

**NEW RIMS PRESIDENT
DEBORAH LUTHI
SETS AGENDA / PAGE 3**



**LATEST NFIP EXTENSION
RAISES HOPES FOR
LONG-TERM PLAN / PAGE 3**

**EMPLOYERS FACE SURGE
IN PENSION CONTRIBUTIONS
AS FUNDING FALLS / PAGE 3**

In Brief

P/C rates up slightly in December: Survey

Commercial property/casualty insurance rates rose 1% on average in December compared with those of a year earlier, MarketScout reported. Workers compensation experienced the largest increase at 3%, followed by commercial property and general liability with 2% increases. No line of insurance monitored by MarketScout experienced a decrease, although several were flat.

2011 saw record \$105B in cat losses

2011 was the costliest year on record for insured natural catastrophe losses, according to analysis by Munich Reinsurance Co. Insured losses from natural catastrophes totaled about \$105 billion, surpassing the previous record of \$101 billion in 2005, Munich Re said. Earthquakes in Japan and New Zealand accounted for about two-thirds of the total losses last year.

See **IN BRIEF** page 21

SPOTLIGHT

PROPERTY/CASUALTY INSURANCE RENEWALS REPORT

Catastrophe-exposed risks hit with price increases; casualty buyers see an uptick in rates; catastrophes firming reinsurance pricing; some higher rates seen in the workers comp market; rates vary for D&O coverage while E&O pricing is generally flat.
PAGE 10

RISK MANAGEMENT

New Orleans boosts flood defenses

*Risk managers hope upgrades
will reduce insurer fears, rates*

By **RODD ZOLKOS**

NEW ORLEANS—A massive new system aimed at reducing hurricane and storm damage risk in Greater New Orleans that was developed in response to the catastrophic effects of Hurricane Katrina will be completed soon, though its impact on insurance rates might take longer to be realized, some say.

The \$14.6 billion Greater New Orleans Hurricane and Storm Damage Risk Reduction System was more than 97% complete late last year, with the U.S. Army Corps of Engineers hoping to finish the project by the end of June.

In late October, a group of insurance industry executives—and *Business Insurance*—toured many key features of the new risk reduction system with the corps.

The tour was organized by Warren Perkins, vp and risk manager at Boh Bros. Construction Co. L.L.C. in New Orleans, and was intended to educate the insurance market about the risk-reduction improvements coming online in New Orleans in hopes they'd affect the area's insurance pricing and capacity.

The 133-mile perimeter system is designed to withstand a 100-year event, with the corps having improved and strengthened nearly all the levees, floodwalls, pump stations and surge protectors along that perimeter.



**New Orleans' West Closure
Complex pumping station, the
largest drainage pumping station in
the world, can fill an Olympic-size
swimming pool in five seconds.**

Superlatives abound about the system: the largest drainage pump station in the world, the largest surge barrier of its kind in the world, the largest continuous placement of concrete since the construction of the Hoover Dam and so on (see story, page 18).

"The system doesn't resemble what was here

before Hurricane Katrina in terms of the level or risk reduction provided," said Michael F. Park, chief of Task Force Hope in Louisiana, part of the Corps of Engineers' Mississippi Valley Division.

See **NEW ORLEANS** page 18

WORKERS COMPENSATION

Higher dosage pain drugs in pipeline

Workers comp industry readies safeguards to avoid complications

By **SHEENA HARRISON**

An opioid medication being developed by several companies could nearly double the daily dosage of hydrocodone available by prescription, and workers compensation experts are tracking the

drug's progress.

San Diego-based pharmaceutical firm Zogenix Inc. said in a recent statement that it plans to submit a drug application this year to the U.S. Food and Drug Administration for Zohydro.

The drug, being tested in extend-

ed-release capsules ranging from 10 to 50 milligrams, could be the first pain medication on the market to contain hydrocodone without other non-narcotic drugs mixed in, such as acetaminophen, the company said.

Insurers, third-party administrators and pharmacy benefit managers say they are readying safeguards to help avoid addiction issues if the pending drug receives FDA approval and hits the market.

"We absolutely anticipate seeing this within comp," said Brian Carpenter, Tucson, Ariz.-based vp of pharmacy product development for managed care company Coventry Health Care Inc., which operates a workers comp PBM called First Script.



AP PHOTO

**Drug firms are developing stronger
formulations of hydrocodone, often
used in workers comp cases.**

Aside from Zogenix, similar medications are being tested by pharmaceutical companies such as

See **OPIOIDS** page 21

INDEX

Advertiser Index	19
Business Resources	16
Commentary	8
End Page	22
Opinions	8
Market Moves	16
Mid-Market Executive	6
Perspectives	9
Up Close	16

Business Insurance

Online features & highlights
www.businessinsurance.com

WOMEN WATCH

video

2011 SPOTLIGHT VIDEO: In the first installment of Business Insurance's Women to Watch 2011 Video Series, sponsored by Zurich, the honorees discuss the importance of professional guidance for women executives. To view the video, go to www.BusinessInsurance.com/video

MOST POPULAR STORIES Week of January 2, 2012

1. IRS issues guidance on health cover costs on employees' W-2s
2. Med mal market to evolve with health care changes: Moody's
3. Calif. court strikes insurance adjuster overtime ruling
4. Older workers affect comp loss costs less than expected: NCCI
5. Largest-loss reinsurance programs have yet to renew
6. 2011 saw record \$105B in insured cat losses: Munich Re
7. Ryan Specialty acquires Global Special Risks from Willis
8. Small N.Y. firms face closure in workers comp scandal
9. 3 of 4 retirement plans don't review compliance regularly
10. Commercial P/C insurance rates rose 1% in December

GET ONLINE NEWS EACH DAY
Subscribe to BI's daily newsletter



webinars

MID-MARKET SERIES: Business Insurance's Middle-Market Challenges webinar series is available now. Topics include cat management, D&O exposures. www.BusinessInsurance.com/webinars

TELECOMMUTING RISKS

WHITE PAPER: Minimize mobile workforce liabilities. www.BusinessInsurance.com/whitepapers

2012 BENEFIT MANAGER OF THE YEAR

AWARD: Nominations are due Feb 7. Forms available at www.BusinessInsurance.com/BMOYNominate



RISK MANAGEMENT SUMMIT: Info, registration for the 2012 event at www.businessinsurance.com/RMsummit

Business Insurance (ISSN 0007-6864) Vol. 46, No. 2, is published weekly, except for combined issues the first and second week of July, the fourth and fifth week of August and no issue the last week of December, by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Email address change to customerservice@businessinsurance.com or mail to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$125 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2011 by Crain Communications Inc.

Aon Risk Solutions

Planning or *prepared?*

Coulda, woulda, shoulda. In 2012, steer clear of regret with the deep insight and unrivaled benchmarking found at Aon Risk Solutions.

Between our proprietary industry reports and the thought leadership delivered during our annual National Symposiums in energy, property, retail and technology—to name just a few—Aon provides the empirical facts and analytics you need to give your organization a competitive edge and support the best decisions possible.

Register to receive updates on Aon's schedule of industry reports and symposiums at aon.com/schedule



Risk. Reinsurance. Human Resources.

P/C LEGISLATION & REGULATION

Flood insurance program extended for 6 months

Proponents of long-term solution have renewed hopes

By MARK A. HOFMANN

WASHINGTON—Supporters of a long-term extension of the National Flood Insurance Program say they hope the recent approval of a six-month extension of the program will bolster their cause.

The extension came in an appropriations bill that President Barack Obama signed into law Dec. 23, 2011, only hours before the NFIP was set to expire. The provision dealing with the NFIP extended the program through May 31.

Advocates of the program, which enjoys support across the insurance industry, would like to see the NFIP reauthorized for five years, as a House measure passed last year would have done. However, they also welcomed the six-month extension as an opportunity to achieve longer-range goals.

A series of disputes between the House and Senate that began several years ago over whether the program should be required to offer windstorm as well as flood coverage resulted in numerous short-term extensions as well as several lapses of the program, which led to uncertainty in the real estate market. The expansion issue has been shelved, with neither the House nor Senate considering measures

that would add windstorm coverage to the program.

"I think the extension is significant because it gives some breathing room," said Tom Santos, vp of the American Insurance Assn. in Washington. "In the past, with short-term extensions, the one-month extensions, you're always trying to make sure you're getting that one month. With five months, we can focus on getting the long-term bill done, and that's what we're going to do."

"We don't want to continue to kick the can down the road like we have in the past," said Joel Kopperud, director of government relations at the Washington-based Council of Insurance

See **NFIP** page 20



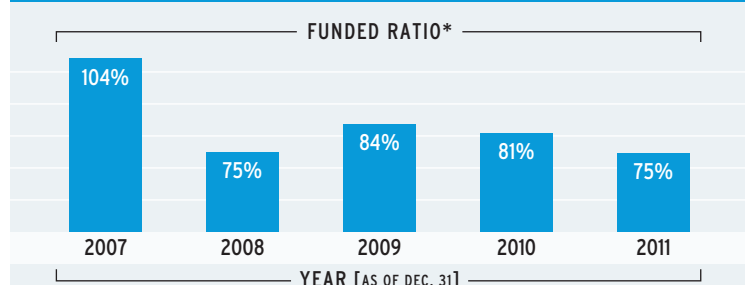
AP PHOTO

The National Flood Insurance Program was granted a six-month extension in late December. Supporters hope that Congress will approve a long-term solution by the time the NFIP expires in May.

RETIREMENT BENEFITS

PENSION FUNDING

For employers in the S&P 1500 with defined benefit pension plans, average plan funding has fallen after a 2009 rebound.



*Ratio of assets to liabilities
Source: Mercer L.L.C.

Employers face big rise in pension contributions

Plan assets lag soaring liabilities, research finds

By JERRY GEISEL

Employers will see their required pension plan contributions surge this year, as the value of plan liabilities has soared due to falling interest rates while the value of plan assets has barely budged due to low equity market returns.

A Mercer L.L.C. analysis of pension plans sponsored by companies in the S&P 1500, released last week, found that the average plan funding level sank to 75% as of the end of last year. That's down from 81% a year ago and 84% as of the end of 2009 (see chart).

At year-end 2011, the value of plan assets inched up to \$1.45 trillion from \$1.37 trillion a year earlier, but plan liabilities leaped during that period to \$1.93 trillion from \$1.68 trillion.

In all, the aggregate funding deficit widened to \$484 billion, up from \$315 billion at the end of 2010.

Similar findings were reported in a Milliman Inc. analysis—also released last week—of plans offered by the 100 U.S. employers with the largest plans. That analysis found that the average plan funding level fell to 72.4% at year-end 2011, down from 84.1% at year-end 2010.

That steep drop in plans' funding levels will translate into record plan contributions. Towers Watson & Co. for example, projects that employers—excluding a few categories, such as nonprofit organizations—will have to contribute nearly \$191 billion to their plans in 2012.

That's up from just more than \$155 billion in 2011 and a huge increase compared with the nearly \$89 billion Towers Watson estimated that employers pumped

See **FUNDING** page 21

RETIREMENT BENEFITS

More pension sponsors get religion

By HAZEL BRADFORD

Legal exemptions that allow church-affiliated organizations to sidestep Employee Retirement Income Security Act protections for their defined benefit pension plans increasingly are being used for less-than-holy purposes, according to pension activists who see a disturbing trend among plan sponsors.

Pension plans run by church-affiliated organizations can choose to be covered by ERISA, but they are not required to do so. "Church plans are exempt from almost everything," said Eric Loi, a staff attorney with the Pension Rights Center in Washington.

Companies that switch to a

church plan designation can petition the Pension Benefit Guaranty Corp. for a refund of up to six years of premiums paid while the plan was under ERISA. To a cash-strapped organization, that can be enticing.

