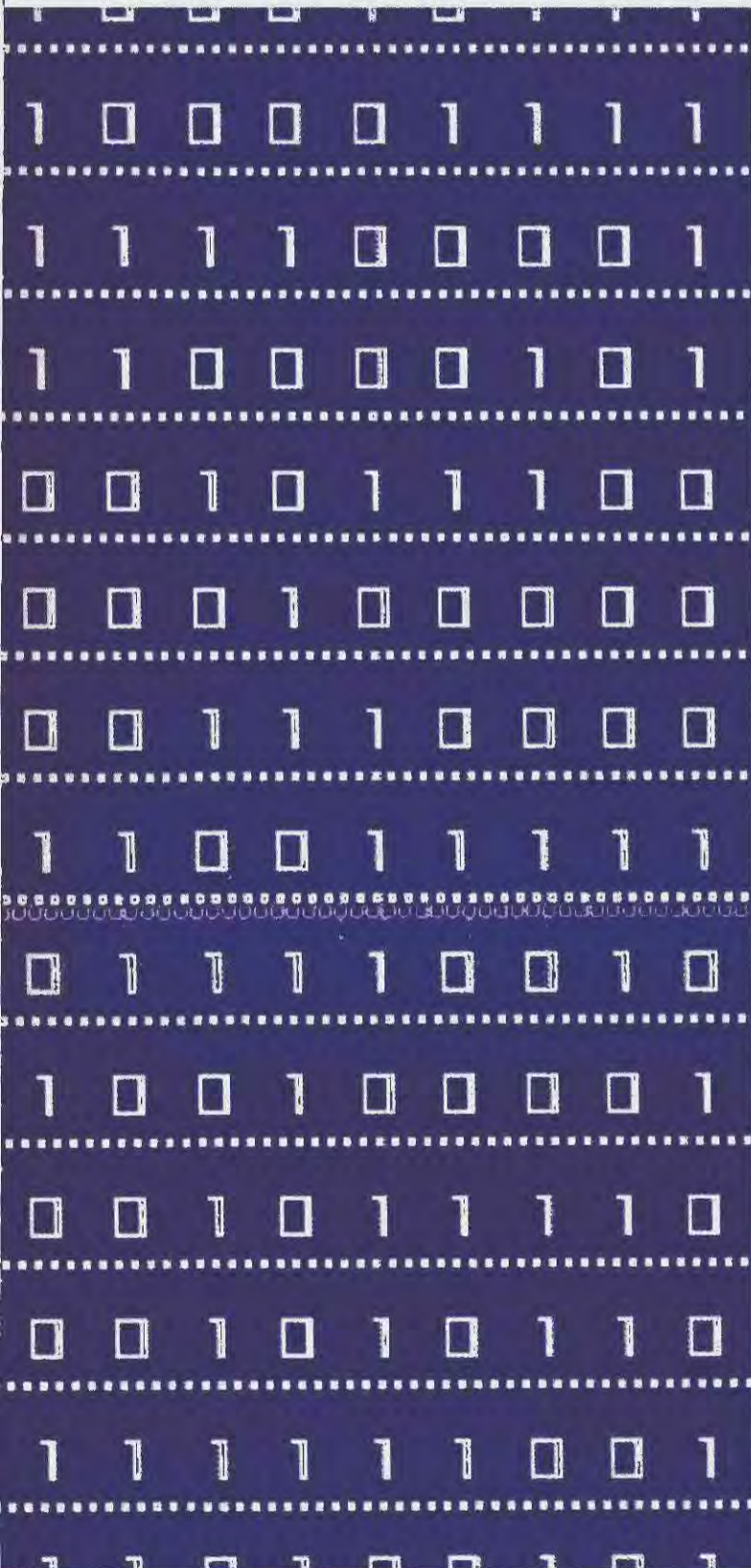
**OCT. 8. "Insuring All Your Risks in One Basket"** seminar in Chicago, sponsored by Illinois State University; \$135 for individuals, \$115 per person for groups of two or more. Illinois State University, Katie Insurance School, Attention: Debra Celuch, Campus Box 5490, Normal, Ill. 61790-5490; 309-438-3021.

**OCT. 26-28. Sixth Annual Business Insurance Workers Compensation Conference**, in Marina del Rey, Calif., sponsored by *Business Insurance*; \$695 for risk, employee benefit or safety managers, \$995 for service providers. IBF, 100 Merrick Road, Suite 500, West Building, Rockville Centre, N.Y. 11570; 516-594-3000.

## NOVEMBER

**NOV. 15-18. Eighth World Captive and Alternative Risk Financing Forum**, in Miami, sponsored by *Business Insurance*. Skandia International Risk Management/Sinsler and Tillinghast-Towers Perrin; \$975 for risk managers/captive owners, \$1,250 for service providers. World Captive Forum, 4248 Park Glen Road, Minneapolis, Minn. 55416; 612-928-4659.

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## Pensions

*Continued from page 2*  
Certified Employee Benefit Specialists.

For example, SMART plans, which could be offered by employers with up to 100 employees, would be exempt from non-discrimination testing and complex financial reporting rules if certain requirements are met, he said.

Among other things, employer contributions would have to be immediately vested and a simplified benefit formula would have to be used. With a SMART plan, an employer would provide a benefit equal to 1% or 2% of an employee's compensation for each year of service.

This simple pension formula "would make defined benefit plans more understandable and desirable to workers," Mr. Strauss said.

And the SMART bill is only one of several legislative proposals to en-

courage the growth of employer-sponsored plans and make the plans more attractive to employers and employees.

The best known of these proposals—The Retirement Security Act—would soften non-discrimination tests and increase the maximum benefits employers could fund and provide through their defined benefit and defined contribution plans (*BI*, May 11).

In addition, the Internal Revenue Service in March implemented new rules sharply lowering penalties for employers that voluntarily find and correct mistakes in their defined benefit and defined contribution plans (*BI*, March 16).

This spate of administration and congressional interest in promoting pension plans comes amid a long-standing drop in defined benefit plan coverage, Mr. Strauss said. For example, last year, the PBGC insured about 43,000 defined benefit plans, a huge drop in coverage from the more than 95,000 plans the agency insured in 1980, just before Congress passed a wave of measures significantly complicating the administration of defined benefit plans.

While other types of pension plans, most notably 401(k) plans, have exploded in popularity, it would be a mistake to believe that 401(k) plans by themselves provide adequate retirement income, Mr. Strauss said.

"Recent surveys on personal savings reveal that many low-income workers have no savings at all, because even if their employers offer a 401(k) plan, they often simply do not make enough to contribute to the 401(k)" plan, Mr. Strauss said.

And though in the wake of the big runup in the stock market stories abound about "401(k) plan millionaires," the typical account balance is far smaller. The average amount in a 401(k) plan is just \$29,000 and the median amount is only \$10,000, Mr. Strauss said, citing Employee Benefit Research Institute data.

"The fact that people are not saving enough on their own reinforces the need to promote defined benefit plans. For workers, only defined benefit plans offer predictable, secure lifetime benefits. And for employers, they promote company loyalty and help to retain valuable workers," the PBGC executive director said.

While it is unlikely, given how little time remains in the current congressional session, for pension-related legislation to pass this year, President Clinton and congressional leaders are actively discussing pension issues, which could set the stage for future action. For example, a recent retirement savings conference featured President Clinton and Vice President Al Gore, as well as Republican and Democratic leaders.

"It is not every day that you get the entire bipartisan political leadership of the nation on one stage to talk about one subject," Mr. Strauss said, referring to the "National Summit Saver" conference.

Mr. Strauss cites the example of his father, a retired 88-year-old meat cutter who has lived his entire life in North Dakota. When his father retired at age 63, he did so without a pension. Mr. Strauss' father then took a part-time job as a school janitor, and for the first time in his life was covered by a defined benefit plan.

When he retired a second time 15 years later, he had earned a \$169 monthly benefit, a 20% supplement to his Social Security benefit.

"We all know how difficult it is for seniors, like my mother and father, to live on Social Security. So this pension of \$169 a month makes a real difference," especially in a state such as North Dakota with its relatively low cost of living, Mr. Strauss said.

"I know from my father's experience how important a predictable, secure benefit for life can be," he concluded. **BI**

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# Martin

Continued from page 1

the safety and health of workers and reducing its costs have included hiring an experienced health and safety manager; assessing the ergonomic hazards of specific departments and reducing risks to workers; implementing post-offer screening of workers to ensure proper job fit; and emphasizing appropriate medical treatment as well as prompt return to work.

Such comprehensive programs reduced the company's incident rate 62%, to 3.9 in 1997 from 10.3 in 1993, according to Mary Lynn Pronschinske. She was hired as the company's health and safety director in June 1994 and still oversees most of those operations from her new post of human resources manager, which she assumed in March. Broker Kent Carlson from Willis Corroon Corp. of Wisconsin has worked with Ms. Pronschinske since 1994.

The incident rate, a standard benchmark used for comparing companies, is the number of injuries that require reports to the Occupational Safety and Health Administration per 100 full-time workers.

The incident rates for both years were well below the industry averages of 13.3 and 15.2, respectively, according to national safety data. Being better than the national average is important to Martin Engineering executives, who are committed to operating a well-run company, Ms. Pronschinske said.

In addition, about 75% of Martin Engineering's prospective clients, which include granary and mine operators, consider the company's safety record as an important criterion before awarding bids, she added.

Martin's efforts to improve the safety and health of workers during the past four years culminated recently with Martin Engineering earning a regional safety award presented by the Iowa-Illinois Safety Council, a regional affiliate of the National Safety Council.

"With that remarkably low rate for that type of industry, the company certainly has a good safety program and upper-level management commitment," said Neil Longseth, the safety council's executive director. "Safety saves them money and prevents lost productivity. It also lowers their workers compensation costs, which makes their business more competitive. And it reduces worker suffering," he added.

The first department targeted for improvement in 1994 was the high-risk urethane molding department, where workers oversaw the production of squeegee-type products that clean conveyor belts by scraping away excess materials. The riskiest job was "deflashing," using small knives to trim away dried seepage from finished products. Although that department employed only 10 workers, it reported six repetitive-motion injuries in less than one year, including three or four cases requiring surgery, she said.

A consultant was hired to perform a formal ergonomics assessment and make recommendations. Equipment and processes were changed in many ways, including providing workers larger knives and more-adjustable workstations, as well as requiring hourly rotation among jobs in the department. The changes also were reflected in worker training and the design of a new facility.

In addition, consultants subsequently reviewed about five jobs annually in other departments, including the machine shop, shipping and assembly/welding areas. Recommended changes, primarily in the area of ergonomics, then were

implemented in those departments.

The company also developed a comprehensive screening program in accord with the Americans with Disabilities Act. After an applicant has been offered a job, he or she is evaluated through a functional capacity examination to ensure that a worker can perform the documented physical demands of an available job.

A former registered nurse, Ms. Pronschinske obtained her case management experience by accepting greater health and safety responsibilities in area industries including Hyster Co. in Kewanee, Ill., and the company now known as Komatsu International in Peoria, Ill. She subsequently worked as a field case manager for The Travelers Corp. before joining Martin Engineering.

"Utilizing the talents that Ms. Pronschinske brought to the table, like her claims experience with a

national insurance carrier, persistence and willingness to implement creative or unique solutions to the unusual situations inherent in the Martin operations, we have been able to significantly reduce the frequency and severity of the Martin workers' workers compensation losses," Mr. Carlson said.

Ms. Pronschinske has been "an outstanding advocate" for health and safety, Mr. Carlson said. He also described her as "a watchdog" who makes all workers realize that she is always "minding the store" to encourage prompt return to work, Mr. Carlson said.

However, they had to work with three insurers before they could find one "proactive" enough to really contribute to their program, he said. They have been working with a Fireman's Fund Insurance Co. affiliate since 1996.

The positive results of Martin Engineering's safety programs have

been seen in other company statistics in addition to the incident rate. For example, no workers injured during 1997 lost any days of work.

Such a good record helps explain why the company's experience modification factor is now 0.66, down from about 1 in 1993, Ms. Pronschinske said. That drop, she says, is "phenomenal," especially for a growing company in Martin Engineering's industry.

Martin Engineering also is reaping dividends from its good safety record in the form of lower workers comp costs for medical payments and lost wages to injured workers, which dropped to \$3,878 in 1997 from more than \$100,000 in 1993.

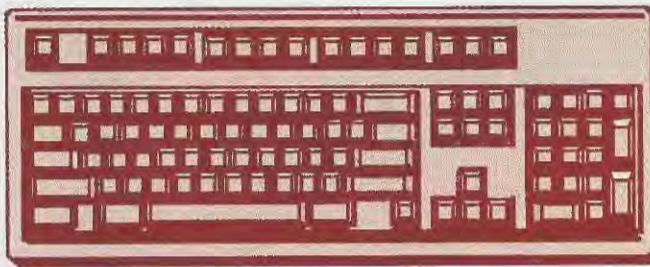
In addition, the company's insurance costs for workers compensation coverage have declined by tens of thousands of dollars in recent years, primarily through premium refunds. Martin Engineering's annual insurance program includes a

maximum payable premium coupled with a minimum payable premium.

Despite these gains, Martin Engineering "continues to be extremely proactive in looking at all our jobs," Ms. Pronschinske said.

Nor does Martin Engineering's continuing commitment to worker health and safety stop at its plant gate. When the company made a business decision in 1998 to outsource most of its deflashing work, it required that any bidder for the contract demonstrate its understanding of potential risks to workers and the availability of proper tools and techniques to ensure that they would not be harmed, Ms. Pronschinske said.

"The vendor's operation had to be clean and safe, and workers there had to be conscious of the dangers of repetitive motion and had to have the right tools and methods, like frequent (job) rotation," she said. **BI**



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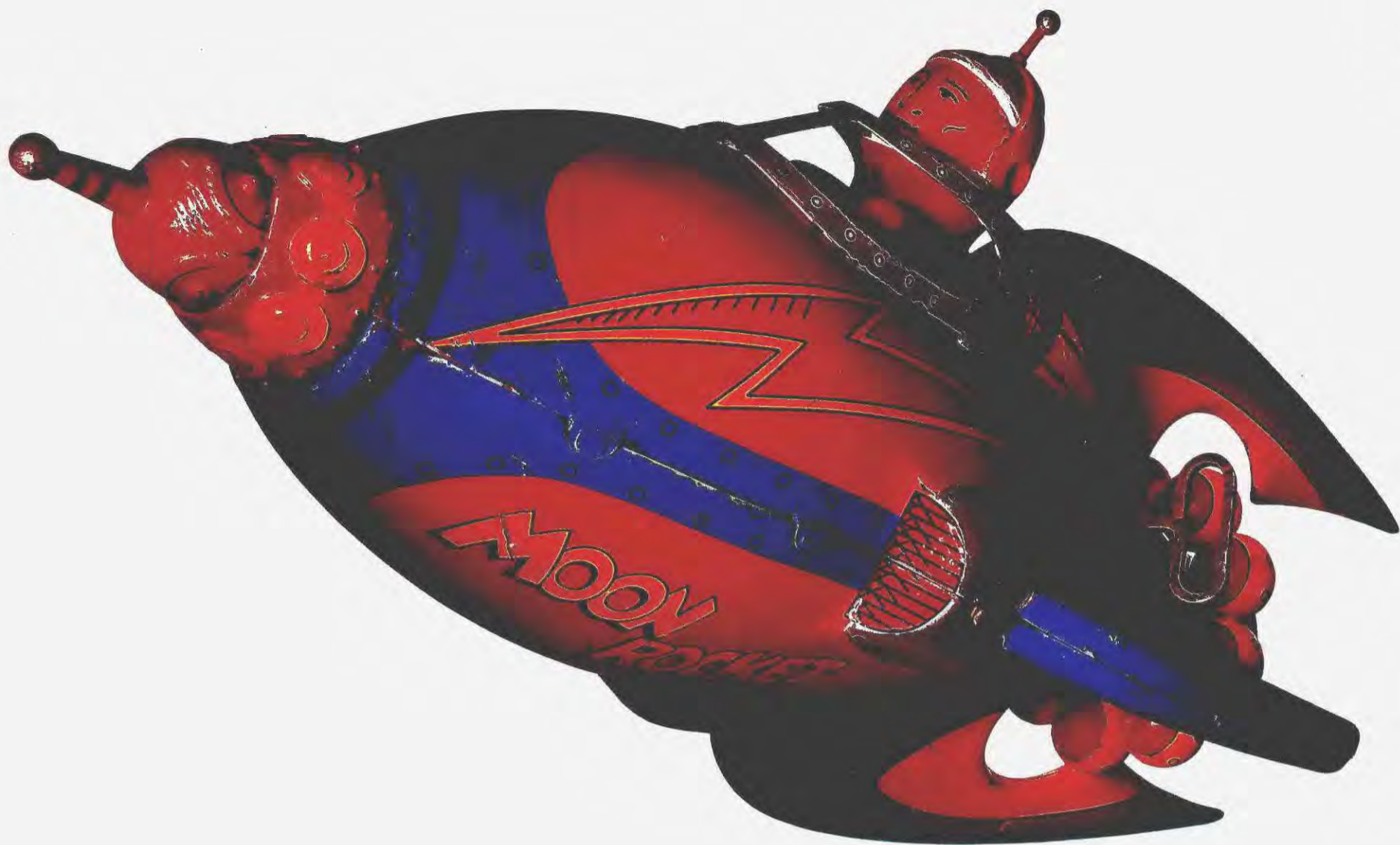
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# ASK A CASUALTY ACTUARY

**Q**

**Are there differences in philosophy among the various casualty actuarial consulting firms?**

**A**

There are a number of areas where the philosophy of consulting firms can vary. In my view, the primary areas are:

- Which projection methods are likely to be the most accurate? I will call this the Methods Issue.

- How much weight should be given

to an individual risk's or insurer's loss experience relative to broader compilations of loss experience? I will refer to this as the Data Credibility Issue.

- Will the consulting actuary tend to tightly or broadly limit the nature of services? I will refer to this as the Scope of Services Issue.

- Does the consultant work for a firm that may potentially be receiving compensation that may vary depending on the consultant's findings? This is the Independence Issue.

- How much variation in philosophy will a firm encourage or discourage among its various consultants? I will call this the Conformity Issue.

First, it should be noted that in the final application of things, the actual philosophy of the individual practitioner will have the most influence on the nature of the

projections or recommendations he or she provides. Even the most tightly controlled consulting firms allow significant room for variations in philosophy. In many respects, actuarial science is like the practice of medicine; it is still an art despite all the technical advances that have occurred. Because of this, in the balance of this article, we will often be referring to different consultants rather than to different firms.

Let's look at the Methods Issue. There tend to be three camps here: paid-loss proponents, incurred-loss proponents and Bornhuetter-Ferguson proponents.

Some consultants tend to favor the indications of paid-loss projections, perhaps on the theory that such projections are independent of shifts in the philosophy of claims adjusters in setting case reserves. Others tend to favor incurred-loss projections, often because such projections include key information from the case reserves of all open claims. Still others favor Bornhuetter-Ferguson methods, which are based on selecting some underlying long-term average. Such an average may be a loss ratio, a pure premium (losses per exposure unit), a claim frequency or a claim severity (average claim size).

Such method preferences can result in variations of results over different phases of the underwriting cycle. For example, when premiums are at a less adequate level—as is currently the case for most property/casualty insurance products—a method based on expected loss ratios would tend to understate projections of ultimate losses. Sometimes it is possible to refine this method by using a rate adequacy index to correct for possible distortions due to inadequate or more-than-adequate premiums.

Sometimes the incurred method can produce somewhat

distorted projections, as when the approach of claims adjusters to setting case reserves is influenced by senior management or otherwise changes significantly. At times, paid projections can be inaccurate due to changes in the rate of settlement of claims. Such changes are often due to major shifts in the average case load of claims adjusters.

As to the Data Credibility Issue, it has been my experience that the larger the consulting firm, the more likely it is that the consultant will give more weight to outside patterns and statistics, sometimes at the expense of giving more credence to the client's own loss experience.

Regarding the Scope of Services Issue, some consulting actuaries have significant experience in dealing with key management issues and could be viewed more broadly as management consultants who also have technical expertise. This combination of capabilities could be helpful in addressing such questions as:

- What is the best retention for the program?
- What is the best structure for the program?
- How sound is the financial condition of the insurers with which current or prospective coverage is placed?
- How could internal resources for actuarial analysis be enhanced? Would a training program make sense? Should software be purchased? Could current claims reports and management summaries be revised to provide more-pertinent information?
- How should various contingencies be evaluated for decision-making purposes and for reflection in financial statements?

It has often been said about the Independence Issue that independence is a state of mind. While this is often true, it can nevertheless be something that risk managers may want to assess. It is not uncommon for actuarial methods to produce a range of reasonable indications. Those contracting for consulting services may want to have a sense of where in that range the actuarial projections are likely to be.

The accompanying chart updates previous ones published in *Business Insurance* that provide information on the size and location of the largest casualty actuarial consulting firms. It was prepared prior to the completion of Tillinghast's acquisition of Watson Wyatt Worldwide's casualty actuarial consulting group, which had six actuaries. Those wishing to contact different consultants may want to call the office of the Casualty Actuarial Society at 703-276-3100 to obtain the two yearbooks they publish annually (\$40 each). While one lists CAS members only alphabetically, the Information Update version lists all members by type of employment, company name and location. **BI**

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*This month's column on actuarial issues in the casualty field is written by Richard E. Sherman, president of Richard E. Sherman & Associates Inc. in Ashland, Ore. Dennis J. Nirtaut, managing director of compensation and benefits for Andersen Worldwide S.C. in Chicago, answers questions for benefit managers. Christopher E. Mandel, senior director of risk management at Tricon Global Restaurants Inc. in Louisville, Ky., answers questions on risk management issues. William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago, answers actuarial questions on benefits issues.*

*Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.*



Mr. Sherman

## Largest casualty actuarial consulting firms

Firm	Number of CAS members (May 11, 1998)	Number of CAS members (June 1, 1996)	Offices (ranked by number of Casualty Actuarial Society members as of May 11, 1998)
Tillinghast/Towers Perrin (Includes Towers Perrin Reinsurance)	95	98	Weatogue, Conn. (17); Atlanta (13); Boston (9); Philadelphia (8); Rosslyn, Va. (7); St. Louis (4); Minneapolis (4); Hamilton, Bermuda (3); Irvine, Calif. (3); New York (3); Parsippany, N.J. (3); San Francisco (3); Toronto (2); London (2); Dallas (2); Denver (2); Jacksonville, Fla. (2); Montreal (2); San Antonio (1); Chicago (1); Wanchai, Hong Kong (1); Cologne, Germany (1); Rockport, Maine (1); Sydney, Australia (1).
Milliman & Robertson Inc.	70	60	New York (11); Brookfield, Wis. (9); West Paterson, N.J. (7); Pasadena, Calif. (6); Radnor, Pa. (6); Wakefield, Mass. (6); Atlanta (5); San Francisco (4); Irvine, Calif. (4); Denver (3); Hamilton, Bermuda (2); Manchester, N.H. (2); Minneapolis (2); Seattle (1); Chicago (1); Dallas (1).
Ernst & Young L.L.P.	46	44	Philadelphia (15); Chicago (7); New York (6); Boston (5); Atlanta (4); Los Angeles (2); Montreal (2); Toronto (2); Hackensack, N.J. (1); Melville, N.Y. (1); Zurich, Switzerland (1).
Coopers & Lybrand L.L.P.	45	38	Chicago (8); Atlanta (7); Toronto (7); Parsippany, N.J. (5); New York (4); Philadelphia (3); Boston (2); Dallas (2); Los Angeles (2); San Francisco (2); Seattle (2); Framingham, Mass. (1).
William M. Mercer Inc./J&H Marsh & McLennan and affiliates	44	34	New York (16); Columbus, Ohio (6); Philadelphia (5); Chicago/Deerfield, Ill. (4); Atlanta (4); Minneapolis (2); Washington (1); Montreal (1); Toronto (1); Ottawa (1); Dallas (1); Laguna Niguel, Calif. (1).
KPMG Peat Marwick L.L.P.	24	25	Radnor, Pa. (9); Chicago (3); Hartford, Conn. (3); Woodland Hills, Calif. (3); New York (2); Atlanta (2); Hamilton, Bermuda (2).
Deloitte & Touche L.L.P.	22	20	Hartford, Conn. (9); New York (4); Chicago (3); Los Angeles (3); Washington (3).
Aon Group Inc.	17	13	Chicago (7); New York (3); Atlanta (1); Columbia, Md. (1); Frisco, Texas (1); Minneapolis (1); Montreal (1); San Francisco (1); Toronto (1).
Arthur Andersen L.L.P.	16	11	Philadelphia (4); Atlanta (3); New York (3); Hartford, Conn. (3); Milwaukee (2); San Jose, Calif. (1).
Miller, Rapp, Herbers, Brubaker & Terry Inc.	13	7	Bloomington, Ill. (6); Buffalo Grove, Ill. (3); Glastonbury, Conn. (1); Millersville, Md. (1); San Francisco (1); West Hartford, Conn. (1).

Source: Casualty Actuarial Society

# Tragedy should spur look at litigation process

**"Damages: One Family's Legal Struggles in the World of Medicine"**

By Barry Werth

Published by Simon & Schuster, 1230 Avenue of the Americas, New York, N.Y. 10020; 212-698-7528 \$25

By Kevin M. Quinley

AMERICA RECENTLY rejoiced at the safe delivery of the McCaughey babies, the world's only living septuplets. The outcome of multiple births, unfortunately, is not always so sweet. The phrase "bad baby case" is bandied about often by those involved in medical-related claims and risk management. The Sabia family was permanently scarred by such a case, the unexpectedly devastating birth of twin sons in 1984. One was stillborn, and the other was born with such profound disabilities he was barely alive. Only two days earlier, Donna Sabia had been told that she and her twin babies were fine.

Who, if anyone, was to blame for this outcome? Could it have been avoided? What price can we put on a family's pain and grief? These are the types of questions that risk managers, particularly those facing liability and injury claims, grapple with daily. A case study in risk management—or mismanagement—surfaces through the gripping story of the Sabia family and its multimillion-dollar lawsuit against Dr. Maryellen Humes and Norwalk Hospital in "Damages: One Family's Legal Struggles in the World of Medicine."

Author Barry Werth narrates a riveting story that rivals any fictional John Grisham page-turner. It offers a

## Books & Ideas

startling glimpse of the war waged daily by America's physicians, lawyers and insurance companies—with enormous consequences for all of us.

"Damages" traces the anguished journey of a single tort case through the eyes of Donna Sabia and her husband, Tony. At Norwalk Hospital's maternity clinic in Norwalk, Conn., baby Tony was born limp, but doctors revived him. Twin Michael had been dead more than 24 hours by the time he was delivered. Baffled and bereaved, the Sabias went home with their surviving son, unaware of the profundity of his handicaps or that anyone was at fault for the outcome. At a friend's urging, though, they hired a lawyer to redress the wrongs they came to believe they suffered. In 1986, the Sabias sued the doctor who delivered the babies and the hospital where delivery occurred. The lawsuit dragged on for seven years.