From 1999 until 2007, the PBGC received 85 requests for premium refunds, many from hospitals, according to the Pension Rights Center. "In many cases, they paid PBGC premiums for years, before this sudden religious conversion," said Jim Keightley, a former PBGC general counsel who is now a partner with Keightley & Ashner L.L.P. in Washington.

PBGC officials familiar with the premium refund process

were not available for comment.

One hospital, St. Peter's Healthcare System in New Brunswick, N.J., decided in 2006 to seek official church plan recognition from the Internal Revenue Service for its \$25 million defined benefit plan after having been under ERISA rules for years.

The move came as a surprise to John Matuska, who served as the medical center's chief financial officer, chief operating officer and CEO for 24 years until leaving in 2001, and who sat on both the hospital board of trustees and the retirement planning committee. "We always treated it as an ERISA plan" for funding,

See **RELIGION** page 20

RISK MANAGEMENT

New RIMS President Luthi sets agenda

Society plans focus on relationships, broadening reach

By RODD ZOLKOS

As Deborah M. Luthi begins her year as 2012 president of the Risk & Insurance Management Society Inc., she expects her tenure to be guided by the "three Rs": relationships, relevancy and reach.

Those guiding principles come from work the board of New York-based RIMS has been doing during the past year and a half to refocus the society's approach to meeting its mission of advancing



Ms. Luthi

risk management and RIMS members' success, said Ms. Luthi, enterprise risk manager for the San Francisco Public Utilities

Commission.

With regard to the first "R," Ms. Luthi stressed the importance of relationships between the society and its members and industry partners—and between members themselves—in meeting RIMS' mission. With that in mind, her presidency "really will be a time of relationship building," she said.

As for the second "R"—relevancy—Ms. Luthi said her year as RIMS president "will be a time, too, of helping define who is a risk practitioner today." With other areas of organizations such as audit, security and compliance joining risk managers in

See **LUTHI** page 20



Mr. Lusk

Reputational risk among topics at WCF

MIAMI—The 21st annual World Captive Forum will offer a robust schedule of workshops and educational sessions, including a new session on reputational risks, at its upcoming conference Jan. 30 through Feb. 1 in Miami.

The special hot topics roundtable, "Reputation: The Next Disaster," will address questions and concerns about how to manage headline-grabbing exposures and respond to calls for greater transparency.

The World Captive Forum, which is co-sponsored by *Business Insurance*, also will provide thought leadership from keynote speakers Joseph J. Plumeri, chairman and CEO of Willis Group Holdings P.L.C., and Clyde Wardle, senior emerging markets currency strategist for HSBC Holdings P.L.C.

At the conference, Archer Daniels Midland Co. will be recognized with the Award of Excellence. Michael Lusk, vp of insurance and risk management at Decatur, Ill.-based ADM, will accept the award on behalf of the company.

Mr. Lusk was named to the *Business Insurance* Risk Management Honor Roll® in 2011.

The award recognizes the parent of a single-owner captive and its representatives for thought leadership in the global use of a captive insurance company; contributions to the enterprise's strategy, objectives and businesses in the field; and contributions to the risk and insurance profession with regard to captive insurance.

Previous recipients of the Award of Excellence at the WCF include Marias Falls Insurance Co. Ltd., formed in 1984 in Bermuda by DHL Worldwide Express, which Bonn, Germany-based Deutsche Post A.G. later acquired.

New for this year's conference, risk managers and benefit managers are eligible for free registration. To register, or for additional information about the 2012 World Captive Forum, please visit www.worldcaptiveforum.com.

—By Mike Tsikoudakis

HEALTH CARE REFORM

Health reform reporting rule clarified

IRS resolves employer queries about calculating health costs

By JERRY GEISEL

WASHINGTON—Internal Revenue Service guidance released last week resolves additional questions employers have raised about a health care reform law requirement that they report the cost of health care coverage on employees' W-2 wage and income statements.

Under the requirement, health care cost information must be reported on 2012 W-2s, which will be issued in 2013. Under previous IRS guidance, smaller employers—those that distribute fewer than 250 W-2s in 2011—are exempt from this requirement until at least 2014 and possibly longer.

The latest guidance makes clear that

employers are allowed but not required to report contributions to health reimbursement arrangements in calculating health care costs.

In addition, the cost of providing coverage through employee assistance programs, wellness programs or on-site medical clinics is not required to be reported if the employer does not charge premiums for the coverage to COBRA beneficiaries.

The guidance also clarifies that the reporting requirement does not apply to Native American tribal governments.

"This is very helpful guidance," said Anne Waidmann, a director with PricewaterhouseCoopers L.L.P. in Washington.

"The IRS has provided answers to issues that were not clearly addressed before," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

The latest guidance also reiterates numer-

ous provisions in last year's guidance, including that the cost of coverage that is taxable to employees, such as for a child older than 26, must be reported on the W-2. It also reiterates that contributions employees make to flexible spending accounts are to be excluded from the health care cost figure.

Additionally, employers will not have to include dental and vision care coverage costs in computing employees' health care costs if those plans are separate from group medical plans, as is typically the case.

In addition, in situations where employees work part of the year and then terminate employment and receive COBRA coverage, employers can choose to report only the cost of coverage while the employee was working or to report that cost plus the cost

See **IRS** page 17

SUSTAINABILITY & GREEN RISKS

Industry progress seen on climate change risks

Report notes strides in risk analysis, awareness efforts

By SARAH VEYSEY

Insurers and reinsurers are becoming more involved in managing risks related to climate change, though more work needs to be done, recent research concludes.

In addition, the outcome of the recent U.N. Climate Change Conference in Durban, South Africa, was disappointing for the industry, according to a leading reinsurer.

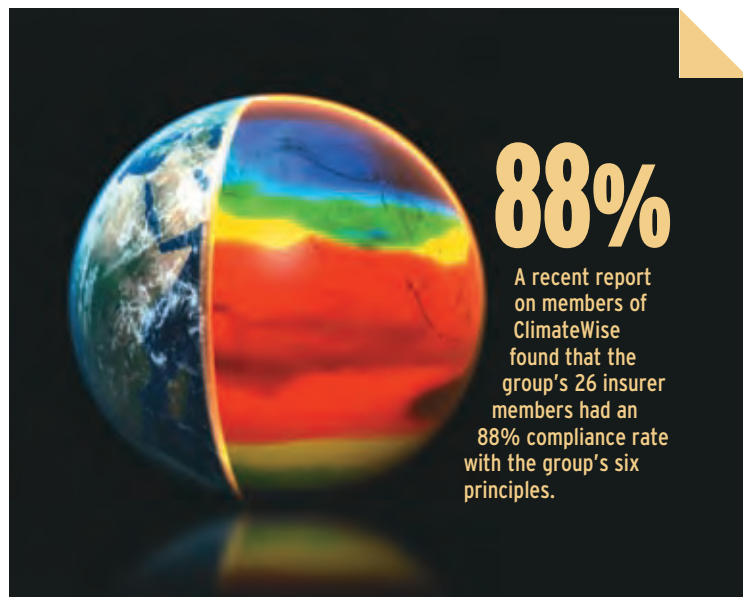
In a recent report on members of ClimateWise, a group of insurers focused on reducing the effects of climate change, PricewaterhouseCoopers L.L.P. found that

insurers have a strong commitment to addressing the issue.

The report found that the group's 26 insurer members had an 88% compliance rate with the group's six principles, which are to lead in risk analysis, inform public policymaking, support climate change awareness among customers, incorporate climate change into investment strategies, reduce the environmental impact of their businesses, and report and be accountable.

PwC said the insurers demonstrate a good level of disclosure related to their governance structures to address climate change risks and, for many, managing climate change risk is a board-level responsibility.

The study found that the members had a 96% compliance rate



with the principle to "lead in risk analysis," 92% compliance with the goal to reduce the environmental impact of the business, 91% compliance with the aim to support climate awareness among customers, 90% compliance with the aim to report and be account-

able and an 89% compliance rate with the principle to inform public policymaking.

However, the principle to "incorporate climate change into investment decisions" remains an

See **CLIMATE** page 17

HEALTH CARE BENEFITS

Health care body highlights dangers of worker fatigue

By MAUREEN McKINNEY

Sleep medicine experts and patient-safety advocates are applauding the Joint Commission's recently issued alert that highlights the hazards of health care worker fatigue and offers strategies to mitigate it.

"The first and most important step is raising provider awareness on this issue," said Dr. Christopher Landrigan, director of the Sleep and Patient Safety Program at 773-bed Brigham and Women's Hospital in Boston, and research director of inpatient pediatrics services at 396-bed Children's Hospital Boston. "There are still a large number of health care providers

'If any member of the team sees an error or something that has been overlooked, they can speak up.'

Dr. Ana Pujols McKee,
The Joint Commission

that don't know about the literature showing that fatigue hurts performance."

Dr. Landrigan has authored studies examining the dangerous

effects of long work hours. In a 2004 study that appeared in the *New England Journal of Medicine*, Dr. Landrigan and colleagues found that interns in intensive-care units who worked 30-hour shifts on a regular basis made five times as many diagnostic errors and 36% more serious medical errors as those who worked no more than 16 consecutive hours at a time.

In the alert, released Dec. 14, the Joint Commission listed nine evidence-based steps providers can take to lower the risk of harm, including redesigning work schedules, educating staff about the dangers of long hours and encouraging a culture of safety.

"That means everyone has a voice and can communicate effectively," explained Dr. Ana Pujols McKee, the Joint Commission's chief medical officer. "If any member of the team sees an error or something that has been overlooked, they can speak up."

The alert also emphasized the importance of transitions of care, when responsibility for the care of a patient is transferred from one caregiver to another. "Since patient handoffs are a time of high risk—especially for fatigued staff—assess your organization's handoff processes and procedures to ensure that they adequately

See **SLEEP** page 17



ARCH CELEBRATES 10 YEARS.

We're proud to reflect upon a decade spent delivering solutions for our Brokers and Clients, and value for our Shareholders. We thank all our employees – our greatest assets.

- \$300 million to \$5 billion in Capital
- 4 to 32 Core Locations
- A.M. Best Rating "A-" to "A" (Excellent) with Positive Outlook



SPECIALTY PROPERTY/CASUALTY, FINANCIAL & PROFESSIONAL LIABILITY SOLUTIONS, AS WELL AS OTHER UNIQUE PRODUCTS.

www.archinsurance.com

Arch Insurance Group is a member of Arch Capital Group Ltd. All figures provided are for Arch Capital Group Ltd. and its subsidiaries. Arch Insurance Company (a Missouri corporation, NAIC # 11150) had admitted assets of \$2.2 billion, total liabilities of \$1.6 billion and surplus to policyholders of \$592.5 million. Arch Specialty Insurance Company (a Nebraska corporation, NAIC #21199) had admitted assets of \$451.0 million, total liabilities of \$134.6 million and surplus to policyholders of \$316.4 million. Arch Excess & Surplus Insurance Company (a Nebraska corporation, NAIC # 10946) had admitted assets of \$29.4 million, total liabilities of \$2.6 million and surplus to policyholders of \$26.9 million. All figures are as shown in each entity's respective Quarterly Statement ended September 30, 2011. © 2012 Arch Insurance Group Inc.

Mid-Market EXECUTIVE

Helping C-level executives at midsize firms overcome critical risk and benefits challenges

Formaldehyde risks in focus

Concerns rise over workplace exposure

By LOUISE KERTESZ

Although beauty salons and mortuaries have drawn the most citations and fines for violating the federal exposure standard for formaldehyde among smaller companies, employer awareness of the hazards of this carcinogenic chemical and the details of complying with the standard vary widely in these two predominantly middle-market industries.