In riveting detail, "Damages" reveals the events triggering the lawsuit against Norwalk Hospital and Dr. Humes. The doctor and hospital denied liability, insisting that they had met accepted standards of care. A rift quickly developed between Dr. Humes and the hospital, as the lawyers for each sought to blame the other. It quickly became clear that the insurers for Dr. Humes and Norwalk Hospital—not the defendants themselves—called the shots. When Dr. Humes' insurer settled the claim over her protests, she was powerless to stop them. The suit proceeded against the hospital alone, as the facility's insurer pitted itself against the Sabias' attorney for a trial that neither side wanted.

More than just a risk management or claim case study, "Damages" is the story of the Sabias themselves, of their unstinting efforts for their son. Tony will never walk or talk or eat normally, and he is profoundly retarded, but his parents refused to give up on him. Their daily efforts to care for Tony reveal one of the dramatic stories that often lie behind the claim reserve numbers, the incurred-but-not-reported and other sanitized indices that represent claim severity. It makes for a compelling narrative in the author's hands.

After the Sabias eventually settled with Norwalk Hospital for more than \$6 million, they were financially able to provide for Tony's future care. "Damages" offers risk managers and other readers a searing portrait of today's tort system, often not so much a search for truth but a sifting for facts and expert opinions to "sell" a jury.

Few will read "Damages" without thinking, "There has got to be a better way." The claim file is closed, but the broader questions remain regarding the civil litigation process, as depicted by Mr. Werth's "Damages" in an enlightening and unforgettable way. **BI**



Kevin M. Quinley is senior vp-risk services for MED-MARC Insurance Co. Inc. and subsidiary Hamilton Resources Corp., both of Fairfax, Va. He holds the Chartered Property & Casualty Underwriter and Associate in Risk Management designations.

# Court: Discrimination actions not covered

An employer's umbrella general liability insurance policy did not cover discrimination actions, according to the Court of Appeals of North Carolina.

The North River Insurance Co. and Mission Insurance Co. insured Fieldcrest Cannon Inc. pursuant to "umbrella" liability policies, which were written as excess coverage to Fireman's Fund Insurance Co.'s primary insurance. Fieldcrest brought this suit to recover legal defense costs incurred in defending its predecessor, Cannon Mills Inc., against certain employment discrimination claims during the 1980s and to recover sums paid pursuant to judgments and settlements of certain of those claims.

When Mission became insolvent in 1987, the North Carolina Insurance Guaranty Assn. assumed responsibility for certain Mission's obligations. The trial court determined that Mission's policy imposed no duty to defend and indemnify Fieldcrest in the underlying discrimination actions and ruled for the association.

The appellate court concluded that claims based on sexual discrimination, retaliatory discharge, and intimidation and harassment did not fall within the policy's definition of "bodily injury, sickness or disease" so as to fall within coverage for "personal injury" in Mission's policy. The trial court decision was affirmed.

*Fieldcrest Cannon Inc. vs. Fireman's Fund Insurance Co.*, Court of Appeals of North Carolina, Nov. 18, 1997. (BI/04/Ju.-\$10)

## Triggering duty to investigate

A liability insurer deciding whether to defend its policyholder against an underlying claim has no duty to investigate until the policyholder apprises it of facts that would bring the claim within coverage, according to the Supreme Court of Georgia.

Colonial Oil Industries and Colonial Terminals Inc. were insured under a comprehensive general liability insurance policy issued by an insurance underwriters cooperative. The policy provided for coverage for defense of even "groundless, false or fraudulent" suits.

Colonial was sued by Charles Gay for Colonial's dumping of allegedly hazardous material on property owned by the plaintiff. Colonial notified underwriters of

## Legal Briefs

the dispute but also informed the underwriters that the material being dumped was not hazardous. Mr. Gay sued.

Colonial forwarded the complaint to the underwriters and demanded coverage and defense of the Gay suit. The underwriters denied coverage. Colonial settled with the plaintiff and sued the underwriters in federal court, seeking defense and settlement costs for the failure to defend.

The federal trial court ruled for Colonial. The underwriters then appealed to the 11th U.S. Circuit Court of Appeals, which requested the Supreme Court of Georgia answer questions of Georgia law regarding the scope of an insurer's duty to investigate prior to determining whether to defend a claim against its policyholder.

The Supreme Court of Georgia said that, while an insurer is under no obligation to independently investigate the claims against its policyholder, when the policyholder notifies the insurer of factual contentions that would place the claim within the policy coverage, there is a duty of investigation.

When Colonial informed the underwriters of its position that the dredge material did not contain waste or pollution, the court said this triggered the underwriter's duty to investigate. According to the court, this failure to investigate constituted a breach of duty to defend.

*Colonial Oil Industries vs. Underwriters*, Supreme Court of Georgia, Oct. 6, 1997; Reconsideration denied, Nov. 3, 1997. (BI/05/Ju.-\$10)

## Court finds for employee

The amount an employee was paid for taking a new assignment that required him to work 12 hours per day was not "overtime pay" or "extra compensation" within the meaning of a long-term group disability policy under the purview of the Employee Retirement Income and Security Act, according to the 5th U.S. Circuit Court of Appeals.

In 1990, Robert P. Wegner began working as a technician with CRC-Evans Pipeline Inc. in Houston at the

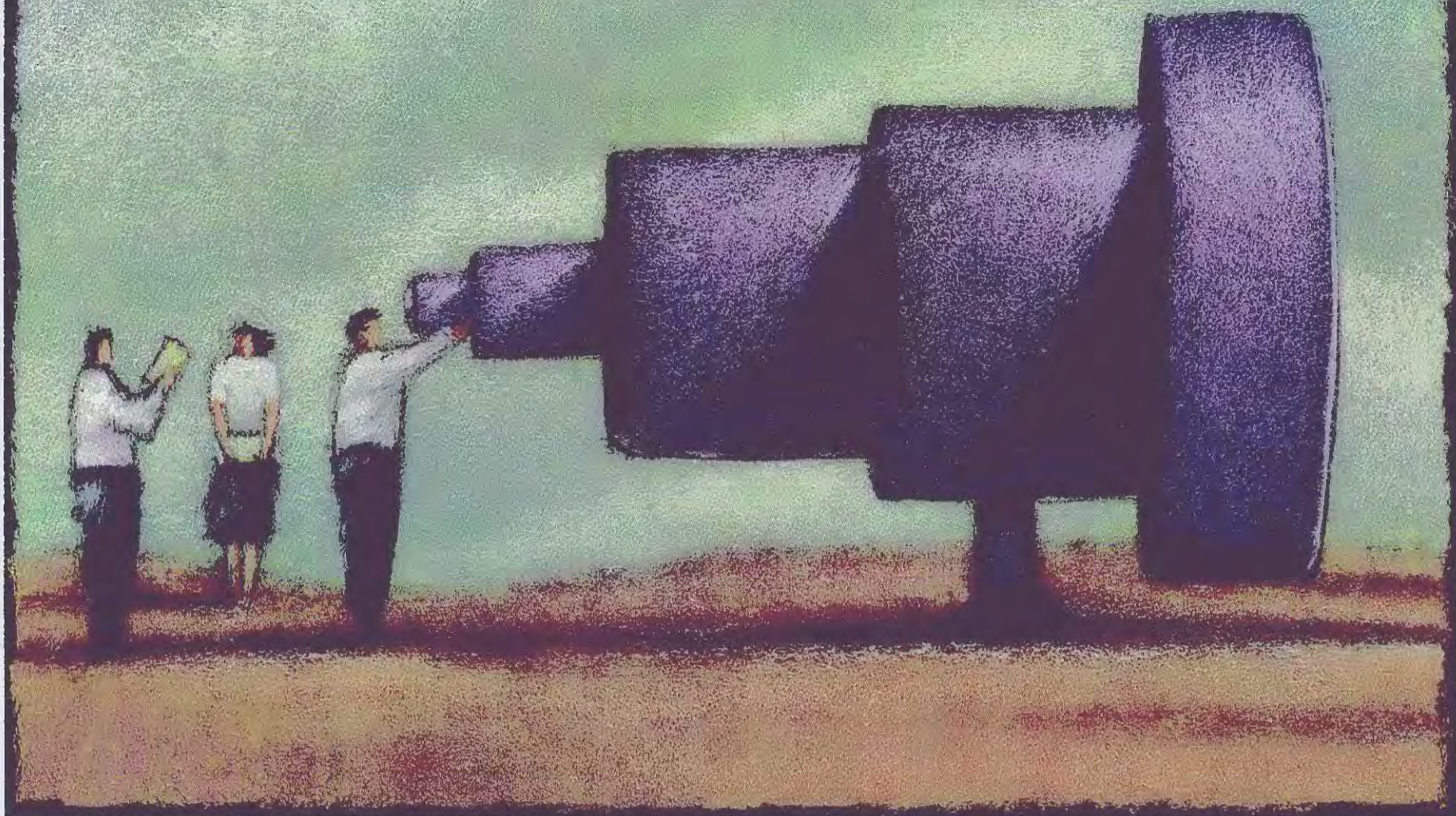
hourly rate of \$10.25, increased to \$10.75 per hour shortly thereafter. In 1991, Mr. Wegner accepted an assignment to a project at a pay of \$300 per day requiring him to work 12 hours per day, seven days per week. His assignment was to end upon successful completion of the project or termination of the project by his employer or the contractor. In September 1991, Mr. Wegner suffered a work-related injury. Thereafter, he was terminated from the project and returned to his status of an hourly employee. At the time of his injury, Mr. Wegner was covered by a long-term group disability insurance policy provided by his employer as a part of an employee welfare plan within the purview of ERISA. The policy provided coverage for 60% of an employee's pre-disability earnings. Overtime pay and any other extra compensation were excluded from the definition of pre-disability earnings. The employer determined Mr. Wegner's disability benefit was to be based on his pre-disability earnings of \$10.75 per hour. Mr. Wegner sued, claiming his benefit should be calculated on the basis of his higher \$300-per-day rate of compensation. The trial court ruled for Mr. Wegner, awarding him benefits of about \$5,400 per month.

The appellate court held that the terms "overtime" and "any other extra compensation" were not ambiguous but rather have an ordinary and generally accepted meaning. "A person of average intelligence and experience," the court said, "reading these terms of limitation in the policy, would conclude that (Mr.) Wegner's \$300-per-day salary at the Kern River project did not constitute overtime or any other extra compensation." The court concluded that Mr. Wegner's rate of compensation on his last day of active work before becoming disabled was roughly \$9,000 a month and his pre-disability earnings should be calculated on that basis.

*Wegner vs. Standard Insurance Co.*, 5th U.S. Circuit Court of Appeals, Dec. 9, 1997 (BI/04/Jy.-\$10) **BI**

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available by sending a \$10 check payable to Mayo H. Stiegler, to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please list the number for each opinion.

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Aug 10			Jul 29
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# New product targets computer theft losses

PORTLAND, Ore.—Computer security specialist Information Risk Group L.L.C. has joined forces with the underwriters at Lloyd's of London and broker Jardine Lloyd Thompson Group P.L.C. to create a new product to thwart and insure against losses from computer theft.

The new product, Computer Information and Data Security Insurance, offers coverage for damage to business information systems as well as any information losses.

The CIDS product from Lloyd's underwriters offers coverage up to a limit of \$50 million in combination with Information Risk Group's embedded computer security and information risk services to prevent and mitigate losses from hacking, extortion, sabotage and theft involving computer systems and data.

The CIDS coverage responds to loss due to:

- Fraudulent and malicious acts of

## Products & Services

employees or third parties.

- Loss of computer systems and programs.
- Loss of electronic data and media.
- Computer virus attacks.
- Extortion against information systems.
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The CIDS product and services were developed in a joint effort by: SVB Syndicates Ltd., the lead Lloyd's underwriter for the product; Lloyd Thompson Ltd., a unit of Jardine Lloyd Thompson Group; Information Risk Group L.L.C.; Oregon Health Sciences University; Corporate Security Services Inc.; and Asset Management Technologies Inc.

For information, contact John J. Posey, president of Information Risk

Group, 888-828-4474; or John Spain, executive vp of Asset Management Solutions, 404-869-8300.

## Staffing policy

CHICAGO—The Staffing Services Package Policy, designed to provide comprehensive property/casualty insurance coverage for staffing services firms, has been introduced by CNA Insurance Cos.

In addition to required errors and omissions coverage, customers also can select special property coverage, business owners liability, employment practices liability and sexual misconduct vicarious liability coverages. CNA's package policy provides customers independent limits and deductibles for each type of coverage.

The policy is available to professional employer organizations, temporary help services, permanent placement employment agencies and executive search firms.

Firms that specialize in clerical through blue-collar placements are eligible, as are staffing firms that make placements in professions that include medicine, engineering, architecture, law, computer programming and accounting.

The package, written on an admitted basis, is underwritten by Continental Casualty Co., a unit of CNA, and is administered by Smith, Bell & Thompson Inc., a managing general underwriter. The package is available in most states.

For information, contact William Thompson, senior vp at Smith, Bell & Thompson, 800-735-1800.

## Internet resource

SAN DIEGO—VISTA Information Solutions has introduced VISTACheck, an Internet-based information product that enables users to quickly identify environmental liability on any property, business or address anywhere in the United States.

By logging onto <http://www.vistainfo.com>, users can access a data warehouse of environmental risk management information nationwide. VISTACheck houses more than 50 million records and links to about 500 sources of information at the federal, state and local levels, enabling users to obtain specifics on compliance and violation issues, leaking tanks, waste generators and landfills.

Users also can conduct free searches on "environmentally active" U.S.-based property and businesses, or purchase and download reports through secured Web transactions.

VISTACheck supports a wide range of industries, including banking, engineering, government, insurance, law and real estate for applications such as lending analysis, loss control, litigation support, "green" investing, home seller disclosure and community right to know.

VISTACheck enables users to mitigate the potential risk involved in buying, selling, insuring and lending property with immediate access to key data for analyzing potential hazards. The product requires an Internet connection and a standard browser.

For information, contact VISTA customer service, 800-767-0403, or visit VISTA's Web site.

## Investigation guide

EAGAN, Minn.—West Group's new fifth edition of Casualty, Fire & Marine Investigation Checklists is designed for the corporate risk manager, agent, broker, claims adjuster or attorney involved in any sort of liability or property claim.

Casualty, Fire & Marine Investigation Checklists guides the reader through the investigation, evaluation and negotiation of coverage, liability and damages so that even complicated claims can be resolved appropriately. Investigation checklists are provided for many special types of losses, including vehicle, cargo, workers compensation, fire, products, professional liability, crime and premises claims. The text also has a glossary of insurance terminology, state law charts and suggested letter and form formats for a range of coverage issues.

This new edition includes new coverage and claims-handling information on fire and property policies, ocean and inland marine claims, avi-

ation policies and a variety of other types of losses, including computer and data-processing claims.

Casualty, Fire & Marine Investigation Checklists is a single volume and costs \$95.

The companion treatise is Casualty Insurance Claims, a three-volume set with 50 chapters covering different aspects of casualty, fire, marine and surety claims. Special chapters address the self-insured aspect of the industry, medical aspects of claims, bad-faith exposures and the adjusting profession. Casualty Insurance Claims costs \$365 and is updated twice a year.

For information or to place an order, contact West Group at 800-221-9428, or visit the online catalog at <http://www.westgroup.com>.

## EPL program

HARTFORD, Conn.—Travelers Bond, a division of The Travelers Indemnity Co., has developed the "Under 100" Employee Program to fulfill the growing employment practices liability insurance needs of smaller businesses.

The new program, which protects small businesses with fewer than 100 employees, supplements its Employment Practices Liability PLUS+ insurance program for larger businesses. Both programs have coverage for defense costs and damages involving allegations of wrongful termination, discrimination, and sexual or protected-status harassment, as well as numerous other workplace-related issues.

A special feature of both programs is Risk Management PLUS+, a professional loss control product offered to each policyholder for no additional charge. This consulting feature helps companies decrease their exposure to costly and time-consuming employment litigation.

Risk Management PLUS+ includes training for front-line managers, updated human resource policies, personnel forms and risk management news. It also addresses risks associated with employee theft, workers compensation fraud and workplace violence.

The "Under 100" Employee Program and Employment Practices Liability PLUS+ are available in 47 states. For information, contact Robert Schueler, portfolio manager for Travelers Bond, 860-277-3915. **BI**



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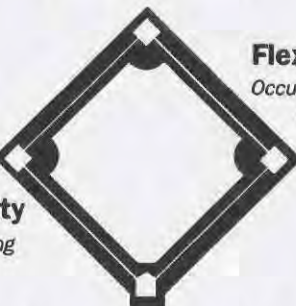
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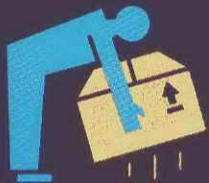
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# INTERNATIONAL

## Global Briefs

The European Commission has given AXA-UAP the green light to buy out Brussels, Belgium-based insurer Royale Belge S.A. Earlier this year, the French insurer announced plans to increase its 62.7% stake in the Belgian insurer through a public share offer. Late last week, the commission ruled that AXA-UAP could buy all of the Royale Belge shares held by Belgian bank Group Bruxelles Lambert S.A., as well as the public share exchange. . . **Swiss Life Insurance Co.** said in a statement late last week that it has officially submitted an offer to acquire French insurer Groupe des Assurances Nationales. Also in the running for GAN is French mutual insurer Groupama Assurances (BI, June 15). Although no details on the Swiss Life offer were released, the French Finance and Economy Ministry said it will announce the winner in July. . . **Fishers Group Ltd.**, a Surrey, England-based insurance and professional services company, is acquiring the business of London-based international loss adjusters **IRISC Technical Services** from IRISC Ltd., which is jointly owned by Aon Services Group Inc. and Centre Reinsurance Holdings (Delaware) Ltd., a member of the Zurich Group. Completion of the acquisition, for an undisclosed sum, is expected to take place in mid-July. IRISC specializes in major construction and engineering losses. . . **Chubb Corp.** has launched an employment practices liability insurance operation in Europe through its Brussels, Belgium-based unit, Chubb Insurance Co. of Europe S.A. Continental European EPLI operations covering Belgium, France, Denmark, the Netherlands and Sweden will be headed by Brian S. Vosloh. U.K. EPLI operations, based in London, will be managed by Jane Hodgson. . . **Zurich Group** is acquiring the industrial and marine business of Swedish-based insurer Trygg-Hansa Insurance Co. Ltd. The division being acquired specializes in medium and large corporate and industrial clients. The acquisition is expected to be completed on July 1, subject to regulatory approval. Zurich Group is also acquiring Trygg-Hansa's subsidiaries in the Baltic states of Estonia, Latvia and Lithuania. . . **Hartford Re Co.**, a unit of The Hartford Financial Services Group Inc., has been selected as the lead reinsurer of La Fondiaria Group of Florence, Italy. Hartford Re will offer renewals on all of La Fondiaria's property/casualty reinsurance business, which is sold on a treaty basis primarily in Italy but also in Germany, France, Israel and Switzerland. Financial details were not disclosed, but the business generates annual premiums worth about \$35 million. . . Santander Investment S.A. and Banco Rio de la Plata S.A. of Spain are buying **Royal & Sun Alliance Seguros (Argentina) S.A.** from Royal & Sun Alliance Insurance Group P.L.C. of London. They are paying \$1.1 million for the Argentinian insurer, which will be owned 87.5% by Santander Investment and 12.5% by Banco Rio. . . Standard & Poor's Corp. has assigned a financial strength rating of BBB to **African Reinsurance Corp.** of Lagos, Nigeria. It said the rating is based on the company's "good business position, good operating performance and excellent capitalization," partially offset by a slowdown in premium growth, some deterioration of underwriting results and uncertainty about the speed of development of the African insurance market. . . Standard & Poor's has also assigned an AA- financial strength and counterparty credit rating to **Royal Bank of Canada Insurance Co. Ltd.** The rating is based on the company's core status within the Royal Bank of Canada, also rated AA-, its excellent historical operating performance in its core line of business, its excellent operating performance under incoming life treaties, and exceptional capital adequacy. These factors are partially offset by the absence of a track record in its new lines of business—life retrocession, property/casualty and finite risk, limited knowledge and management expertise in property/catastrophe risk, and a poor performance in total and permanent disability lines.

## Art register limits liability

By MATTHEW MacDERMOTT

LONDON—A new initiative to identify art looted during the Holocaust will provide museum directors and auction houses with greater protection against potential liabilities arising from the display or sale of such artwork.

The London-based Art Loss Register, an international database of stolen artworks, is expanding its services to develop a list of art items taken illegally by the German National Socialist government during the Holocaust era.

A central database of looted art relating to the Holocaust will be an effective "risk management tool" for museum directors and auction houses, according to Julian Radcliffe, ALR chairman.

He said there is "a gaping hole" for an independent, central database that allows museums and art dealers to quickly and accurately determine whether a work of art in their collection was looted during the Holocaust.

Museums and auction houses may have acquired art pieces in good faith, but without a clear provenance for the years between 1935 and 1945 when they may have been looted by the Nazis, explained Mr. Radcliffe.

Therefore, museums and auction houses could become the targets of lawsuits from the families of Holocaust victims if they have not undertaken due diligence or made "reasonable efforts" to review and check the origin of their collections, Mr. Radcliffe said.

See Art on next page



Two Jewish families claimed that "Portrait of Wally," by Expressionist Egon Schiele, was wrongfully taken from their families during World War II.

## Risk management an Olympian task

Sydney games learn from the past

By KATE TILLEY

SYDNEY, Australia—When you're risk manager for a project that involves 10,000 athletes, 5,000 officials, 15,000 media representatives, 50,000 volunteers and 9 million spectators, you have to think of everything.

"We're responsible for athletes as young as 13 and 14. We must feed them, accommodate them and keep them safe," said Rod McGeogh, director of the Sydney Organizing Committee for the Olympic Games and national chairman of partners with the law firm Corrs Chambers Westgarth.



Additional APRIMA coverage is on page 28

Mr. McGeogh told delegates at the Australian Public Risk & Insurance Management Assn.'s annual conference, held May 6-8 in Sydney, about just a few of the responsibilities Olympic Games risk manager Peter Himmelhoch has had to incorporate into his risk management planning for the 2000 games in Sydney.

For example, on one particular day Mr. McGeogh checked on the risk manager's current project to find he was visiting the New South Wales state coroner's office to discuss potential train disruptions if someone were to commit suicide on the rail lines. Mr. Himmelhoch wanted, and got, a guarantee from the NSW government that the trains would be back on schedule within five minutes.

Mr. Himmelhoch has audited power, gas, water and communications supplies, and he has developed plans to prevent telecommunications and power disruptions. With the television rights bringing in \$1 billion Australian (\$590 million) of the games' revenue, there can be no disruptions, Mr. McGeogh said.

See Olympics on next page

## ACE to purchase Lloyd's Tarquin

By SARAH GODDARD

LONDON—ACE Ltd., in a move that will substantially strengthen the Bermuda-based insurer's position at Lloyd's of London, last week agreed to purchase Tarquin Ltd.

Adding Tarquin, a holding company for Lloyd's managing agency Charman Underwriting Agencies Ltd. and corporate capital investor Tarquin Underwriting Ltd., will give ACE control of 9.2% of the market's capacity of £10.2 billion (\$17 billion) this year.

ACE already is the largest single investor at Lloyd's, though spread corporate investment trust LIMIT P.L.C. provides a higher amount of capacity to the market.

Currently, ACE London at Lloyd's controls nine syndicates backed by £692 million (\$1.14 billion) of capacity, of which ACE provides £304.5 million (\$502.4 million) for the 1998 year of account. The two Charman syndicates, 488 and its dedicated corporate counterpart 2488, are underwriting against capacity of £250 million (\$412.5 million) this year, of which almost £190 million (\$313.5 million) is provided by Tarquin Underwriting.

In a statement, ACE said it purchased Tarquin in a stock transaction valued at more than \$500 million. ACE, which will issue about 14.3 million ordinary shares to buy Tarquin, expects the deal to receive regulatory approval and close by the end of next month. ACE anticipates the deal to result in about \$60 million in expenses.

John Charman, underwriter of the two Charman syndicates and a former deputy chairman of Lloyd's, will supplant Leslie Goodman as chief executive officer of ACE U.K. Mr. Goodman will become the chief executive of a "strategic development unit" currently being set up within the ACE group based in New York. The unit will evaluate strategic opportunities to extend ACE's global business and is expected to be up and running in the next few months.

See ACE on page 30

## Guardian forms a PCC in Guernsey

With low entry costs, SpectraCel aimed at medium-sized businesses

LONDON—Guardian Royal Exchange P.L.C. is forming a new company to operate a protected cell company in Guernsey, bringing to eight the number of these special captive insurers in the domicile.

The business underwritten and managed by GRE's new PCC, called Guardian Insurance (Guernsey) PCC Ltd., will be marketed to risk managers under the name SpectraCel.

Clive Thompson, manager of Guardian Risk Services, says SpectraCel is not targeting any particular kinds of business, but will deal with whatever risks the customer wants.

SpectraCel is aimed at medium-sized businesses that spend £250,000 (\$408,750) or more on annual insurance premiums and would like to move to an alternative risk financing program with lower entry and startup costs than a captive insurer.

PCCs operate similar to rent-a-captives, but with the individual cells writing business as separate entities and with their assets and liabilities shielded from those of other cells in the group.

Hugh Bromley, general manager of Guardian Insurance (Guernsey), said SpectraCel is an "innovative and flexible product" aimed at making risk financing easier

for midsize companies while providing an alternative to conventional insurance.

Guernsey became the first captive domicile to allow PCCs when it passed its Protected Cell Companies Ordinance in February 1997.

In late May, the Isle of Man rejected a proposal to introduce its own PCC legislation (BI, June 1). Insurance regulators had expressed concerns that the entities might not be able to live up to their promise of keeping cell liabilities separate in cases of claims or legal actions brought in other jurisdictions.

—By Edwin Unsworth

Art

Continued from previous page  
Radcliffe said.

The potential risk to the art trade has been highlighted by Manhattan District Attorney Robert M. Morgenthau's seizure of two paintings on display at the New York Museum of Modern Art in January.

Mr. Morgenthau seized the paintings—Egon Schiele's "Portrait of Wally" and "Dead City III"—at the behest of two New York Jewish families who claimed the paintings were wrongfully taken from their families during World War II.

Neither family has yet filed a lawsuit, but they have requested that the paintings, which were on loan to the Museum of Modern Art from the Leopold Institute in Vienna, Austria, be kept in New York pending further investigation into their origin.

Mr. Radcliffe said there are a range of insurance coverages available in the international art industry, and the ALR's new Holocaust identification initiative has the support of fine art underwriters.

Checking items against a database

"is the sort of thing underwriters expect from insureds," Mr. Radcliffe said.

He said most museums are non-profit organizations managed by boards of trustees. The trustees usually purchase directors and officers liability coverage. Most auction houses also have errors and omissions extensions as part of their liability coverage. There are also title policies available to protect museums and auction houses that bought artwork in good faith from legal and financial losses resulting from ownership disputes.