Because funeral directors and embalmers have a long history of working with formaldehyde, which chemical experts say is indispensable for preparing the human body for viewing, the National Funeral Directors Assn. has developed a best practice protocol for working with formaldehyde.

By contrast, beauty salon owners and stylists generally lack a scientific background and don't have a keen awareness of the danger of working with products that contain formaldehyde, experts say. This is complicated by the fact that manufacturers of several popular hair-straightening products containing formaldehyde have mislabeled the products and not disclosed their formaldehyde content, according to the Occupational Safety and Health Administration.

Another problem is that, for the lay person, there are many unrecognizable names for formaldehyde, including methylene glycol, formalin and oxomethane, according to OSHA.

From October 2010 through September 2011 among companies with up to 99 employees, beauty salons racked up 62 citations for violating OSHA's formaldehyde standard; funeral homes and crematories drew 16 citations.

An OSHA hazard alert said the agency is investigating "complaints from stylists and hair salon owners about exposure to formaldehyde while using hair-smoothing products such as Brazilian Blowout, Brasil Cacau Cadiveau, Keratin Complex Smoothing Therapy and Marcia Teixeira....Some of these products were labeled formaldehyde-free."

"OSHA has conducted air sampling at multiple salons and found formaldehyde in the air when stylists were using hair smoothing products," according to the hazard alert.

In a December 2010 advisory, Health Canada said it found up to 7% formaldehyde content in some hair-straightening products.

In September 2011, OSHA said it cited two manufacturers and distributors of



AP PHOTO

Beauty salons and mortuaries in recent years have received numerous OSHA citations for violating federal exposure standards for formaldehyde. Several hair-straightening products contain the carcinogenic chemical.

hair-straightening products, including Keratin Complex Smoothing Therapy and Marcia Teixeira, "for failing to ensure that material safety data sheets reflected the content of formaldehyde in the product or the hazards associated with formaldehyde exposure, as well as for failing to develop a written hazard communication program for their own employees."

The Professional Beauty Assn., a trade group representing beauty salons, "strives to inform and educate the professional beauty industry on a variety of topics and issues," Myra Irizarry, government affairs director in Scottsdale, Ariz., said in an email.

The PBA posted "What You Don't Know Can Hurt You: A Message from OSHA" on its website, stating that OSHA "has found that some hair-smoothing products may contain formaldehyde, may release

formaldehyde at levels above OSHA's permissible exposure limits during use and may be mislabeled, all of which can pose health risks to salon workers."

The PBA website also contains detailed information about OSHA and other health agency findings of formaldehyde in keratin-based hair products. It urged salon workers to follow OSHA's formaldehyde standard, to stay informed and take appropriate precautions as the "controversy" continues to be studied.

Salon owners across the country surveyed by the Washington-based nonprofit Environmental Working Group last spring were either unaware of the formaldehyde content in Keratin Com-

plex Smoothing Therapy and similar products, minimized the danger of exposure or considered the issue "controversial."

The distributor of Brazilian Blowout posted a disclaimer on its website stating that "while the media continues to report that Brazilian Blowout contains 8% to 10% formaldehyde, it is important to understand that this relates to the measure of potential formaldehyde released at a level that never occurs in a real-world application."

"As federal OSHA is aware, the only accurate method of testing free formaldehyde exposure is via controlled air monitoring. Every controlled air monitoring test conducted by OSHA and alternate reputable institutions has produced results conveying that the Brazilian Blowout Smoothing Treatment falls well beneath even the most stringent of OSHA safety standards," according to the distributor, Brazilian Blowout, North Hollywood, Calif.

"This information is now being communicated to the FDA, demonstrating that the Brazilian Blowout complies with all air monitoring guidelines."

"You can continue to confidently offer the Brazilian Blowout to your customers with the knowledge that the Brazilian Blowout falls well below the safety standards set by OSHA," the distributor said.

Jeremy Lurie, marketing specialist at M&M International in Delray Beach, Fla., which distributes Marcia Teixeira keratin treatments, said the treatments do not contain formaldehyde. "I've never been one to shy away from truth in advertising," he said, noting that the company's

What does OSHA require of workplaces where formaldehyde is present?

By LOUISE KERTESZ

The Occupational Safety and Health Administration standard that protects workers exposed to formaldehyde applies "to all occupational exposures to formaldehyde from formaldehyde gas, its solutions and materials that release formaldehyde," according to the federal agency.

Here are some highlights, according to OSHA documents:

- Manufacturers must include information about formaldehyde and its hazards on the label if there is 0.1% or more formaldehyde in the product or if the product releases formaldehyde above 0.1 parts of formaldehyde per 1 million parts of air.

- The label must include "the name and address of the manufacturer, importer or other company responsible for the product and a statement that the employer and the material safety data sheet can readily give health hazard information." The data sheet must include "common ways that people are exposed to the product and its hazardous ingredients...and what protective equipment to wear and what to do in an emergency."

- If employers decide to use a product containing formaldehyde, they must test the air to determine the level of formaldehyde in the air when using the product. The standard specifies a permissible average maximum exposure limit to formaldehyde in the air, measured over eight hours, and a 15-minute maximum exposure limit. If exposure levels exceed a certain point called "the action level," employers must identify workers exposed and reassign workers "who suffer significant adverse effects...until their condition improves." If changing work practices and conditions can't reduce permissible exposure levels, workers must be provided with respirators.

- Workers must be trained when first assigned to work with products containing more than 0.1% of formaldehyde and retrained annually.

- Personal protective equipment—such as "impervious clothing, gloves, aprons and chemical splash goggles"—must be provided. If splashing is likely, showers and eyewash stations must be provided.

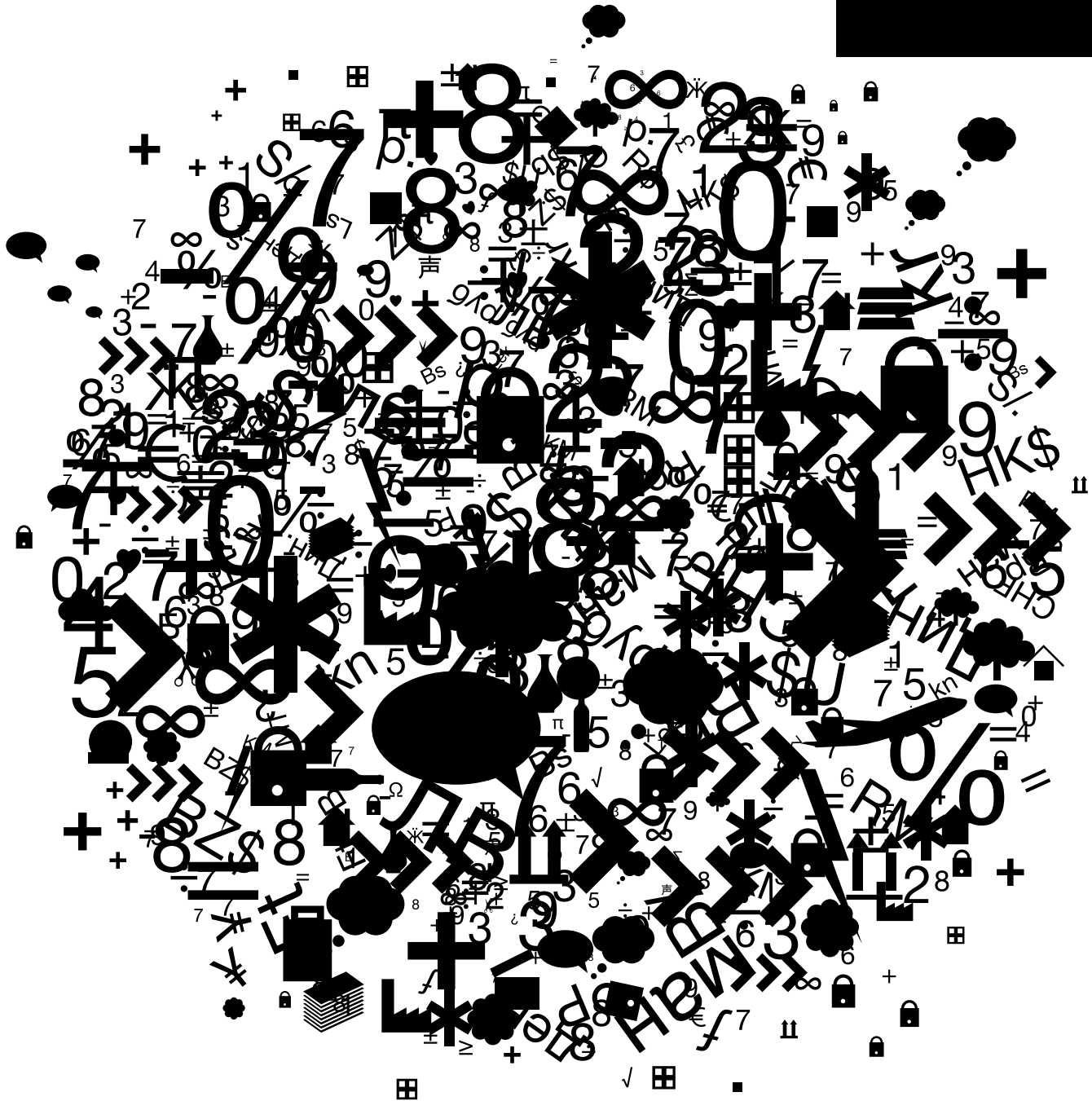
- Medical exams must be provided if workers are exposed to formaldehyde beyond permissible levels and for those who develop "signs and symptoms of overexposure."

Finally, employers are required to keep records of worker exposure and "allow access to medical and exposure records to current and former workers or their designated representatives," according to OSHA.

62

From October 2010 through September 2011 among companies with up to 99 employees, beauty salons racked up 62 citations for violating OSHA's formaldehyde standard.

XL Group
Insurance
Reinsurance



Properties, transport, energy, art, manufacturing, insurance, aerospace, contracts or people.
Whatever your world is made of, we're here to help your business move forward.

MAKE YOUR WORLD GO

xlgroup.com

Opinions

EDITORIAL

Don't delay NFIP action

A PAIR OF DEVELOPMENTS should serve as a spur to a real debate over national natural catastrophe policy in the new year. Unfortunately, "should" doesn't mean "will."

2011 has entered the history books as the costliest year ever in terms of insured catastrophe losses, according to Munich Reinsurance Co., with insured losses reaching about \$105 billion globally—almost \$36 billion in the United States alone.

In addition, on Dec. 23, President Barack Obama signed into a law a measure that extends the National Flood Insurance Program through May. But his signature came only hours before the program was set to lapse. Had it lapsed, as has happened several times in recent years, the lack of flood insurance would have further weakened an already wobbly real estate market.

These two developments underscore the need for a comprehensive approach to catastrophe policy. Part of that approach would involve a long-term extension of the NFIP. But the NFIP is deficit-ridden, hardly a recommendation for business as usual in a time of fiscal uncertainty.

The Federal Emergency Management Agency, which oversees the program, has indicated that it is at least willing to look at serious reform of the program. That includes a greater role for the private market, particularly the reinsurance market, in providing flood insurance. Given that the private insurance market provides flood insurance for commercial accounts, looking at a wider role for the private sector isn't as revolutionary as it sounds. It's an idea that deserves careful consideration.

Munich Re's tally of 2011's cat losses also should serve as spur to action to promote more effective mitigation efforts in cat-prone areas. Politically difficult as it might be, the federal government eventually will have to set some serious preconditions that must be met to qualify for post-disaster relief.

We know that an election year isn't the best time to debate such weighty matters. But debate has to start sometime, and now is as good a time as any. Serious catastrophe policy reform will take years, and the sooner Congress begins that process, the better.

LETTERS

Business Insurance welcomes letters to the editor.