Annabel Fell-Clark, a fine art underwriter at Lloyd's of London syndicate 33, managed by Hiscox Syndicates Ltd., said the Holocaust database is a welcome initiative that will provide greater protection to policyholders in the fine art market.

She predicts a large number of Holocaust-related art disputes, stemming from the high emotions and publicity surrounding the issue.

Hiscox takes into account whether policyholders make reasonable efforts to verify the origin of their artwork before deciding whether to accept a risk, Ms. Fell-Clark said. "We wouldn't consider

risks that didn't use some degree of due diligence in this area," she said.

The ALR's Mr. Radcliffe said it is ultimately up to courts to decide whether a museum or auction house has made "reasonable efforts" to verify the ownership of art pieces. But he said access to a centralized

**'We wouldn't consider risks that didn't use some degree of due diligence in' verifying origins, says Annabel Fell-Clark.**

database of art looted during the Holocaust will provide greater protection against such disputes.

The Holocaust initiative has been welcomed by art auction houses.

In a statement, New York-based Sotheby's Inc. said the international art market, which has for years relied on the ALR to provide protection against buying or selling stolen art, will now also be protected against unwittingly selling art looted during World War II.

"It has been Sotheby's longstanding policy not to sell any work of art that we know was stolen, or where there is credible evidence that it may have been stolen, whether by the Nazis or by anyone else," the statement said.

"But the problem faced by everyone in the art world in implementing this policy with respect to works of art looted during World War II is the difficulty in determining whether a particular work of art is subject to such a claim," the statement added.

The Holocaust initiative is a logical extension of the ALR's work, according to Mr. Radcliffe.

The ALR, established in 1991 and 20% owned by Aon Corp., has offices in London; New York; Dusseldorf, Germany; Perth, Australia; and a soon-to-open office in St. Petersburg, Russia. The ALR maintains an international database of stolen artworks, which are then compared against auction house catalogs. It has recovered \$75 million worth of stolen art during the past seven years and has about 100,000 stolen pieces registered.

Artwork looted during the Holocaust will be added to the ALR's existing database, allowing auction

houses and museums to check the origins of art pieces in one place.

The ALR's expanded database is expected to be operational next year.

The families or heirs of Holocaust victims will be invited, through Jewish groups, to log details of items lost during the Holocaust with ALR staff.

The ALR is also dedicating additional staff to register art looted from government and private holdings during the Holocaust era. Mr. Radcliffe said there is an increasing amount of documentation relating to art looted from the Holocaust era, especially in the archives of Eastern European countries recently opened up since the downfall of communism.

Based on the same principle of the ALR, Aon recently set up a new subsidiary company, Unclaimed Assets Register Ltd., to help U.K. individuals or their heirs track down assets such as pension benefits that have not been claimed (BI, March 16).

The UAR also plans to expand into the recovery of financial assets, including life insurance policies and pensions, for the families of Holocaust victims. **BI**

# Report addresses increasing liability awards

## Immunity, cap on damages are options for New South Wales government

By KATE TILLEY

SYDNEY, Australia—A government review committee in New South Wales, Australia, may propose legislation limiting the number and magnitude of liability claims against local authorities.

David Bowen, the director of the legislation and policy division of the New South Wales attorney

general's department, is chairman of a state government review of local government liability that began in February 1997. Speaking at the Australian Public Risk & Insurance Management Assn.'s fifth annual conference, held May 6-8 in Sydney, Australia, Mr. Bowen said his working party's report would go to Attorney General Jeff Shaw "within weeks."

A public interest immunity or a cap on damages are the legislative options that will be explored in the report, he said.

The dearth of affordable insurance for New South Wales councils—the administrative bodies of local governments—prompted the review, as reinsurers have withdrawn market support in light of increased liability awards from

the courts.

Mr. Bowen said submissions to the working party by councils and their insurers showed key concerns are the increase in the number of claims, the cost of small claims, and the rise of specific claims, such as for slips and trips.

Michael Megna, APRIMA chairman, said APRIMA executives planned to meet with Attorney

General Shaw to push the case for capped liability. "Claims costs and numbers have escalated, with claim numbers up 100%" since 10 years ago, he told conference delegates.

Currently, while personal injury claims represented 42% of all claims against councils, they accounted for 73% of the total cost of claims. Most personal injury claims fall under deductible levels, and a disproportionately high level of resources are required to manage them, said Mr. Megna.

Mr. Bowen told the conference that submissions on a public-interest immunity range from favoring an absolute immunity for core functions, an immunity when sound risk management is in place, or a discretionary immunity.

A discretionary immunity is available under some Australian laws now, and some councils had argued in its favor. It could encourage uniformity in risk management without discouraging those with alternative procedures—those not required by government or industry, Mr. Bowen noted.

But if the immunity is for core functions, defining such functions could be difficult, he said. Even with an exclusion for commercial activities, flexibility is required. For example, "Is a council-run child care in a small town where there is no other child care center a core function?" he asked.

Mr. Bowen said that perhaps if a council had applied risk management, there could be a presumption of immunity.

On limiting damages, Mr. Bowen said there is the potential for a time limit within which claims could be made. Another possibility is a statutory limit that would mirror the New South Wales Professional Standards Act, which restricts damage claims against professionals where standards are in place and followed. Mr. Bowen said a statutory limit could apply to local government councils the way the Professional Standards Act applies to professionals.

New South Wales, Australia's most populated state, introduced its own law to cap professional liability awards after attempts to get a national approach failed (BI, Oct. 17, 1994; Nov. 7, 1994).

See Caps on page 30

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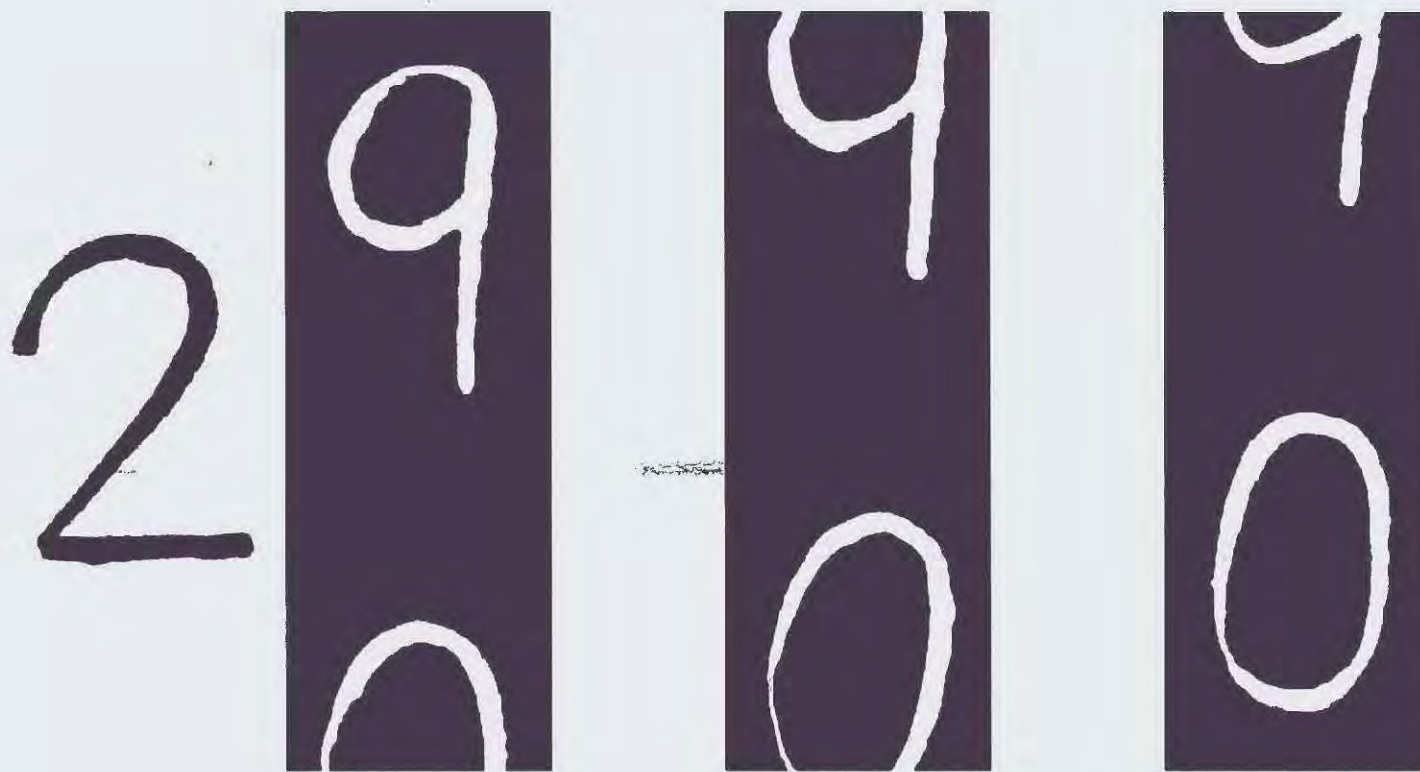
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**Management of Capital and Risk**

# Olympics

Continued from page 27

Mr. McGeogh said he and his team have implemented one of the best risk management strategies available—learning from others' experience. SOCOG sent 70 people to the 1992 Summer Games in Barcelona, Spain, more than a year before Australia had won the bid to host the 2000 Olympics. Another 70 people went to the Atlanta Games in 1996 and the Nagano Winter Olympics in Japan earlier this year.

Mr. McGeogh said SOCOG wants to improve upon the risk management of earlier Olympic games.

Toward that end, SOCOG has lined up insurance for the games' facilities through the Treasury Managed Fund, a self-insurance

fund established in 1989 by the New South Wales government. The TMF insures government-owned assets with a total value of \$38.15 billion Australian (\$23.45 billion).

## Rod McGeogh said SOCOG wants to improve upon the risk management of earlier Olympic games.

Mr. McGeogh said SOCOG directors identified major risks, then prioritized them according to the potential backlash if things went wrong.

Directors determined ceremonies were a key issue. If the opening or

closing ceremonies were "mucked up," Australia would be an international "laughingstock," he said.

Other major risks the group identified include security and crowd management at the venues. Technological risks include computer breakdowns, that would disrupt the electronic scoring system, among other things.

Finally, Mr. McGeogh said that sticking to the budget is a big concern. He said \$3 billion Australian (\$1.77 billion), the budget for the entire Olympics as monitored by the New South Wales government as host state, is "not really a lot to play with." With one-third of the game's budget to be raised from ticket sales, filling venues for some sports will be a problem. If Australians are not in some events, he said, there will be no guarantee of a full audience. **BI**

# ACE

Continued from page 27

In a statement issued by ACE, Mr. Charman, who is also the managing director of Tarquin, said: "We relish the opportunity to build on our past successes as separate companies and are committed to developing an even more formidable business in Lloyd's. Our valued international clients will benefit from the financial strength and flexibility of ACE, as well as the broader product lines and global servicing that will become available to them."

ACE U.K. Chairman William Loschert said the acquisition will extend ACE's strengths because of Tarquin's "substantial international presence, especially in marine, specialty property/casualty insurance and reinsurance."

Mr. Charman is highly respected in the Lloyd's market and is almost as well known for his forward-thinking and often outspoken views as his profitable underwriting account. Last year, he predicted the end of traditional unlimited liability membership of Lloyd's, and his agency was active in the capacity auction process, picking up as much capacity on its own syndicates as possible. It now has one of the lowest concentrations of unlimited liability members of any Lloyd's syndicate.

An ACE spokesman said Mr. Charman's "stellar track record," outstanding business performance and management style all attracted ACE to the deal.

ACE's most recent move is the lat-

est in a string of acquisitions that have diversified the insurer's business. It entered the Lloyd's market in 1996, when it bought Methuen Underwriting Ltd. and the Sturge managing agencies, earning \$78.8 million in premiums for the organization last year. Earlier this year, ACE Ltd. announced it intended to streamline its Lloyd's operations by merging its various agencies, as well as its syndicates, for the 2000 year of account (BI, Feb. 2). By then, ACE expects to be providing about 75% of its syndicates' capacity, according to Mr. Loschert. The remaining capacity most likely will come from spread corporate investors.

Also in 1996, ACE bought Bermuda-based Tempest Reinsurance Co. Ltd., and the following year added Atlanta-based Westchester Specialty Group Ltd., renamed ACE USA, to its stable for \$338 million. Moves this year have included setting up ACE Insurance Co. Europe Ltd. in Dublin; a new captive reinsurance facility in Bermuda; and the launch of ACE Capital Re Ltd., a joint venture between Capital Re Corp. and ACE Ltd.

Earlier this month, ACE U.K. launched a new service company, ACE Underwriting Services, for selected brokers to place small U.K. commercial business with ACE London at Lloyd's without necessarily having Lloyd's broker status. Lloyd's rules permit service companies owned by one or more Lloyd's agencies to channel business into one of the agencies' syndicates.

Richard Pryce, underwriter for syndicate 219, which set up the facility, said ACE Underwriting Services will

See ACE on next page

# Caps

Continued from page 28

Mr. Bowen said the working party's report also will cover litigation reform, including structured settlements, consisting of regular payments over an injured person's lifetime. Currently, structured settlements are unpopular in Australia because they are taxed as income, whereas lump-sum payments are not. Mr. Bowen said risk managers ought to lobby the Australian Taxation Office to change the rule.

Mr. Bowen said the judiciary shares public sector risk managers'

concern about the increase in claims.

He cited the most recent decision of Australia's High Court on public authority liability, *Romeo vs. Conservation Commission of the Northern Territory*, in which Judge Michael Kirby said earlier this year that the area of public authority liability is "unsatisfactory and unsettled" and lacks "foreseeable outcomes."

Simon Alroe, an attorney with the Brisbane office of the national law firm of Minter Ellison, said the Romeo case hinged on the "obviousness" of the danger. Nadia Romeo was injured when she fell off a cliff, but the High Court found that the

Conservation Commission of the Northern Territory, which controlled the land on which the accident occurred, was not liable.

The potential danger of the cliff was obvious to any member of the public, a majority of judges found in a Feb. 2 judgment.

"The High Court has gone some way to easing the burden of responsibility borne by local authorities and their public liability insurers for people injured on authorities' property," Mr. Alroe said. "The decision makes it clear that local authorities are not required to go to inordinate lengths to protect the public from obvious dangers." **BI**

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Secretaries, Treasurers, controllers and other Financial Personnel . . . . .	4,145
<b>Risk/Employee Benefits:</b>	
Vice Presidents, Directors, Managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations . . . . .	14,748
<b>Sub-total . . . . .</b>	<b>32,154</b>
Associations . . . . .	286
Government, Unions and Educational Institutions . . . . .	1,019
<b>Commercial Consumers</b>	
<b>Sub-total . . . . .</b>	<b>33,459</b>
Insurance Agents and Brokers . . . . .	8,083
Insurance Companies . . . . .	6,933
Accountants, Actuaries, Attorneys & Consultants . . . . .	2,705
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers . . . . .	1,578
Others Allied to the Field . . . . .	757
<b>Total Qualified . . . . .</b>	<b>53,525</b>
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Single Copy Sales . . . . .	27
<b>TOTAL CIRCULATION . . . . .</b>	<b>53,556</b>

★ Source Business/Occupational breakdown of qualified circulation, November 24, 1997 Issue, as submitted to BPA for December 1997 BPA Publisher's Statement

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# Northwestern India devastated by cyclone

By KAUMUDI MARATHE

Five million people in northwestern India have been affected by the cyclone that ripped through the state of Gujarat earlier this month and killed at least 1,200 people, causing personal and commercial damage totaling at least \$400 million and severing power to 80% of the state.

Insurers last week were still assessing the extent of damage, and preliminary loss reports indicated commercial damage totaling tens of millions of dollars.

The cyclone, whose winds measured between 95 and 125 mph, was considered the region's worst in 25 years.

According to unofficial sources, the number of fatalities of the June 9 storm may be nearer 5,000, and at least 1,000 people still are missing. With the death toll and damage estimate rising daily, life in the region is at a virtual standstill.

The cyclone struck hardest at Kandla, a port in Gujarat's Saurashtra region on the western coast of India, just north of Bombay. Although the town remained unaffected, winds whipped through the port, destroying buildings, machinery, ships, cargo, pipelines and railway tracks and uprooting trees and electric poles.

Waves triggered by the cyclone inundated nearby salt pans with water and swept shanty settlements into the ocean. A salt pan is a shallow place near the sea into which seawater is allowed to flow and evaporated to make salt. Many of those killed were salt pan workers and shanty dwellers.

Local journalist Uday Mahurkar, who visited Kandla after the cyclone, said the destruction seems to have exceeded that of any other cyclone in India to date, including the recent Andhra Pradesh disaster (BI, Nov. 18, 1996).

"The devastation is unbelievable," Mr. Mahurkar said. "It is indeed a tragic sight."

Dozens of vessels are marooned in the waters off Kandla; its wharf has been destroyed. The government-run port, several private shipping companies and the salt units have suffered severe damage. "Local industrialists assessed that public and private property loss was anywhere between \$500 million and \$750 million," Mr. Mahurkar said.

The greatest damage was sustained by the Kandla Port Trust, with \$33.3 million worth of vessels and heavy equipment such as marine unloaders, cranes and railway tracks destroyed, bent, dragged or twisted out of shape. Cargo valued at \$25 million stored at the port was destroyed, as were liquid and dry cargo—also worth \$25 million—housed in private warehouses beyond the port premises.

Ironically, only last year the port of Kandla was the most profitable of all Indian ports, handling more cargo than even Bom-

bay, Mr. Mahurkar explained. The city, with its population of 40,000, had developed into a thriving business center around the port. Now thousands of people have been evacuated from Kandla and other seriously affected areas, including Junagadh, Jamnagar, Porbandar, Banaskantha and Rajkot.

Since the storm, diesel and kerosene supplies to other parts of northwestern India have been cut off. The Kandla-Bhatinda fuel pipeline, which meets the region's needs, ceased to function when its computer-operated control terminal, built at a cost of \$20 million, was flooded during the storm. With available supplies of fuel unlikely to last more than a week, government sources said there is a concerted effort to get the facility back in working order rapidly.

The cyclone also destroyed the salt pans near Kandla, which produce 60% of the country's salt stock. About 100,000 acres of salt pan embankments, constructed at a cost of \$32.5 million, were washed away, as was manufactured salt worth \$7.5 million.

The Gujarat State Electricity Board suffered greatly in the disaster too, with losses estimated at \$78.3 million. Power supplies to much of Gujarat were severed, including to 11,000 of the state's 18,000 villages. Thirty-two thousand electric poles in the state were uprooted, and its water supply and industry were disrupted when 8,125 miles of high tension lines were damaged.

However, according to P.K. Lahiri, chief secretary to Gujarat Chief Minister Keshu Bhai Patel: "Fifty percent of the state's electric supply has already been restored. Efforts are on to restore the rest within a week." Mr. Lahiri added that the government is "providing free medical aid and money for the rehabilitation of victims and will construct 20,000 temporary homes for the affected people." The state and national governments each immediately announced payments of \$1,250 to the families of the dead, making for a total payment per casualty of \$2,500.

But determining the number of dead and compensating rightful beneficiaries will be no easy task, as more than 400 bodies were cremated en masse, without being identified, the day after the storm. Also, because many of the casualties were migrant laborers, few records are available to identify them. The job is further complicated by the fact that so many people are missing and others have fled. This could conceivably lead to false compensation claims, insurance experts fear, because disproving identity



AP/WIDE WORLD PHOTOS

Insurers were still assessing losses last week from a powerful cyclone earlier this month that caused widespread commercial damage in northwestern India.

will be nearly impossible.

Apart from the mandatory government compensation, life insurers also are expecting claims from the region. An official of the Life Insurance Corp. of India, however, said that so far no claims have been made. "The area is so devastated that no one has come forward yet," he said.

Meanwhile, a spokesperson for the General Insurance Corp., reinsurers of property in Gujarat, said the state's principal underwriters—the four GIC subsidiaries of New India Assurance, National Insurance, Oriental Insurance and United India Assurance Ltd.—still were evaluating the damage. According to New India Assurance's Gujarat office, insured property in Saurashtra so far has totaled \$50 million, including marine cargo, marine hull, buildings and machinery.

However, "the picture is changing every day," an NIA manager explained. "Though damage is being assessed, with power down and the threat of more rain, it will take time. We already have received about 1,200 claims but will need at least a month to make payments." The neighboring state of Rajasthan also was affected by the cyclone. At least 15 died due to house collapses and fatal shock caused by heavy rains and crashing electric poles. Also, a large number of the laborers who died at Kandla were natives of Rajasthan.

On a more positive note, the cyclone may have brought the much-needed yearly monsoon rains to India two weeks earlier than expected. The rain brings relief from an eight-week heat wave that had caused the deaths of more than 1,500 people.

## ACE

Continued from previous page

take over from brokers much of the administration, such as policy issuance, bringing down the brokers' costs and using resources already available at ACE U.K.

ACE Underwriting Services has been set up to service the multiline "Optimus Commercial Insurance" product, launched at the beginning of this year and providing a selection of options for small- to medium-sized commercial concerns.

Policyholders can choose from building and contents coverages, liability protections, terrorism and subsidence coverage. Over time, more forms of coverage will become available as more ACE syndicates get involved in the product. Although the facility has been launched for the U.K. market, there is no reason why it can't be extended over time to provide continental European customers with flexible coverages, said Mr. Pryce.

Sir Laurie Magnus, managing director of DLJ Phoenix Securities Ltd., said earlier this month that many non-U.K. insurers are still looking to buy Lloyd's agencies to get a foothold in the market.

Of the 66 managing agencies trading at Lloyd's this year, only eight remain under independent ownership, representing about £850 million (\$1.4 billion) in capacity.

In other news, Clive Washbourn has been named as the new underwriter for ACE syndicate 375, following the death of Nick Colton earlier this month from cancer. **BI**

## Allianz, Gerling to roll out new products

By DON LEWIS KIRK

Globalization is changing both the scope and sophistication of insurance products in Germany, says Allianz A.G. board member Manfred Illner.

The insurance battleground is expanding to new classes of risks, with a new focus on multiyear, multiline and alternative risk transfer solutions.

"Markets are converging," he said. "Today's success factors are tailor-made solutions and speed and flexibility in creating new products." As a result, insurers are opening new markets to buyers looking for global coverage and service.

At a forum for commercial clients earlier this month, Mr. Illner said Allianz would "fill gaps" in product variety and become more flexible in product development.

Such flexibility focuses on insuring difficult risks. Mr. Illner unveiled a new global Build Operate Transfer policy for infrastructure projects. The BOT policy covers previously uninsured risk, including contract penalty fees and production deadline penalties and force majeure damages.

Allianz hopes to defend terrain threatened by growing competition with multiline/multiyear policies. In addition, Allianz is looking to offer risk-financing solutions for traditional and capital market risks, such as interest rate fluctuations.

The move has been prompted in part by a serious new contender: reinsurance companies, including Cologne Re and Employers Reinsurance Corp. Allianz says it's competing

more with reinsurers to expand cooperation with captives. As a result, Allianz is competing for new markets, including areas of corporate risk financing dominated by Swiss Re.

ART solutions—self-insured retentions, captives, special-purpose insurers, financial and finite risk insurance and event-triggered insurance and related capital markets products—could be a battleground, said Mr. Illner. However, he acknowledges global demand has not met initial expectations. Growth of such solutions in the United States has been fueled, he said, by typical U.S. risks, such as workers compensation, which are not as prevalent in other markets. But Mr. Illner says growth outside the United States has not met predictions.

He did said industrial clients are demanding new solutions and says captives are looking to retain predictable loss layers. Allianz wants to provide captives and its other clients global policies, claims management and risk engineering.

Allianz's principal contender in Germany also has stepped forward. Gerling Group, itself a strong global player, is also offering corporate clients ART options, including capital market solutions, catastrophe bonds, multiyear funding and risk securitization. It plans to integrate with multiline/multiyear policies for all classes of property and liability risks.

Gerling also is looking to strengthen its standing as a leading world film and television production liability insurer. As a new product, it is offering a completion bond to cover produc-

tion risk from non-completed films.

Liability insurance has become a focus for Gerling, including an ART solution with a multiyear funding component that would allow cleanup of environmentally impaired sites.

Gerling's new environmental impairment liability policy fills gaps left by other insurers when soil is contaminated and gives buyers the option of cleaning up soil after an accident, regardless if a government order is imposed. The typical product requires a government order as a trigger for coverage. The new policy could be important for a company that plans to sell property later.

The "own soil" contamination issue has grieved buyers since EIL laws were passed in 1991. Two years ago, foreign insurers addressed on-site cleanup. Gerling hopes to regain lost territory by overcoming exclusions that restrict claims to government-ordered cleanups.

Other new Gerling and Allianz products include kidnap and ransom insurance, which both will introduce July 1 as German regulators back down from a prior ban (BI, March 2).

Legal, social and economic changes are fueling product development. Early this month, Gerling announced a new policy for recall of unsafe products or for blackmail, which includes loss of profits, reissue and increased advertising costs. Allianz began offering recall insurance last year.

Perhaps the strongest trend for both is high-tech risk containment. Last week, Gerling introduced computer liability insurance for financial losses

resulting from viruses and Year 2000 glitches. Computer liability is a factor fueling commercial insurance demand, says Mr. Illner, who estimates worldwide losses from the millennium bug could reach \$600 billion. Allianz is encouraging its clients to take preventive steps now.

Mr. Illner said if clients do not take evasive action, they could be subject to cancellation at renewal time. The millennium issue has created a boom for directors and officers liability insurance in Germany, said Mr. Illner.

Allianz also hopes to profit from its takeover of Assurances Generales de France, an acquisition that will strengthen Allianz's position as a global insurer. However, exposures have also increased as a result of taking over AGF, Mr. Illner said.

Allianz expects underwriting losses from its industrial business this year, including losses from the recent train crash in Eschede, Germany.

With AGF, Allianz boosted its 2.1 billion deutsche mark (\$1.18 billion) premium volume in commercial lines by 7.5 billion deutsche marks (\$4.2 billion) (BI, Jan. 5).

Allianz expects more competition in the future and more mergers creating larger players. Mr. Illner said the relationship to industrial clients has become more difficult due to larger buyer retention of risk and a continuing fall in rates. In addition, he sees growing risks from frequent and serious natural catastrophe losses and said Allianz has hired companies to provide damage estimates based on various catastrophe scenarios. **BI**

# Insurer fighting hull claim

Lloyd's syndicate in dispute with broker over jet

LONDON—The lead aviation insurer for a jet that crashed in Peru last month while chartered to Occidental Petroleum Corp. is refusing to pay the hull claim.

Lloyd's of London syndicate 824, the lead underwriter on the \$6.95 million hull coverage, is in dispute with the broker, London-based Lloyd Thompson Ltd., over whether the claim should be paid.

Murray Lawrence Holdings, manager of syndicate 824, issued a statement earlier this month confirming that the syn-

dicate had denied the claim in connection with Peruvian Presidential Aircraft FAP351. It added that the decision is backed by legal advice.

However, a Murray Lawrence statement said that due to legal constraints, it was not permitted to comment further on the claim.