The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

Please send your letters to:

Letters to the Editor, *Business Insurance*,
360 N. Michigan Ave., Chicago, Ill. 60601-3806

Fax: 312-280-3174; email: gsouter@businessinsurance.com

SCHILLERSTROM



COMMENTARY

Comp drug-test proposal misguided

I want a law requiring the drug testing of politicians, because many hardworking men and women who suffer debilitating workplace accidents are more trustworthy than some scoundrels elected into office.

Tennessee's lieutenant governor and Senate speaker, Ron Ramsey, recently called for testing anyone who receives government assistance or workers compensation benefits for drug abuse.

That strikes me as an affront to honest, working people who have been injured on the job.

I'll leave it to someone else to speak up for government assistance recipients. My job is to report on workers comp, and for 17 years I have written about ways employers can reduce workers comp costs.

But Sen. Ramsey's message is mean and strikes me as suggesting that injured workers are no better than welfare cheats on drugs. Some days I would rank welfare cheats as a better class of people than pandering politicians. Of course, not all assistance recipients are welfare cheats. But as I said, I'll leave that argument for someone else.

A few Tennessee newspaper opinion pieces already have argued that the plan would cost more than it's worth and would wind up entangled in legal challenges.

But if it is arguably prudent to test injured workers for illegal drug use, because they might be wasting taxpayer money, it seems logical that lawmakers also should be tested because they, too, can squander public funds.

There is a lot of misunderstanding that follows a message like Sen. Ramsey's. The average person who

doesn't follow workers comp issues—unless they are injured at work—will be confused by lumping together a discussion of government assistance with one on workers comp benefits.

They are not the same. Taxpayers fund public assistance, while workers comp is a form of insurance that employers pay for in return for capping their liabilities.

I hope Sen. Ramsey understands that distinction, although examples of lawmakers who didn't understand the consequences of their proposals are common. About two years ago, for example, legislators in several states proposed denying workers comp benefits to illegal immigrants. Fortunately, insurance industry lobbyists convinced them that would only increase employers' liability.

Sure, there are work comp cheats who should be prosecuted. I have written a lot about the importance of drug testing to prevent work injuries and the benefits of post-accident drug testing.

But those efforts should not be confused with testing every injured worker who deserves quality medical benefits so they can return to productivity quickly. And they shouldn't be lumped in with testing every employee receiving indemnity benefits because a work mishap left them disabled.

I suspect the quicker way to get injured workers healthy is to treat them with dignity while providing deserved benefits, not adding humiliation to the administrative and psychosocial factors that can complicate claims.

Contact: rceniceros@businessinsurance.com



ROBERTO CENICEROS
SENIOR EDITOR

Perspectives

Assessing business interruption coverage needs requires a careful approach, says Robert Glasser, a partner in the New York office at Dempsey Partners L.L.C. While CFOs and risk managers usually are comfortable calculating many of their organizations' insurance needs, evaluating what is the right amount of coverage to pay for lost income when a catastrophe strikes can be challenging. In this article, he outlines a structured approach to addressing business interruption risks.

Protecting business income

By **ROBERT GLASSER**



Mr. Glasser

How can you, the CFO or risk manager, avoid that day of reckoning when your company cannot afford the economic consequences of an underinsured loss?

Most chief financial officers and risk managers have an understanding of their property and liability insurance needs and dollar limits and are comfortable purchasing coverage that protects their companies from a loss due to an insured peril.

However, their comfort level often drops dramatically when it comes to business interruption coverage and limits.

The uncertainty surrounding business interruption coverage, extensions of coverage and respective limits of that coverage consistently results in many middle-market organizations finding themselves underinsured and short of cash when faced with a major loss. Even the fortunate CFOs and risk managers who have not experienced a major loss may eventually discover that they have been significantly overinsured for business interruption losses and paying unnecessarily higher premiums for their coverage.

Of course, the more devastating situation is finding out after a shutdown of operations from a loss that company management has not mitigated the company's risk of lost profits and now has insufficient coverage to protect profits and cash flow during a potentially long period of restoration.

How can you, the CFO or risk manager, avoid that day of reckoning when your company cannot afford the economic consequences of an underinsured loss?

When you meet with your broker to review your insurance policy for renewal, focus on your reported or insured values for your business interruption coverage and on the numerous extensions of coverage that are available based on your organization's specific operations and needs. Calculating the appropriate business interruption values will help you select the proper coverage and respective limits and will enable you to better manage and, more importantly, minimize your financial risk.

Fundamental to obtaining the proper limits/sublimits and type of business interruption coverage is

an updating and re-evaluation (or assessment for the first time) of your business interruption values. From my prior experience as a CFO (and being responsible for insurance), I recall the temptation to take business interruption worksheets provided by the broker and subsequently give them back to him or her, along with a copy of the company's most recent financial statements, and saying, "I don't understand this form. It does not relate to my business operations. So take my financials and tell me how much BI coverage I should have."

If you recognize yourself in that scenario, you are not alone. CFOs and risk managers should work with brokers and insurance consultants to create a comprehensive analysis of the needed coverage by identifying and quantifying potential operational and financial risks to the organization and by shifting that risk to the company's insurance carrier(s).

When preparing your updated (or initial) business interruption values calculation, I recommend the following five-step action plan:

1. COMMUNICATION: Meet with your senior management to review existing business risk assessments, previous loss history, business plans and financial projections and to identify potential mitigation strategies.

2. DIAGNOSIS: Identify contingent and extended exposures, internal and external interdependencies as well as other exposures that may not be triggered from first-party property damage.

3. TECHNOLOGY: Integrate technological solutions to create an efficient and timely valuation process.

4. ANALYSIS: Review and analyze risk exposures to facilitate the quantification of business interruption values.

5. DOCUMENTATION: Create detailed schedules supporting calculated values by operation and location, including the underlying assumptions.

Conducting a quantification analysis of exposure values is also beneficial and is generally well received by both senior management executives and underwriters. The analysis should involve simu-

lating an occurrence in which an organization experiences a catastrophic loss event. The financial impact of this simulated loss event is quantified and addressed in a report to underwriters that provides a more comprehensive analysis and understanding of the risk that they are evaluating and underwriting.

Senior management benefits from quantifying its exposure values because it may identify critical path weaknesses and interdependencies in an organization that may then be used to update their strategic and disaster recovery plans. The analysis also should include an assessment of potential extra expenses that could be incurred as a result of the simulated risk, in addition to the business interruption losses.

As part of the process of determining your business interruption values, you also need to understand the numerous extensions of coverage that are available to mitigate your risk. Many of these additional time-element coverages may be critical to safeguarding potential lost profits from a catastrophic event, and therefore need to be individually analyzed and addressed with your broker. The following are some of the additional coverages to consider:

- Contingent business interruption: Contingent business interruption coverage provides additional coverage as a result of a covered loss to suppliers and receivers of goods and services. Without this coverage extension, companies that have critical suppliers, customers or feeder-type properties may find themselves at the mercy of a supplier's or customers rebuilding schedule. In the worst-case scenario, you may have to shut down due to a supplier or customer's physical loss.

- Ordinary payroll coverage: Your managerial and salaried employees normally are covered as a continued expense. However, your hourly non-managerial employees may not be covered. If you have hourly skilled labor or if you are located in a tight labor market and cannot afford to lose trained workers from not continuing to pay them during a business interruption, you can purchase an extension of coverage that will

allow you to pay these workers for a specified period of time while the company is shut down, generally, the coverage is purchased for a specific number of days, e.g., 30, 60, 90, and up to 365. To determine how many days of coverage you may need to purchase, you must determine the skill level of your workforce and evaluate the risk that they will not return to work after a closure.

- Extended period of indemnity: Your business interruption coverage indemnifies you through the period of interruption, which also is referred to as the period of indemnity or restoration. This period is often defined as the time it takes to rebuild or restore the damaged property to its pre-loss condition using due diligence and dispatch. An extension of coverage allows for continued indemnification from your insurance coverage for the time necessary to ramp up your business to its pre-loss levels after the physical restoration. This is an important coverage for businesses in a highly competitive environment, such as the hospitality industry.

The following are some additional types of extensions of coverage to consider with your broker:

- Claim preparation fee
- Service interruption/power outage, including off-premises service and overhead transmission lines
- Extra expense
- Expediting expense
- Finished goods inventory selling price
- Loss of attraction (primarily for the hospitality industry)
- Ingress/Egress
- Sue and labor
- Civil authority

CFOs and risk managers should meet with their brokers to closely examine their business interruption values, limits and available extensions of coverage in their current policies. The critical takeaway is that properly calibrated business interruption coverage can be one of your most valuable assets for providing the critical working capital needed to survive a catastrophic event.

Robert Glasser, a partner in the New York office at Dempsey Partners L.L.C., leads the firm's U.S. East Coast Property and Business Interruption Claims practice. He can be reached at rglasser@dempsey-partners.com.

Property/Casualty
Insurance
Renewals Report

SPOTLIGHT

2011 CATASTROPHES
AFFECT PRICING
FOR REINSURERS

PAGE 12

WORKERS COMP
MARKET SEES
SOME FIRING

PAGE 13

D&O RATES VARY,
WHILE E&O RISKS
SEE FLAT RENEWALS

PAGE 14

Cat exposed risks hit with increases

*But rates continue to fall
for many property accounts*

By MARK A. HOFMANN

Commercial property insurance activity during the year-end/new year renewal season tells a tale of two markets.

While rates are going up in the 5% range generally, some noncatastrophe-exposed accounts with good loss records in some cases are continuing to experience flat to even slightly lower rates, according to market observers.

But the story is far different for accounts with catastrophe exposures, particularly those with a poor loss history, which can experience increases of more than 10%, they say.

Those accounts face “head winds,” said Alfred Tobin, national property leader for Aon Risk Solutions in New York. “It’s been a tough year for carriers.”

“If you have claims and you need a lot of capacity, you’re going to have a challenging time,” he said.

Still, the market is not hard—at least not yet.

The market is “firming,” said Jon Hall, executive vp of Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global. “It’s certainly not soft any longer, and I don’t think it’s turned a corner where you would call it a hard market.”

The market is “certainly transitioning,” said Joe Tinetti, head of property for global corporate in North America for Zurich Financial Services Group in Schaumburg, Ill. “The rates are definitely going up. I wouldn’t call it hard—there is still an enormous amount of capacity that is available.”

“Our total book of business was up 1.7%, but cat accounts are up an average 6.7%,” said Duncan Ellis, managing director and U.S. property practice leader at Marsh Inc. in New York.

Accounts that have had no losses and have little natural catastrophe exposure are experiencing rate increases of up to 10% in the year-end renewal season, while accounts with losses and high natural catastrophe exposures are seeing rate hikes of more than 10%, said FM Global’s Mr. Hall. He added that FM Global’s retention rate has hit a historic high of 98%.

Dave Finnis, national property practice leader and executive vp at Willis Group Holdings P.L.C. in New York, said catastrophe-exposed accounts are experiencing increases of 5% to 10%. “It’s hard to find a cat account that’s get-



ting any rate decreases at this point,” he said.

“We want to continue to improve our portfolio; we’re pushing rate, but we’re also looking at valuation,” said Tim Rose, senior vp and chief underwriting officer at Liberty Mutual Insurance Group’s national property accounts unit in Weston, Mass. “We’re pushing loss control in order to improve the portfolio of our business.”

Accounts that are not exposed to catastrophes and that have a favorable loss history are experiencing modest rate increases at most, ranging from flat to 5% increases, said Zurich’s Mr. Tinetti. “If the customer chooses to take it to market, they could probably get a 10% reduction.”

That’s what Carolyn Snow, director of risk management at Humana Inc. in Louisville, Ky., discovered when she marketed her property account for the first time in nearly a decade.

Ms. Snow said a claims disagreement with the company’s property insurer of nine years led her to take her account to market. “Our position has always been that if you stay with one carrier for a period of time, you can get the advantage of market smoothing,” she said. “Decreases are not as big, but neither are increases.”

Ms. Snow did not ask Humana’s incumbent insurer, which she declined to identify, for a renewal quote but instead selected three new companies, all of which offered quotes.

“One was not competitive, one was OK, and the winning proposal was very good,” she said. Humana got a “slight rate reduction, doubled our loss limit but more importantly” received improvements in its flood/earthquake/wind sublimit, said Ms. Snow. “The coverage improvement allowed us to eliminate a couple of our (difference-in-condition) policies. Even though we had an issue with our incumbent carrier, it is still our position that, when possible, long-term partnerships are the best for all parties.”

Another risk manager with hurricane exposure also reported a favorable renewal.

“It went very well, despite being in a wind-storm area. We had a slight decrease, less than 5% in terms of premiums,” said Wayne L. Salen, director of risk management at Palm Beach Gardens, Fla.-based Labor Finders International Inc. “We haven’t seen the impact of catastrophes.”

But some classes of business are feeling the pinch more painfully than others, said Alexandra Glickman, area vice chairman of Arthur J. Gallagher Risk Management Services Inc. in Glendale, Calif.

“In certain asset classes, large-lines real estate, we’ve seen an inordinate amount of damage in the multifamily sector,” she said. “For 2012, the insureds have to recognize that they’re participating in a worldwide insurance pool. There is no isolation, and if losses are less than pristine or if they have a highly cat-driven portfolio, we expect rates to be 8% to 15% higher, she said.

Looking ahead, Marsh’s Mr. Ellis said further erosion in loss figures would have an impact on the market.

“I firmly believe this firming of rates is more a financial issue around an insurer’s property book of business,” he said.

Insurers are dealing with very low investment returns, he said. “Pricing isn’t where it necessarily needs to be.”

For risk managers, “it’s all about data” when approaching underwriters, said Marsh’s Mr. Ellis.

“Make sure you have correct values, make sure your values make sense,” he said.

He said Marsh advises risk managers to spend the time to make sure information is accurate and up to date, and to highlight the positives of the account, showing underwriters how the risk is “better than it was last year.”

Casualty insurance buyers seeing uptick in rates

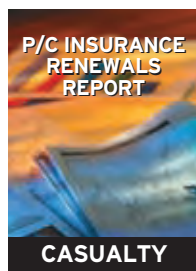
By MIKE TSIKOUDAKIS

Buyers of primary and excess casualty insurance are seeing slight increases in rates, but the market for high-quality risks within commercial general liability lines is still competitive, industry observers say.

As CGL rates have been decreasing since 2004, buyers will see little deterioration in rates as levels moderate, with some classes increasing in price by 2% to 8%, experts say.

Terms and conditions remain relatively flexible—but insurers are beginning to tighten those as well, experts say.

While capacity is plentiful, carriers are coping with low investment returns and eroding



real estate and life sciences—with poor loss histories may see rate increases into the low double digits, experts say.

James Stenstrom, director of risk management at Roundy’s Supermarkets Inc. in Milwaukee, said CGL rates were flat during his last

combined loss ratios, and are showing signs of tighter underwriting in casualty lines.

High-quality, top-tier risks within primary CGL lines can expect competitive pricing. But high-hazard risks—such as nanotechnology, habitational

renewal. “I buy it on an excess basis. More or less, there was really no change in the pricing,” he said.

Terms and conditions remained flexible, Mr. Stenstrom said, noting that he didn’t have any difficulty placing the more complex risks that he works with, such as professional liability insurance for drugists.

The primary and excess casualty market outlook is very different from a year ago, said Stephen Truono, vp of global risk management for Starwood Hotels & Resorts Worldwide Inc. in Stamford, Conn. This year, he said, underwriters are holding the line, whereas last year

See CASUALTY page 12



Aidan Pope's idea of fun is cycling
halfway across the country in
triple digit temperatures.

Aidan Pope

// Broker //

// Extreme Cyclist //

With his clients, he plays it a bit cooler.

Whether cycling through the Deep South in the dead of summer or racing across England and Scotland at a rate of 100 miles per day, Aidan's personal risk tolerance is rather high. He treats his clients' risk quite differently. That's why he chooses Catlin.

With unparalleled expertise, agility and, in Aidan's words, an "innovative, entrepreneurial" approach to underwriting, Catlin earns the trust of brokers every day.

CATLIN

Underwriting Ambition



To learn more, visit
CatlinUS.com/brokers

With capacity still plentiful, reinsurance renewals vary

Rates rise sharply for coastal accounts hit by losses last year

By SARAH VEYSEY

There were some rate increases for reinsurance buyers during Jan. 1 renewals, though the increases were patchy according to location, line of business and loss experience, experts say.

While reinsurance capacity remains plentiful, record natural catastrophe losses in 2011 means buyers for insurers that suffered losses or have exposures in loss-affected territories have seen their rates increase.

Many U.S. cedents experienced rate increases, in part because of revised catastrophe models, though the size of those increases varied depending on their geography and loss experience, experts say.

"The high relative balance of capital in the reinsurance industry has greatly influenced the ability of our clients to accomplish orderly renewals," said Bryon Ehrhart, chairman of Aon Benfield Analytics in Chicago.

"Reinsurance underwriters are doing a good job of considering the appropriate lessons from recent losses and carefully differentiating individual insurers' exposures and experience," he said.

While Aon Benfield no longer publicly discloses information on rate movements, Mr. Ehrhart said clients on the whole found there was sufficient capital and interest in their programs to secure "an orderly global renewal process at

Jan. 1, 2012."

Swiss Re Ltd. does not comment specifically on rates, but "the high number and severity of natural catastrophe events in 2011 mean that we are moving closer to pricing improvements, so there could be an increase in premium rates" in 2012, said Kurt Karl, the company's chief economist.

Some rate increases, particularly in casualty lines, are likely, he said.

"After a bruising year of natural catastrophe losses, many outside the traditional key catastrophe

zones, reinsurers have largely reacted as anticipated with differentiated rating approaches driven by individual client and territory results," said James Vickers, chairman of international business at London-based Willis Re International & Special-

ty, the reinsurance brokerage arm of Willis Group Holdings P.L.C.

"With the exception of a few long-tail classes, reinsurers have concentrated on increasing prices for natural catastrophe-exposed covers, which is leading to wide pricing differences by class," Mr. Vickers said.

The marketplace at Jan. 1 was "very geography-specific and, even within geographies, very zonal-specific," said Ross Howard, London-based chief operating officer of Towers Watson & Co.'s European operations.

The rates that cedents were charged for their reinsurance depended on their loss records and the impact of modeling changes, such as Risk Management Solutions Inc.'s version 11 of its U.S. hurricane model, he said. Books of U.S. business with

losses saw rates increase; in some cases, buyers with peak-zone exposures saw double-digit rate hikes, he said.

While reinsurers were looking at their own aggregates in peak zones, largely because of the RMS model changes, most rate changes were attributable to losses, he said.

In addition, some reinsurers reduced their line sizes because of changes by RMS and other modelers, among other factors, he added.

In an analysis, Willis Re said, national U.S. property accounts that were free of catastrophe losses in 2011 saw average rate increases ranging from 2.5% to 10%. Regional U.S. programs that were free of catastrophe losses last year saw rate changes ranging from decreases of 2% to increases of 5%.

U.S. reinsurance rates moved up "in line with increases indicated by mid-2011 renewals, but with greater differentiation by client and portfolio reflecting both individual results and exposures," Willis Re said in its report.

In its analysis of the reinsurance market, New York-based brokerage Holborn Corp. said U.S. property catastrophe business with coastal exposures with a recent loss saw rate-on-line increases of 10% to 50% at the January renewals, while coastal-exposed business without recent losses experienced rate-on-line increases of 5% to 12.5%.

Even property without coastal exposures saw higher rates. For U.S. property catastrophe accounts with recent losses, rates rose 10% to 50%; for loss-free accounts, rates rose 5% to 10%, according to the analysis.

In Continental Europe, buyers did not, on the whole, see large rate changes, said Towers Wat-



AP PHOTO

A string of catastrophes in 2011, such as Hurricane Irene, which ripped through areas of the U.S. Atlantic coast, including Hatteras Island, N.C., above, has pushed up reinsurance rates for cat-exposed risks.

son's Mr. Howard.

"It has been very static and we would expect that to continue," he said.

While some of the larger European reinsurers and insurers have exposure to Europe's sovereign debt crisis, the reinsurance market generally was flat at Jan. 1 renewals, he said.

According to Willis Re's report, there was adequate capacity for European risks, though the market "tightened noticeably during December." The multiterritory, peak-zone, excess-of-loss market in Europe generally was stable, with only modest rate increases on some loss-affected business.

While 2011 natural catastrophe

losses were huge in Asia—notably Australia, Japan, New Zealand and Thailand—much of that business will not renew until later this year, Mr. Howard said.

The casualty market remained fairly flat at the Jan. 1 renewals, experts said.

"Some reserve releases are still coming through from earlier underwriting years to help cushion quarterly results," Peter Hearn, chairman of Willis Re, said in Willis' renewals report. "But there is increasing divergence between reinsurers, as some are increasing reserves for catastrophe losses earlier in the year, and a few are posting increases for asbestos-related claims."

Casualty: Insurance buyers see uptick in rates

CONTINUED FROM PAGE 10

they were waiting for it to firm.

"I think it varies by account and it varies by experience, but clearly accounts with losses are going to see increases—I would venture a guess potentially up into the low double digits. Clean accounts, good accounts, are going to be zero to plus one or two, three points, maybe five points," Mr. Truono said.

Rate reductions may still be granted, Mr. Truono said, but they're probably going to be rare and relationship-driven.

Moving into 2012, there is "no real change in the general liability line," said Kevin Brogan, managing director and national practice

leader for Wells Fargo Insurance Services Inc. in Chicago. "But if you go to the lead umbrellas, the typical \$25 million, I would say it's up about two points on the overall book of business," he said.

Key factors for the rate change for casualty lines is related to poor investment returns on long-tail liability risks and because "the excess book is running pretty hot as far as combined loss ratios."

Combined ratios for insurers were more than 110% in 2010, "and I'm sure 2011 will be even a little worse," said Gary DelBuono, senior vp of commercial markets and general liability, product management, for Liberty Mutual Group Inc. in Boston.

Combined with other lines of

insurance such as property and workers compensation, "the industry has to start seeing some increases," he said.

Arthur J. Gallagher & Co. expects combined ratios for insurers to be between 115% and 120%, and maybe higher in some cases, said John A. Durkin, Chicago-based area chairman for Chicago, Michigan and Indiana at Itasca, Ill.-based Arthur J. Gallagher Risk Management Services Inc.

Plentiful capacity coupled with eroding combined ratios is causing a balancing effect for insurers, experts say.

"They're just trying to put some discipline to their underwriting," Mr. Durkin said. "Right now, indications are that the carriers are

going to maintain that discipline, they're going to continue to get that single-digit increase. If they do that, I think we'll stay in that range for the rest of the year," he said.

Tracey Caffrey Ant, managing director for Marsh Inc.'s primary casualty group in New York, said clients are asking the brokerage to market their programs for alternatives.

"Based on early discussions with incumbent underwriters, if our discussions with our clients are such that there will be a significant increase without flexibility for a program structure change, the decision will be made to tap into market," she said.

Making sure buyers of insurance have solid underwriting data

is critical when talking to underwriters or exploring other markets, Ms. Caffrey Ant said.