A Lloyd Thompson spokesman said: "Having reviewed the situation with our lawyers, we feel strongly that the claim should be upheld."

The aircraft was a 15-year-old

Boeing 737-200 owned by the Peruvian air force, Fuerza Aerea del Peru, which also had taken out the hull insurance.

At the time it crashed in the Amazon jungle on May 5, killing 74 of the 87 people on board, it had been chartered by Los Angeles-based Occidental to fly oil workers and subcontractors from Iquitos, Peru, to the Andoas oil field 625 miles north of Lima (BI, May 18).

Officials at Occidental declined to comment.

—By Edwin Unsworth

# Insurers may aid efforts for cleaner air

By DON LEWIS KIRK

COLOGNE, Germany—Corporate efforts to reduce greenhouse gas emissions could get a boost from insurers.

As world governments seek to reduce pollution by exchanging emission credits—so-called emissions trading—insurers say they may cover liability risk. In emissions trading, a country that has fallen short of its goal to reduce certain emissions can buy credits from countries that have exceeded their goals. The credits are tradeable goods to be bought and sold. Implementing the process still is undecided; insurers hope to help facilitate the trading with environ-

mentally sound business developments under the U.N. Framework Convention on Climate Change and intends to play an active role at the next round of negotiations in Buenos Aires, Argentina, later this year. Those negotiations will look at implementation of the Kyoto agreement, including such things as sanctions and compliance verification.

The conference will seek agreement on joint implementation among industrial and developing nations; developing nations so far have not agreed to the joint implementation.

One important factor holding back insurers is reliable data on environmental impact, said Mr.

**'As companies—and governments—look to reduce emissions, insurers could support them by covering risk of default,' says Andrew Dlugolecki of General Accident.**

mental liability insurance.

Andrew Dlugolecki, general manager of Perth, Scotland-based General Accident, told delegates of a recent United Nations Environment Program conference on insurance and the environment in Cologne, Germany, that liability risks in the selling and buying of emission credits could be insured.

"As companies—and governments—look to reduce emissions, insurers could support them by covering risk of default," he said.

Emission trading is a key element of an agreement set down in last year's U.N. conference in Kyoto, Japan. Mr. Dlugolecki said the insurance industry is watching

Dlugolecki. At the meeting, a corporate "Global Warning Indicator" was launched as a tool for all companies across all sectors to measure their contributions to global warming. The indicator will allow investment managers to identify impacts of the Kyoto Protocol on the financial performance of companies.

The UNEP alliance with the insurance industry was launched in 1995 when the first insurance companies signed on to the "UNEP Statement of Environmental Commitment by the Insurance Industry." Today, 74 insurers from 25 countries have signed the statement, committing themselves to an environmental-oriented business approach. That approach will include environmentally sound in-house activities, such as facilities management and employee education, and customer-focused activities, such as risk management, loss prevention, product design, claims handling and asset management. Insurers that have signed the statement also have agreed to report to the public their environmental activities, lobby for change and encourage relevant research.

At the June 9 conference, Chicago-based Aon Corp. became the first broker to sign the UNEP statement. "All sides benefit," said Aon British representative Peter Tritten. "The wide range of experience at the table aids development of new products."

The third meeting of the UNEP and the Insurance Industry Initiative for the Environment shows clearly the focus of current efforts on risk analysis, said Walter Jakob, managing director of Gerling Global Re in London. "A better understanding of environmental risks is of key importance to insurance companies," he said. "But we cannot tackle this issue if better and more specific information is not made available to us. That's why environmental reporting is a crucial issue for our industry."

New strategies to deal with consequences of climate change must focus on improved environmental reporting and product innovation, said Mr. Dlugolecki.

The Cologne conference drew 140 insurance managers. BI

## Call for Nominations

### Risk Manager of the Year Risk Management Honor Roll

Nominations for the 1999 *Business Insurance* Risk Manager of the Year and Risk Management Honor Roll are now being accepted.

The Risk Manager of the Year Award was created in 1977 by *Business Insurance* to increase recognition of the risk management profession and to recognize outstanding performance in the practice of risk management.

Anyone involved in risk management for a corporation, financial institution, not-for-profit institution, self-insurance pool or government entity can be nominated.

The nominations will be judged by a panel of professionals representing all aspects of risk management and the commercial insurance industry.

The honorees will be announced in the April 12, 1999, issue of *Business Insurance*, which will be distributed at the Risk & Insurance Management Society Inc. Conference.

For nominating forms and instructions, call 312-649-5319 or e-mail: ktucker@crain.com

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## ADVERTISER INDEX

### Issue of June 22

ADVERTISER	PAGE #
American Re-Insurance	18A/D
Burnham Systems	28
Business Insurance	15,19,23
Capital Re	10
Carvill America, Inc.	24
Claim Technologies, Inc.	28
Crawford & Company	14
GAB Robins	25
General Accident Ins.	6-7
Gerling Global Financial	26
Gulf Insurance Company	4
KPMG Peat Marwick/Montvale	11
Law Audit Services	18
Outdoorsman Agency	24
PMA Reinsurance Corp.	16-17
Protection Mutual Ins. Co.	12-13
Reliance National	36
Risk Capital Reinsurance Co.	9
Swiss Re America	29
United Healthcare	20
Westport Insurance	24
WLT Software of FL, Inc.	28
Zurich-American Specialties	5

Commentary

# Y2K publicity is a good sign

I am both terrified and fascinated by the Year 2000 computer problem.

I find myself reading every article on Y2K that catches my eye.

I'm terrified that if the pundits are right, the world really will come to a grinding halt at 12:01 am on Jan. 1, 2000, as computers crash and chips fail, reading 2000 as 1900. What will the world be like if financial institutions crumble, markets crash and telephones go dead?

Little things about the Y2K issue also fascinate me. Why does my new ATM card that says it expires in 00 still deliver cash but when I book a tee time by phone with a credit card I am warned: "If you have a credit card that expires in the year 2000 or beyond you must enter 99 for the expiration date."

Will my 114,795 miles that American Airlines says are due to expire in 00 really be there when we get to the year 2000, or should I use them now?

There are plenty of Y2K articles, both in our publication and our sister publications at Crain Communications, warning of doom, gloom and disaster if companies, institutions and governments don't identify and correct their Y2K problems.

We've reported on the problem in general and specifically as it applied to fiduciary liability for employee benefit plans, concerns about directors and officers liability and insurance coverage for Y2K problems.

Our sister publications, too, are warning of the disaster that could sweep the world due to the Y2K bug striking the financial markets, hospitals and auto manufacturing, to name a few of the specific industries covered by Crain publications.

Just last week, Pensions & Investments warned that "fear is growing among investment professionals that public companies and Wall Street are underestimating the risks posed by the year 2000 computer problem."

Specifically, the P&I article says, "Computers, or machinery relying on computer chips, could malfunction or crash, potentially threatening the supply of almost any type of product or services, including power, transportation, telecommunications and water, and cutting gross domestic product."

The P&I article also cites the potential disruption of financial exchanges.

Modern Healthcare is reporting that while multimillion-dollar software systems in health care institutions obviously need to be examined, the proliferation of microprocessors in medical technology also makes it necessary to check every square foot of a health care facility for chips that could go haywire after 1999. And several registries have been created to report the millennium readiness of chip-embedded medical devices.

In the automotive industry, the big three are wrestling with the problem, Automotive News reports. General Motors, for example, is updating its computers this year and will test those changes in 1999. GM also is worried that its suppliers have not gotten the message about the "millennium bug," finding that eight to nine percent of its Tier 1 suppliers have not solved a software bug that could cripple their computers in 2000. Fearful that lax suppliers could cripple production, GM is sending auditors to visit these suppliers to gauge the extent of the problem.

Meanwhile, Crain's Chicago Business and Crain's New York Business are reporting that banks are becoming "computer cops," analyzing their clients' preparedness for the Year 2000, under pressure from federal bank regulators.

By Sept. 30, banks must know the degree to which all customers are prepared for the millennium and the potential hit to banks' bottom line. Bank regulators want to avert operational problems at banks over the next two years, including liquidity crises created if borrowers miss loan payments because of ballooning year 2000 costs or because date-sensitive computer hardware, software and office equipment have quit altogether.

All this attention to the Y2K problem gives me some comfort that businesses and governments are taking the Y2K problem seriously. I'm pretty confident that by the time we are all sipping champagne to welcome the new millennium we'll also be toasting the eradication of Y2K bugs.

*Publisher and Editorial Director Kathryn J. McIntyre and Editor Paul D. Winston publish columns on alternate weeks.*



Kathryn J. McIntyre

# California

*Continued from page 1*  
bill was introduced by State Sen. Quentin Kopp, I-San Francisco.

"There is a lot of concern about the way it would overturn the *Loral* case," Mr. Washington said. "It goes way beyond the other two in that it not only deals with the *Loral* case but adds more to the law than ever existed. It's become high profile, and we're trying to keep it from getting out of hand."

Specifically, Sen. Kopp's bill would allow plaintiffs to use the disparate impact theory, rendering moot the *Marks* decision, in which the appellate court upheld a trial judge's jury instructions that employers can favor lower-paid workers even if that disproportionately impacts older workers.

The appellate court decision acknowledged that federal courts have struggled with the concept of "disparate impact" in the application of age discrimination law. However, the court said that federal and state statutes' intent was to prevent decisions based on generalities, not to prevent "perfectly sound economic decisions which have a disproportionate effect on older workers as a group."

Under the disparate impact theory, plaintiffs can prevail by showing that a protected class is statistically impacted by an employer's policy.

Disparate impact theory reduces evidence requirements to a lower standard than under disparate treatment, said Susan R. Denious, a defense attorney in the Sacramento office of Kronick Moskovitz Tiedemann & Girard.

Under the more strict standard of disparate treatment theory, discrimination must be based on the employer's intent to stereotype or discriminate, not just on a statistical impact.

"This would be newly importing that standard of proof, where basically all a person has to do is show a bare statistical showing and that shifts the burden of proof

to the employer," Ms. Denious said. It also would increase defense costs because it raises the need for expert witnesses such as statisticians.

Additionally, Sen. Kopp's bill would expand existing age discrimination laws beyond hiring and firing to also include the privileges, terms and conditions of employment. In that sense, the bill embraces the theory of "hostile environment," Ms. Denious said.

Currently, state law allows gender and race discrimination plain-

passes.

Plaintiffs attorneys disagree with defense attorneys and say the *Marks* decision is a departure from existing law. It's a "rogue" decision that employer groups have won and now don't want to give up, said Rick Simons, president of the Consumer Attorneys of Calif. It legitimizes employment discrimination by class, Mr. Simons added.

The American Assn. of Retired Persons is sponsoring Ms. Escutia's bill because older workers in middle management particularly

face the potential of losing their jobs in the current economic environment, said Helen Savage, AARP's legislative representative in Sacramento.

"The *Marks* decision is very

scary for older workers," she said. "We have just gone through several years of major downsizing at large corporations, and the people that were most at risk of losing their jobs are 40 and above."

All three bills have passed their legislative chambers of origin. Last week the two Senate bills passed through the Assembly Labor and Employment Committee. Two weeks ago the Assembly bill passed through the Senate Judiciary Committee; there was no action on it last week.

Should any of the legislation become law, employers could lose flexibility in matters such as layoffs and cost reductions, observers said. They would have to make such decisions with an eye to their impact on all employees over 40 at a time when the population is aging.

Republican Gov. Wilson could side with employers and veto the proposed legislation, employer lobbyists said. But they would rather the governor not have a record of using his veto authority in a stance that could be construed in future elections as anti-worker.

"There is no question that is our fail-safe," Mr. Krausse said. "But the idea is we never like to sit on our hands and say: 'Don't worry about it. The governor will take care of it.' That is not defending your own friend." **BI**

**'We have just gone through several years of major downsizing at large corporations, and the people that were most at risk of losing their jobs are 40 and above,' says Helen Savage.**

tiffs to cite "hostile environment" as a cause of action, referring to a pattern of incidents that demonstrate unfair or inappropriate treatment. Age discrimination claimants have not been able to use hostile environment as a cause of action.

Although a plaintiffs attorney, Sen. Kopp is not seen as a consistent ally of the plaintiffs bar, Mr. Krausse said.

A spokesman for the senator said Sen. Kopp believes the court of appeals ruled incorrectly and is trying to rectify it. His bill has "drawn attention from workers groups and also drawn a lot of attention from the business community. It's been fairly contentious," the spokesman added.

The other two bills are:

- A.B. 1643, introduced by Assemblywoman Martha Escutia, D-Huntington Park. It would give age discrimination the same legislative protection as race or gender discrimination. It also would allow plaintiffs to use disparate impact theory, thus reducing existing evidence requirements, employer representatives said.

- S.B. 2192, introduced by John Vasconcellos, D-San Jose. It stops the use of the *Marks* ruling as precedent, but it supports disparate treatment theory. Employers see it as the least offensive, but language in the bill states it will pass only if Ms. Escutia's bill

# World Cup

*Continued from page 3*  
the 2002 World Cup, to be hosted jointly by the Republic of Korea and Japan, and 2.4 billion Swiss francs (\$1.61 billion) for the 2006 World Cup, the hosts of which have yet to be determined.

The policy covers broadcast, sponsorship, marketing and ticketing refunds resulting from total cancellation of the World Cup. There will be an additional first loss policy covering postponement or cancellation of single matches within the tournaments. Property and liability coverage are the responsibility of the host countries.

The total sum insured for cancellation of this year's soccer World Cup, taking place now in France, is 535 million Swiss Francs (\$359.3 million) (*BI*, June 8).

Albingia, a subsidiary of U.K.-based multiline insurer Guardian Royal Exchange P.L.C. of London, has provided insurance coverage to FIFA since the 1974 World Cup in Germany.