"Because we are in the market more...we are really emphasizing to our clients the importance of having the details of their profile readily available in a package of information that we can articulate to the carriers in the best light," she said. Some of those details should include risk exposures, safety programs and loss trends, she said.

Moving forward, Mr. Stenstrom of Roundy's said CGL rates in 2012 are trending upwards. "I can't imagine it being flat...especially as the combined ratios are deteriorating as they have with expense increases and poor performance on investment income," he said. "You're not going to see a decrease—that I would bet the house on."

Workers compensation market pricing slowly beginning to firm

By SHEENA HARRISON

After years of declining workers compensation rates, experts say the comp market is slowly starting to firm—though most say the languid economy is still holding prices relatively steady.

Renewal prices for most workers comp policies have stayed flat or increased less than 10% on average nationwide, said Pamela F. Ferrandino, casualty practice leader, placement for Willis North America in New York.

Cubic Corp. saw a nearly 2% increase in its rate when it renewed its workers comp policy this fall with Chicago-based CNA Financial Corp., said Dominic Zullo, director of risk management for the San Diego-based defense and transportation contractor.

Mr. Zullo noted that CNA and other insurers who provided quotes appeared less willing to budge on price, though Cubic initially expected an increase of 5% to 10%.

"I didn't see the marketplace being as aggressive this year," he said.

In California, some employers are seeing guaranteed rate increases of 16% to 25% when experience modification rates are factored in, said Jamie Knoop, senior vp of the construction services team for Lockton Cos. L.L.C. in Irvine, Calif. That's after the state's Department of Insurance approved a nearly 36% increase in its advisory pure premium rate for 2012.

About 10% of employers nationwide still are seeing year-over-year rate reductions, including global companies that can handle large self-insured retentions for their workers comp programs, said Ms. Ferrandino.

Though insurers largely have been able to push for higher rates on recent renewals, workers comp prices remain relatively soft, said Tom Fitzgerald, chief broking officer for commercial risk at Aon Risk Solutions in Chicago.

"Insurers are, in my opinion, walking that razor edge of trying to price to expected losses and make a profit," Mr. Fitzgerald said.

Accident Fund Insurance Co. of America in Lansing, Mich., has seen rates increase 3% to 4% for recent comp renewals. Much of that has been driven by the insurer's focus on customer segmentation, said Al Gileczek, the insurer's vp of business development.

"It is a market that's bottomed out and is showing some signs of tightening," Mr. Gileczek said. "But by no means would I call it a hard market."

David Sandler, New York-based president of general casualty and chief operating officer of Chartis Inc.'s commercial casualty unit, said the rate environment is driving insurers to offer more favorable terms for large-deductible policies than for guaranteed-rate policies.

Guaranteed workers comp policy prices for Chartis are up about

6% from last year, while large-deductible policy rates for the New York-based insurer are up between 3% to 5% for jumbo employers and 10% to 12% for smaller firms.

Insurers are "less willing to offer (guaranteed cost policies) without some other supporting business that's more profitable, or maybe they just price the business where they give you a deductible option that's very attractive relative to their guaran-

teed cost price," Mr. Sandler said.

More employers are starting to consider high-deductible policies as they look to control comp costs, sources say. However, most companies still opt for guaranteed cost programs.

Firms are leery of collateral requirements for high-retention policies—especially as the economy has left many companies with a need for open credit and cash on hand, said John Lewis, Kansas

City, Mo.-based senior vp of excess placement at Lockton.

"Their lines of credit are so tied up right now, that it's just difficult for them to do" high deductibles, Mr. Lewis said.

Cubic's Mr. Zullo said his company was able to hold the line on its collateral requirements with CNA last year, due in part to Cubic's strong balance sheet and a nearly 10-year track record with the insurer.

The company uses a large-deductible policy to cover its 6,000 domestic employees and a

guaranteed-cost policy for nearly 3,000 foreign workers.

"They've taken the extra step for us to understand we don't want to tie up a lot of collateral in terms of letters of credit, which could potentially have an effect on our ability to secure new business," Mr. Zullo said.

Sources say they expect workers comp pricing to continue firming through 2012 and beyond.

"The market is far enough underwater that there needs to be a correction for a fairly...significant period of time," Mr. Sandler said.



EVEN IN THE FACE OF ADVERSITY,
OUR APPROACH ENSURES YOUR GLOBAL SUPPLY CHAIN REMAINS IN THE



If your property insurance company doesn't fully understand your supply chain, how can they thoroughly cover your risk? An unrecognized threat to a supplier can bring business to a screeching halt. Yet, for many companies, supply chain issues continue to be a blind spot.

At FM Global, we believe that the majority of loss is preventable. That's why we link our underwriting to loss prevention engineering. We work hard to find the blind spots in your blind spots—even in your supply chain. It's just one of the reasons our clients' losses tend to be smaller and less frequent. Underwriting through loss prevention engineering. That's insurance evolved.



D&O renewals signal firmer market emerging

Prices stabilizing, rising for private companies

By JUDY GREENWALD

Directors and officers liability insurance rates for many public companies have been essentially flat or continuing to decrease, but rates are beginning to increase in the private segment, which may signal a general increase in the sector, observers say.

Steve Boughal, New York-based vp and chief underwriting officer of Hartford Financial Products, a unit of The Hartford Financial Services Group Inc., said overall, "We're seeing macro trends putting pressure on D&O carriers, and it's putting upward pressure on price, leading to price stabilization in many areas and increases in others."

These macro trends include the extended soft market cycle, increases in legal costs, low investment yields and heightened regulatory pressure, he said.

Joseph O'Donnell, New York-based executive vp at Endurance Risk Solutions' professional lines practice, said, "The underwriting community is finally at the point where enough's enough, and it's time to stabilize the rates and get moving in a positive direction."

Observers draw distinctions between the D&O markets for private and publicly held firms. Phil Norton, Chicago-based president of the professional liability division at Arthur J. Gallagher & Co., said, "We see a market that appears to be moving, and it's starting with our smaller, private companies. They're seeing, for the most part, increases, some of which are significant."

"The larger private companies are seeing renewals that are closer to flat," Mr. Norton said. "They're being underwritten more specific to the account vs. to the book of businesses, but still decreases are disappearing" for these companies, Mr. Norton said.

Among publicly traded companies, smaller firms "are mostly having flat renewals, while the larger publicly traded companies are still seeing decreases." But among insurers, "there's a lot of posturing that those decreases are going to disappear" as the year progresses, Mr. Norton said.

"Things are basically overall stable," said Kevin LaCroix, executive vp at OakBridge Insurance Services L.L.C. in Beachwood, Ohio. "We are seeing more discipline in the private company sector. That's probably where I see the most movement. A number of carriers have pretty publicly made it clear that they're re-underwriting their books, and certain states or certain sectors are going to be pushing for price increases and seeing nonrenewals," he said.

Publicly held companies, though, "still haven't seen anything like that yet," although prices are stabilizing. However, in certain segments, particularly commercial banking, the insurers "are pushing back." In addition, anything in the residential real estate sector is under pressure, and any financially pressured company will see price increases and constriction of terms and conditions, Mr. LaCroix said.

There is no automatic correlation between hardening in the public and private sectors, said Trevor Howard, senior vp of management liability with Liberty International Underwriters in New York. They are "two distinct marketplaces driven by different loss events," he said.

There has been increased frequency and some severity on the private side, and "certainly for some similar, some different, reasons," we may see firming on the public side, he said.

Ann Longmore, New York-based executive vp at Willis North America, pointed to excess layers. Major primary insurers are generally "looking to hold the line moving forward." However, "there could be two to 10 layers on top" of the primary level, and in the excess layers there is "probably still room" for price compression "somewhere in the range of 5% to 15%, depending on where the level attaches" and how it is priced in the current program, Ms. Longmore said.

Mr. Boughal said, however, that although it is still competitive at the higher excess layers, these insurers are feeling "the same

pressure that are driving rate stabilization or rate increases" in the lower layers.

Harder rates may be on the horizon, say some observers. "I would say, close your eyes, buckle your seat belts and hold on tight," said Peter Taffae, a D&O and E&O liability insurance expert at Los Angeles-based wholesale brokerage Executive Perils Inc.

Ms. Longmore said, "We usually remind our clients that the universe for D&O in terms of pricing typically lags what's happening on the property and casualty side by three to five quarters, or nine to 15 months," which means there will be some increases.

However, she said she does not expect a very hard market in the short term. While insurers are paying losses, "our understanding is they're still making money," she said.

Marc London, New York-based D&O underwriter at Beazley P.L.C., said, "I can't

see anything other than an improving market. How quickly or how strongly, I don't know but...I would expect rates to either stay stable or continue to firm, but not go back down."

Jeffrey Klenk, senior vp of management liability at Travelers Bond & Financial Products, a unit of Travelers Cos. Inc., in Hartford, Conn., said he expects continued moderation in the market. "Companies will continue to try to position their books of business in such a way they can write this business profitably," he said.

Will Fahey, New York-based head of D&O for large companies for Zurich North America, said, "In contrast to past hard markets, where prices spiked significantly in a very short period of time...probably what you'll see is more responsible firming" with "slight increases in a way that should lead to a better market for our clients" than they have had in the past.



E&O rates flatten as competition starts to ease

By JUDY GREENWALD

Signs of decreasing competition are beginning to appear in the errors and omissions liability market, observers say.

Gene Mason, senior vp and head of professional lines for Endurance Specialty Holdings Ltd.'s U.S. wholesale insurance operations, said, overall, "rates have flattened pretty much across the board. We've been able to retain prices on most of our renewals and been able to achieve price increases on a good many for the cases that we write, and that's pretty consistent with the market right now" that is writing true miscellaneous E&O business.

Mr. Mason added, however, "On occasions, we have to walk away" from writing the business. "We still see spotty evidence of carriers coming in at 20% to 25% on expiring accounts," where premiums are in the \$500,000-plus range. "We're still seeing some carriers coming in and aggressively taking the business away," although "it doesn't happen a lot," Mr. Mason said.

Mr. Mason said he also is seeing evidence of tightening terms and conditions. For instance, Endurance has been able to retain renewal business with lower self-insured retentions, he said.

Mike Smith, principal of Franklin Lakes, N.J.-based Axis Insurance Services L.L.C., which does a significant amount of business in the insurance agents and brokers area and for commercial real estate firms, said rates have flattened over the past six months or so. He said underwriters are upset that rates have "dropped as low as they can go, and so we started to see the pricing flatten" or even increases of at least 10% for a couple of the insurers.

"It seems we're starting to see some logic come back into the market, whereas in the last two, three years there's been no logic whatsoever," said Mr. Smith. "Very few" clients are continuing to get reductions, he said.

Mr. Smith said he anticipates the trend toward higher rates to continue

"because on the loss side, I'm seeing claims."

Mickey Estey, managing director of the E&O practice at OakBridge Insurance Services L.L.C. in Beachwood, Ohio, said one trend he has seen over the last year or so is some rate hardening in the construction industry, particularly for accounts with claims, including those of contractors and engineering firms. "It could be as much as 10%, 20% or more, depending on the type of activity they have," he said.

And Jim Donovan, New York-based senior vp in the professional liability unit at Liberty International Underwriters, said: "There's definitely some talk of rate increases in certain lines, and that's a first step towards rates increasing." For lawyers' E&O coverage, for instance, rate decreases "are a thing of the past," and the best they can hope for is a flat rate.

"Certainly as the economy improves, that gives impetus to seeing a rate increase," while in a poor economy rate increases are "fighting the headwinds," Mr. Donovan said.

Sandy Coddington, Boston-based leader in the U.S. commercial E&O advisory practice of Marsh Inc.'s FINPRO unit, who focuses on miscellaneous and technology E&O, media liability and cyber coverages, said rates generally are still competitive, "but we did see a decline in the pace of rate reductions."

"We were still able to get some reductions but they were of a lesser magnitude of a year ago," Mr. Coddington said. He said on average, there are rate reductions of about 3% across the portfolio.

Christopher Keegan, New York-based senior vp for national resource E&O and e-risks for Willis North America, said "it depends on the part of the E&O market we're talking about, but, just very generally, we're still seeing a soft market." However, he said, "some of the larger carriers, especially carriers with a significant slice of the market" are "pushing back," particularly for large risks that have had claims, and

some have been willing to walk away from accounts."

Florence Levy, Denver-based vp with Aon Risk Solutions' financial services group, said there have been slight decreases to flat renewals for "clean" accounts.

"It's hard to predict market conditions, but we've seen some activity on the claims side both in frequency of claims and severity of claims, particularly in the last six months. I could see that pushing the marketplace out of what's traditionally been called a soft market over the last few years."

Catherine Mulligan, New York-based vp and national underwriting manager for specialty E&O at Zurich North America, said, however, that while "some folks are becoming a little more circumspect on certain classes of business, we're still seeing excess pricing that's been extremely aggressive," even on first excess layers. She said she is routinely seeing premium rates of 50% to 55% of the primary pricing for excess layers, when "typically, ideally, you'd like to see at least 65% or 70% of the primary" pricing.

Peter Taffae, a D&O and E&O liability insurance expert at Los Angeles-based wholesale brokerage Executive Perils Inc., said insurers are "being very selective in what they write." There are fewer carriers interested in writing the business, in particular for more difficult lines including legal malpractice, insurance agent's E&O and accountants malpractice, he said. E&O insurers are still willing to write the "more vanilla" lines of business, including miscellaneous and Web designers E&O, he said.

Endurance's Mr. Mason said, "There is evidence of contraction in the E&O market right now. When we look at our competitors, we see a number of companies that are either pulling out of certain classes, or maybe scaling back jurisdictions. For example, in California we see evidence of carriers no longer writing California real estate."

However, Willis' Mr. Keegan said he has seen several new primary and excess entrants into the market over the past 12 months.



Registration Open!

2012

Business Insurance

RISK MANAGEMENT SUMMIT

INSIGHTS TODAY FOR THE RISKS OF TOMORROW

FEBRUARY 29 – MARCH 1 2012 · WALDORF=ASTORIA · NEW YORK CITY

2012

RISK MANAGEMENT SUMMIT

ADVISORY BOARD

Kathleen Poole Adamik

Morgan Stanley

Steve Wilder

The Walt Disney Company

Audrey Rampinelli

Loews Corp.

Lori Jorgensen

Microsoft Corp.

Debbie Rodgers

ARAMARK

Sheila Small

Verizon Communications

Don Sullivan

Baxter International

DON'T BE LEFT OUT OF THE DISCUSSION

Case Study & Panel Discussions on the following topics.

SUPPLY CHAIN RISK MANAGEMENT:

The Thai floods and Japanese earthquake earlier this year highlighted the supply chain exposure that many organizations face. With limited insurance available for contingent business interruption, how do risk managers protect their organizations from the wide variety of supply chain risks?

The session will analyze the exposure in light of the recent events and other key drivers of supply chain risks; review strategies for managing the exposure; and offer insights into the risk transfer and claims process.

RISKS OF GLOBAL EXPANSION:

As companies continue to expand overseas, particularly to high-growth regions such as Brazil, China and India, what challenges do their risk managers face?

This session will provide an analysis of the risks that companies face as they expand overseas including: political and regulatory risks; coverage concerns; claims issues.

CYBER LIABILITY:

Everyone acknowledges that the risk is growing but how can risk managers help address the risks? What do risk managers bring to the table and how can they work with IT to address the risk?

This session will go beyond reiterating the threats and exposures and give a practical guide to addressing cyber risks that goes beyond buying coverage.

CAPTIVE STRATEGIES:

Creating a captive insurance company involves a capital commitment from the parent company, but by truly running the captive as a business that capital can be put to work advancing the strategic goals of the parent, strengthening relationships with customers and business partners and even helping turn the risk management department into a profit center.

This session will examine innovative uses of captives, ensuring those creative approaches pass regulatory muster, tax issues involved and current legislative and regulatory issues affecting captive owners.

Join the Discussion and Register Today!

BUSINESSINSURANCE.COM/RMSUMMIT

For additional information on the
2012 Risk Management Summit
please contact

Rebecca Briggs, Event Manager:

212-210-0132 or

RBriggs@BusinessInsurance.com

PRESENTED BY:

Business Insurance

PARTNERSHIP WITH:



Market Moves

MEMIC to expand East Coast presence

PORTLAND, Maine—Workers compensation insurer The MEMIC Group has acquired a dormant insurer as a vehicle to expand its East Coast presence.

Portland, Maine-based MEMIC said it has purchased Granite Manufacturers Mutual Insurance Co., a company spokesman said. MEMIC said the purchase will expand its presence into Vermont, and that it plans to open offices in New Jersey and Pennsylvania during 2012.

MEMIC purchased Granite Manufacturers Mutual from Vermont insurance regulators, the spokesman said. MEMIC will change Granite Manufacturers' name to MEMIC Casualty Co.

"The addition of MEMIC Casualty will help us implement our growth strategies in the eastern U.S.," said John T. Leonard, MEMIC president and CEO, in a statement. "This acquisition is a great opportunity and gives agents even more options when they look to place business with MEMIC. We're excited about the prospects for this new subsidiary."

The spokesman also said MEMIC will write about \$180 million in workers comp premiums by the end of 2012. About \$125 million of that will come from Maine employers, where it operates Maine Employers' Mutual Insurance Co.

Moody's acquires risk modeling firm

EDINBURGH, Scotland—Moody's Corp. has acquired Barrie & Hibbert Ltd., an Edinburgh, Scotland-based provider of risk management modeling tools for insurance companies.

New York-based Moody's said the acquisition broadens software services available to the insurance and pension sector through its Moody's Analytics unit, which offers software, advisory services and research for credit, economic analysis and financial risk management.

Moody's purchased Barrie & Hibbert for £50 million (\$77.6 million) in cash.

The transaction gives Moody's access to Barrie & Hibbert's Economic Scenario Generator to value and project assets and liabilities, as well as to assess risk and capital positions.

In addition, Moody's said, Barrie & Hibbert's offerings and expertise in risks associated with long-term asset and liability management will bolster Moody's data management, capital calculation and regulatory reporting platform to better serve clients involved in risk management and regulatory compliance activities, including Solvency II.

The company said it will integrate Barrie & Hibbert into the Moody's Analytics risk management software segment.

AssuredPartners wraps U.S., U.K. purchases

WEST ORANGE, N.J.—Mid-market broker AssuredPartners Inc. has completed its acquisition of West Orange, N.J.-based Herbert L. Jamison & Co. and Jamison Special Risk Inc. as well as London-based Grosvenor Brokers (America) L.L.C.

In a statement, AssuredPartners described the Jamison firms together as a full-service insurance brokerage with "significant expertise" in professional liability insurance.

Grosvenor is engaged in direct retail brokerage, domestic and international wholesale and specialty programs, the Lake Mary, Fla.-based broker said.

"We are excited to have Jamison and Grosvenor join our team as we strive to build AssuredPartners into the premier middle-market insurance brokerage," Jim Henderson, CEO of AssuredPartners, said in the statement. "With well-developed technical expertise and diverse distribution capabilities, these additions will help us provide our clients (with) valuable insurance solutions."

The price of the acquisitions was not disclosed.

AssuredPartners said Jamison and Grosvenor would continue to operate under their current names at their current locations.

Brown & Brown buys Calif. MGA for \$395M

SAN DIEGO—Brown & Brown Inc. is acquiring the parent company of San Diego-based managing general agency Arrowhead General Insurance Agency Inc. for \$395 million.

The deal for Arrowhead General Insurance Agency Superholding Corp. is a cash transaction and not subject to financing conditions, Brown & Brown said in a statement. The deal is expected to close this month subject to customary closing conditions, including regulatory approval.

Arrowhead, a national insurance program manager; its third-party administrator, American Claims Management Inc.; and other subsidiaries are expected to have total 2011 revenue of \$105 million, according to Brown & Brown.

"This transaction brings many exciting opportunities to Brown & Brown," J. Powell Brown, president and CEO of Daytona Beach, Fla.-based Brown & Brown, said in a statement announcing the deal.

"We believe Arrowhead has built a strong management team and an organization that enjoys an excellent reputation within the industry."

Arrowhead should "significantly expand" Brown & Brown's insurer relationships and products and services it offers, he said.

"It is expected that this transaction will increase our total annual revenues and number of team members by approximately 10%," Mr. Brown said in the statement.

The purchased company will continue to operate as Arrowhead.

UP COMINGS & GOINGS CLOSE

TOM ASH

NEW JOB TITLE: Anaheim Hills, Calif.-based CEO for Burlington, Mass.-based Ametros Financial Corp., which sells products focused on settlement-related issues.

PREVIOUS POSITION: Anaheim Hills, Calif.-based executive vp for Ametros Financial Corp.

GOALS FOR NEW POSITION: I want to scale the company so that it can handle and grow with the market.

BEST THING ABOUT A BAD ECONOMY: It forces people to examine where they have the most impact with the resources they have to apply. It is easy to spread resources when there is not a lot of accountability. But in a weak economy, it is critical to apply those resources appropriately, timely and accurately.

FIRST EXPERIENCE IN JOB MARKET: A stand-alone industrial clinic in California called Occucare (Occupational & Mobile Medicine). It was an introduction to workers compensation and the workers comp health industry.

ADVICE: Understand the nuances and the differences between commercial health care and the delivery of workers compensation. The differences are large.

SOMEONE ONCE TOLD ME: The only job is to think. One can tell how you think by what you say. That's been more vital to shaping my career than anything else.

OUTSIDE THE INDUSTRY, A DREAM JOB: I'm a professional chef by trade, but I haven't practiced for years. I would love to be a chef of a restaurant that is only open for dinner four days a week, and only has 25 seats.

HOBBIES: I have four children, so they are my primary hobby. Secondary is my culinary hobby. I also enjoy my work, for many more hours than some people would want me to.

FAVORITE MEAL: Thanksgiving. That's as much about the opportunity to prepare it all as getting the family getting together.

ON A SATURDAY AFTERNOON: Coaching my son in collegiate running or at a movie with my younger son. Or I am catching up on emails, or working on charts and graphs.

EMAIL OR PHONE, AND WHY: I am a firm believer in the best type of communication is face to face, and the second is voice to voice. I prefer phone because of the interactions, even though I live by email.



Business Resources

Business Insurance, Classified Department, 711 Third Ave., New York, NY 10017-4036
Call for details on blind box and internet advertising

CLAIMS SERVICES

DIALYSIS CLAIM Solutions

— CALL —

UNICUS Claim Controls, Inc.

1-855-864-2871

TAKE FULL ADVANTAGE OF YOUR RESOURCES!

In Print ...

and Online

Contact Monique Murray @ 212-210-0129 for details

Comings&Goings

VISIT www.businessinsurance.com/ComingsandGoings for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly email.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mallory Gillikin
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806
mgillikin@businessinsurance.com

POSTING THIS WEEK

AGENTS

- Euclid Specialty Managers

MANAGED CARE

- Capital District Physicians' Health Plan Inc.

BROKERS

- IMA Inc.

INSURERS

- Ironshore Inc.
- Starr Cos.
- XL Group P.L.C.

OTHER PROVIDERS

- Hanover Stone Partners

Sleep: Health care staff fatigue risks examined

CONTINUED FROM PAGE 4

protect patients," the alert notes.