Mr. Goerling said the large increase in sums insured for the two

upcoming World Cups is primarily due to the escalating value of television and marketing rights.

He said the increased coverage for the 2002 Korea/Japan tournament also is based on the greater risk of natural disasters, such as earth-

**The total sum insured for cancellation of this year's World Cup tournament in France is \$359.3 million.**

quakes and tsunami—dangerous high-powered waves of water triggered by seismic activity—and political unrest in the region.

So far, there have been no major claims arising from this year's World Cup, France 98. The tournament started June 10 and finishes July 12.

French broker Gras Savoye S.A. placed a range of insurance coverages, including general liability, property, auto and additional expenses, for the World Cup French Organizing Committee.

Although there have been widespread complaints from soccer fans throughout the world who did not receive World Cup tickets that they had paid for, there is no liability against the organizing committee, according to Patrick Vajda, director of Gras Savoye sports and events insurance.

He said the committee fulfilled all its ticketing responsibilities by distributing designated ticket allocations to its 17 authorized tour operators. Any lawsuits from disgruntled soccer fans would have to be directed at the tour companies from which they bought tickets.

"They (the organizing committee) have been perfectly transparent, and there is no liability," Mr. Vajda said.

He said many soccer fans took a bad risk by buying tickets from unauthorized tour companies that never could guarantee ticket availability.

Some of France 98's opening games, particularly the match between England and Tunisia in Marseille on June 15, have been marred by street fighting among rival supporters. But Mr. Vajda said there has been no significant property damage. **BI**

# Builders

Continued from page 2

of Appeals for the Fourth Appellate District in San Diego marks the most progress to date on the issue, and some attorneys expect it could be followed by other California appeals courts.

The ruling in *Alan O. Aas vs. The Superior Court of San Diego County* clarified a "subissue" of how to define a construction defect, said Juan Acosta, legislative advocate in Sacramento for the California Building Industry Assn.

The appellate court ruled that, in order to recover for a construction defect under negligence or strict liability, a plaintiff must show actual damages or personal injury. In doing so, the appellate court is following a trend set by courts in other states, according to Mr. Acosta.

Other California appellate courts could look to the Fourth Appellate District for leadership because the court provided lengthy review of the matter, attorneys say. Also, statewide, San Diego is considered ground zero in the construction defect litigation battle because of its active construction market.

Under the *Aas* ruling, plaintiffs in the Fourth Appellate District can no longer recover for anticipatory damage, explained George D. Dale, an insurance defense partner in the Los Angeles office of Dale, Braden & Hinchcliffe. For example, a plaintiff cannot recover when an expert witness testifies that it is likely that all the roofs in a construction project will eventually leak because five roofs have already done so. Unless the remaining roofs are actually leaking and damage is being caused to something underneath them, recovery is not possible.

Mr. Dale's represented defendants that were parties in the original Superior Court case, in which Alan O. Aas

and other homeowners sued housing project builders and subcontractors for negligence stemming from defects.

"This is very much in line with what the building and insurance industry have sought to achieve" via lobbying for tort reforms, said Mr. Dale, who is a member of the Construction Defense Action Coalition, a group of developers, contractors, insurers and defense attorneys. "In fact, it has accomplished more than we have achieved in Sacramento by a long shot."

But plaintiffs can still sue under

**'This is very much in line with what the building and insurance industry have sought to achieve,' says George D. Dale.**

theories such as breach of implied warranty even if all houses in a tract have not yet shown damage, according to Douglas W. Grinnell, a plaintiffs attorney with the firm of Epstein & Grinnell in San Diego. Plaintiffs will appeal the *Aas* decision, said Mr. Grinnell, who represented plaintiffs in another case that was consolidated with *Aas*.

In the *Aas* ruling, the court concluded: "Homeowners associations and individual homeowners do not have a private right of action in negligence against developers, general contractors and subcontractors for recovery of purely economic losses they sustain as a proximate result of construction defects in mass-produced housing (including, but not limited to, defects involving violations of governing building codes) which have not yet caused personal injury or physical damage to other property."

The court also eliminated the potential ability to collect for stigma damages. Those damages theoretical-

ly could result from a property losing value as a result of a future buyer's reluctance to purchase the property even though repairs to minimize or eliminate damages have been made.

The decision is helpful, but it is not expected fill the market with insurers that have been reluctant to write home builders coverage in California.

"Even though this is one very good judicial decision, we are still going to need positive legislation to really open up the market" said Angela Warren, counsel of the Western Region in Sacramento for the American Insurance Assn. "They are certainly not going to flood back because of this case. I think they are going to use it as a bench mark that things are somewhat better. At least the judiciary is taking note of what makes a sensible decision in construction defect cases."

But the soft insurance market is already improving conditions for purchasers. "It's pretty competitive right now," said Carole Fleischman, senior vp for Stewart Smith West Inc. in Glendale, Calif. "The rates are significantly down from where they were last year."

However, subcontractors still report difficulties obtaining coverage, Mr. Acosta said. The contractors above them may have stopped complaining because the building market has heated up, making it easier for builders to pass on the cost of insurance.

The *Aas* case was argued before the appellate court along with *Provencal Community Assn. vs. The Superior Court of San Diego County*. While the two cases stemmed from separate construction defect suits against builder The William Lyon Co., they both petitioned the appellate court because of the lower court's exclusion of evidence pertaining to damage repair costs and stigma damages.

*Alan O. Aas et al. vs. The Superior Court of San Diego County, No. D030218; June 11, 1998.*

# HMO unveils electronic claim system

Aetna U.S. Healthcare aiming to speed up turnaround

By MICHAEL PRINCE

NEW YORK—Aetna U.S. Healthcare is introducing a new electronic claims filing system that it says will speed up payments to physicians and reduce paperwork and annoying errors for employees.

Called E-Pay, the new system began operations in northern New Jersey on June 15. Aetna plans to introduce E-Pay to New York City and surrounding counties July 15 and will roll it out to the entire country by the end of 1999.

Using the new system, physicians can file claims to Aetna using an in-office computer with special software provided by Aetna. A claim submitted will be reviewed and payment made within 15 days, the company said, compared with a current industry average of 45 days and Aetna's current 30-day average.

"We believe that E-Pay will improve HMO claim turnaround time, leading to more predictable cash flows for physician practices and, therefore, higher satisfaction levels among our participating physicians," Michael Cardillo, president of Aetna U.S. Healthcare, said in a written statement. "And as we convert the majority of claims to electronic processing, our overall service quality will greatly improve for employers and members."

Aetna officials also said the new system will reduce errors in claims and duplicate claim submissions. Although the company had no statistics on the percentage of claims filed on paper that contain errors, it said 40% of paper enroll-

ment forms included mistakes. But when Aetna moved to electronic enrollment last year, the error rate dropped to under 1%.

But some consultants don't share Aetna's enthusiasm for E-pay. Howard Tarre, senior consultant with The Kwasha Lipton Group of Coopers & Lybrand L.L.P. in Fort Lee, N.J., said an electronic linkage between doctors and the HMO is good, but he is disappointed more is

**'The faster a claim is paid, the fewer complaints you get from the employees,' says Adria Bailey.**

not being done with it, such as data collection and electronic payments to doctors.

"What they're doing with the linkage is not that exciting," he said.

The lack of scope was noted by another consultant.

"It's not a bad thing, but it's not a brand new thing," said Adria Bailey, senior consultant for Northshore International Insurance Services, a claims consulting firm in Salem, Mass.

Aetna acknowledges that 38% of all health claims already are filed electronically.

Mr. Tarre and Ms. Bailey did say paying claims faster helps employers by having a better plan for their

employees.

"Anything that makes the plan run more smoothly is an advantage to the employer," Mr. Tarre said.

"It reduces the reasons for doctors to vent frustration on the patient," he added.

Ms. Bailey added that when physicians are paid sooner, they send out fewer late-payment notices and make fewer phone calls to patients seeking payment. Employees in turn feel better about the health plan.

"The faster a claim is paid, the fewer complaints you get from the employees," she said.

At a news conference introducing the system, Lee Saviola, director of health care benefits for AT&T, which employs 25,000 people in northern New Jersey, said employees will spend less time dealing with notices from physicians about non-payment from the insurer.

But Aetna said the main benefit to employees is the expansion of the existing electronic referral system.

This system allows a primary care physician to file electronically with Aetna a referral to a specialist. This eliminates the need for a member to obtain a paper referral and assures Aetna will have the referral when the specialist's claim arrives. Referrals can be made by telephone into a voice response system or using a swipe box similar to those used for credit cards. The swipe boxes will be provided by Aetna to physicians whose majority of referrals involve Aetna members. The physicians' offices will swipe plan members' cards to make the referrals.

# Updates

## Court lets airbag suit proceed

Continued from page 2

installed in cars after 1993, pre-empts state common law suits concerning cars built without airbags before 1993.

The court rejected this argument. Writing for the majority, Judge Joseph Bellacosa stated that the federal law expressly allowed state court suits to proceed. Federal law "sweepingly yet particularly authorizes the prosecution of 'any' common law claims, including those relating to specific safety standards," the judge wrote.

Ms. Drattel is suing under New York common law and alleging that the car had a design defect by not having an airbag.

Attorneys for the plaintiff said the decision helps protect consumers nationwide.

"Congress never intended to grant auto manufacturers immunity for needlessly endangering motorists' lives," Alan Shapey, the plaintiff's trial attorney with the New York firm of Ligsig, Shapey, Manus & Moverman, P.C., said in a written statement. "The court has properly held that Caryn Drattel and similarly situated crash victims have a right to their day in court."

Although five other states have previously allowed similar suits to proceed, this decision might lead to more lawsuits because of the prominence of the New York court, said Arthur Bryant, the appellate attorney for Ms. Drattel and executive director of Trial Lawyers for Public Justice in Washington. Lawyers will hear of this decision "and are going to be pursuing it in appropriate cases," he said.

A Toyota spokesman said the company was disappointed with the decision and is confident it will prevail at trial.

## Reinsurance subsidiary set up

HAMILTON, Bermuda—Lehman Brothers Holdings Inc. has set up a reinsurance subsidiary with \$500 million in capital.

Lehman Re Ltd. will retain a portion of the underwriting risk, but it will securitize much of the risk, said Michael Gelband, head of fixed-income derivatives at the New York-based investment bank.

The reinsurer started its operations in Bermuda on June 1. Initially, it will cover finite risk and other financial coverages; property catastrophe reinsurance; political risk and trade credit insurance; and life reinsurance.

Lehman Re will accept business mainly through brokers and will offer coverage in the same way as traditional reinsurers, Mr. Gelband said.

The reinsurer still is seeking staff, but so far its underwriters include Sasson Posner and Michael Leybov, who previously were with Centre Reinsurance Co. Ltd. and who will write finite risk coverage; and Ray Antes, who previously was with American International Group Inc. and who will write political risk coverage.

Mr. Gelband is president of Lehman Re, but the reinsurer has yet to appoint an executive to oversee the day-to-day operations in Bermuda.

Lehman Re is setting up at a time when reinsurance market conditions are soft and there is still relatively little activity in the fledgling insurance and reinsurance securitization market.

"This is a long-term commitment, and the market is not going to develop overnight. . . . We've done similar things in the mortgage-backed securities business, and we think that this is going to be the next asset class," Mr. Gelband said.

## Briefly noted

The Occupational Safety and Health Administration has scheduled stakeholder meetings to discuss specific provisions the agency is considering including in a proposed ergonomics standard. The provisions will be made public one or two weeks before the meetings, scheduled for July 21 in Kansas City, Mo., and July 23 in Atlanta. Additional meetings will be held later this summer in Washington. . . . The Health Care Financing Administration will release detailed regulations this week on benefits health care plans will have to offer to retirees eligible for Medicare. The rules will help implement a federal law set to go into effect next year giving Medicare beneficiaries the right to choose among a broad array of health plans instead of the traditional Medicare program. . . . After weeks of delay, a House Republican health care task force could release a managed care reform package this week. Provisions expected to be in the package, developed under the leadership of Rep. Dennis Hastert, R-Ill., include requiring health care plans to pay for emergency room visits that a prudent person judged reasonable, giving patients direct access to certain specialists and a ban on gag rules. . . . The New York Court of Appeals, the state's highest court, has let stand a lower court ruling that Atlantic Mutual Insurance Co. must pay \$2.5 million to cover defense and settlement of a case in which American Management Assn. was accused of intentional "disparate impact" age discrimination. The lower court barred Atlantic Mutual from applying the intentional acts exclusion in AMA's policy, ruling that every claim for intentional discrimination includes a potential alternative claim for unintentional discrimination. The court also rejected the insurer's claim that coverage for unintentional discrimination is against New York public policy. . . . The 9th U.S. Circuit Court of Appeals in San Francisco last week upheld Washington state's 1996 law guaranteeing health plan members access to alternative providers, such as naturopaths, chiropractors and acupuncturists (*BI*, April 22, 1996). The court rejected health insurers' argument that the Employee Retirement Income Security Act of 1974 prevents the state from enforcing its law. . . . Lloyd's of London Chairman Max Taylor, speaking at last week's annual general meeting, reaffirmed Lloyd's continued support for a variety of capital providers, as well as the continuation of the annual joint venture, for as long as names wish. He also said the Council of Lloyd's will continue to help individual members trading at Lloyd's. . . . Antigua authorities have suspended American International Sureties Ltd.'s authority to transact business, and AIS has closed its Antigua office and has ceased paying claims. A British court issued a winding up order against AIS in April (*BI*, June 8). AIS had claimed to be capitalized with more than \$80 million in defaulted pre-World War II German government bonds (*BI*, May 26, 1997).



# RELIANCE NATIONAL'S Engineered Technical Risks

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