The Joint Commission's alert is only the latest in a series of recent efforts to draw attention to the issue of fatigue-related safety risks. In June 2010, 26 experts in medicine, sleep science and patient safety gathered at a conference at Harvard Medical School to discuss ways to implement the Institute of Medicine's 2009 recommendations for resident work hours.

The results of that conference were published in a June 2011 white paper, which included guidance on imposing work-hour limits and redesigning the handoff process.

And in July, new work-hour restrictions and supervisory requirements from the Accreditation Council for Graduate Medical Education went into effect, mandating that junior residents work no more than 16 hours at a time.

But those standards don't apply to other health care workers, said Dr. Landrigan, one of the authors of the June white paper.

"Although things have changed for the most junior of doctors, other physicians are still allowed to work up to 28 hours at a time, and nurses have no limits," he said. "That's in stark contrast to other industries that have taken this issue much more seriously and put more safeguards in place."

Ann Rogers, a sleep medicine expert and faculty member at the Emory University Nell Hodgson Woodruff School of Nursing in Atlanta, who worked with the Joint Commission on the alert, echoed Dr. Landrigan's concerns about other health care workers. Ms. Rogers co-authored a 2004 study that found that nurses who worked shifts of 12 hours or longer were three times as likely to make errors.

Changing nurses' work schedules isn't easy, Ms. Rogers said, because so many hospitals are already short-staffed and because many nurses favor working fewer but longer shifts, or picking up overtime.

"It's a difficult process," Ms. Rogers said. "Nurses have to provide 24-hour care to their patients, and there are often not enough staff."

Despite the barriers to change, the Joint Commission's decision to include in the alert nurses, pharmacists and other health care professionals who often work extended hours was a welcome one, said Linda Scott, associate dean of Grand Valley State University's Kirkhof School of Nursing, Allendale, Mich.

"I was very excited to see the alert come out," said Ms. Scott, who co-authored with Ms. Rogers the 2004 study on nurse-staffing hours and medical errors. "I'm hopeful it will set the stage for us



A new Joint Commission study highlights the hazards of health care worker fatigue and offers strategies to mitigate such risks.

to use evidence to implement fatigue-management strategies, because we need a vigilant workforce and we need to protect our patients."

And that may require a significant change in hospital policies, extending all the way to organizations' human resources departments, she added. For instance, nurses caught napping are usually disciplined or fired, Ms. Scott said. Instead, she contends that hospitals should acknowledge the probable need for a nap during a long shift and make concessions for it.

"It's not just nurses' responsibility to come to work alert," Ms. Scott said. "Hospitals need to partner with their employees and understand that they may need to provide the opportunity to sleep.

It's changing the mindset from the old status quo to what is better and safer for everyone."

Residents, too, are often reluctant to work fewer hours because of fears of missing important on-the-job training opportunities, Dr. Landrigan said.

"Five or 10 years ago, there was denial that fatigue even affected performance at all," he said. "Now there is a greater acceptance that it's an issue, but there are concerns about practical problems, like communication and education. In my view, these are surmountable, and if we are serious about safety, we have to do it."

Maureen McKinney is a reporter for *Modern Healthcare*, a sister publication of *Business Insurance*.

IRS: Rules clarified

CONTINUED FROM PAGE 4

of COBRA health care continuation coverage. In that situation, however, the reporting choice must be applied consistently, the IRS said.

Under the guidance, health care cost information does not have to be reported when distribution of a W-2 is not required. The most common example of that situation involves a retired employee who receives retiree health care coverage from his or her former employer but does not receive a salary.

Unlike other health care reform law reporting requirements—such as one that would have required employers to furnish 1099 statements when they do more than \$600 of business with a corporate vendor, which Congress repealed last year—the W-2 reporting requirement has triggered little opposition from employers.

That may be due, at least in part, to the fact that many employers already disclose to employees the cost of their health care coverage, consultants say.

The W-2 reporting guidance is the first health care reform law direction regulators have issued in 2012.

Climate: Progress seen in insurance industry efforts

CONTINUED FROM PAGE 4

area of "relative underperformance," according to the report, with only a 72% compliance rate.

"One area where we have seen very little progress, and maybe even a step back, is the way insurers are thinking about the impact of climate change on the asset side of their investment portfolios," John Williams, a partner in PwC's sustainability team in London, said in a statement.

"Fewer insurers are also considering the impact on company performance and shareholder value, and incorporating this information" into their investment decision making, he added.

Meanwhile, the Intergovernmental Panel on Climate Change report, released late last year, underscored the need for more preparedness for a climate-related disaster.

According to the report, while the risks associated with climate change cannot fully be eliminated, "adaptation and mitigation can complement each other and together can significantly reduce the risks of climate change."

"The human and economic costs of severe weather are escalating and the IPCC report is another important reminder of the need to reverse this trend," said Mark Way, New York-based head of sustainable development at Swiss Re America, a unit of Swiss Re Ltd.

"Swiss Re believes that effective adaptation measures can significantly improve society's resilience to climate risk, and insurance has an important role to play in this regard," he added.

As for the December climate summit, Munich Reinsurance Co. said the South Africa meeting was a disappointment from the insurance industry's point of view because the talks failed to produce a binding agreement on global climate protection.

The fact that "no substantial progress was made in developing specific adaptation projects is also very disappointing," said Peter Höpfe, Munich-based head of geo risk research at Munich Re.

"Increasingly severe weather extremes resulting from climate change are having an especially negative impact on developing countries, which are unable to protect themselves adequately, but have done hardly anything to contribute to global warming," he said.

Want to STAND OUT from the crowd?

Promote your coverage with Business Insurance Custom Reprints



What are the benefits of reprints?

- Offer a unique opportunity to co-brand your company with a reputable news source
- Help underscore your PR efforts
- Great addition to your press kits
- Great recruitment and retention pieces
- Digital reprints boost your news/press web pages and help drive traffic to your site
- Boost employee and company morale

ASK ABOUT OUR REPRINT PRODUCTS:

HARD COPY REPRINTS • EPRINTS • PLAQUES • BANNERS/BUTTONS • TRADE SHOW COLLATERAL • POSTCARDS

Contact Lauren Melesio at 212.210.0707 or lmelesio@crair.com for information on how to turn your Business Insurance press coverage into great marketing.

Business Insurance
www.BusinessInsurance.com

Key facts on new system

Discussion of the various features involved in the Greater New Orleans Hurricane and Storm Damage Risk Reduction System inevitably involves frequent use of the word “largest.” Here are some facts about the new system, according to the U.S. Army Corps of Engineers:

- The 1.8-mile Inner Harbor Navigation Canal Surge Barrier at Lake Borgne is the largest design-build project in the history of the U.S. Army Corps of Engineers. The barrier is the largest of its kind in the world and includes three gated structures and a barrier wall 28 feet above the water line.

- The Inner Harbor Navigation Canal Surge Barrier is the largest single project ever built in Louisiana and involved the largest continuous placement of concrete since the construction of the Hoover Dam.

- The New Orleans East segment of the system involved the biggest deep soil mixing and largest wick drain projects ever in the United States.

- The project's West Closure Complex includes the largest drainage pump station in the world and the largest sector gate in the United States.

- The project involves some 394 construction contracts and created approximately 60,000 jobs.

—By Rodd Zolkos



RODD ZOLKOS

The Seabrook Floodgate Complex at the north end of the Inner Harbor Navigation Canal is designed to help reduce the risk of a 100-year storm surge for some of the areas hit hardest by Hurricane Katrina.

New Orleans: Overhaul boosts flood defenses

CONTINUED FROM PAGE 1

The nearly completed risk-reduction system focuses on stopping storm surge at Greater New Orleans' perimeter, and pumping any potential floodwaters out of that perimeter (see related story).

Now if faced with a storm similar in track and intensity as Hurricane Katrina, “We should fare quite nicely in terms of flood risk reduction,” Mr. Park said.

Considerable research went into designing the various components for the HSDRRS, he said. “The corps did undertake a very thorough hydraulic analysis to determine what would be the potential storm surge at every point around the perimeter,” Mr. Park said.

The research included modeling 152 storms—some actual and

some theoretical—ranging from a 25-year event to a 5,000-year event.

“We’ve also factored in the subsidence that we’ve experienced in the southern Louisiana region and also the effects of climate change and sea level rise so that hard features are designed to be valid through 2057,” Mr. Park said.

Despite the robust nature of the soon-to-be-completed hurricane and storm risk-reduction system, the improvements might not be reflected in New Orleans' commercial insurance market for some time, some suggest.

Stephen Truono, vp, global risk management and insurance at Starwood Hotels & Resorts Worldwide Inc. in Stamford, Conn., said at the time of Katrina in 2005, Starwood had three hotels in New Orleans in its insurance program, none of which experienced any flooding. Still, come 2006 renewals, insurers excluded flood coverage on those properties.

Since then, insurers have included flood coverage on the

properties, but at a very low sub-limit, Mr. Truono said. “Because they’ve effectively limited their exposure by excluding it or sub-limiting it, the pricing increases we’ve seen were not because of the flood exposure.”

Consequently, he doesn’t anticipate changes in pricing or capacity due to the hurricane and storm damage risk reduction improvements in the near future.

“What you might see is the insurers being willing to open up their minds to covering more of that,” Mr. Truono said. “I think it’s too soon to know.”

Michael J. Pilla, president and CEO of Technical Risk Underwriters in Austin, Texas, and a participant in the October tour, cited two reasons to think change might be slow in coming to the New Orleans market. One is that new Federal Emergency Management Agency flood maps reflecting the flood control improvements aren’t expected until spring, and it’s unlikely insurers will adjust pricing and capacity without those maps in hand.

The second factor is the impact of risk modeling.

“Nowadays every underwriter to some extent relies on output from modeling,” said Mr. Pilla. “Really, until those organizations reflect some of (the improvements) in their models, I don’t think the underwriters can do much with it.”

“I think still a couple of dominoes will have to fall for underwriters to be able to take any official action to reflect a better-protected city,” he said. “All that said, I think they have made tremendous strides toward making it a better insurance risk.”

Paul R. Becker, president of the construction practice at Willis North America Inc. in Nashville, Tenn., and another participant on the October tour, said in talking with Willis brokers in New Orleans last week, “they really haven’t seen much change based on the tour.”

“We’re choosing to look at it as half full,” Mr. Becker said, the

glass’ full half being that insurers participated on the tour and they are underwriting business in New Orleans.

In the construction area and the market for builders risk property coverage, “generally it’s available, although you need to get multiple carriers for things that are over \$20 (million) to \$25 million in size in the zone because (insurers) don’t want to put that much capacity at risk,” Mr. Becker said. That coverage typically involves a high deductible, he said.

In the fixed-property market, “our property guys are seeing what they characterize as massive increases—30%, 40%, 50%—and that’s due to the infamous RMS 11 modeling,” Mr. Becker said in referring to Risk Management Solutions Inc.’s version 11 U.S. hurricane model. “The fixed property seems to be much more driven by the cat modeling than the builders risk.”

Still, he said, “We really believe the flood protection...is amazing. It should allow (underwriters) to take some reasonable bets down there.”

John A. Tutera, senior vp-construction and completed civil works at Hiscox USA’s specialty division in New York, said he thinks it’s important for brokers and insureds to continue making the case about New Orleans’ improved risk profile.

“I think the key thing that I’ve always said to a lot of clients and brokers is you really have to get out in front of the market and explain what has changed and is taking place,” Mr. Tutera said.

Mr. Perkins said his interest in arranging the HSDRRS tour had its basis in an exercise Boh Bros. went through to identify the company’s core purpose and values. “And that core purpose was to honorably serve our community,” he said.

“That’s what this is all about...to help New Orleans and our community and to continue to rebuild our city and get our people and businesses back,” Mr. Perkins said.

Complex reduces storm surge exposure

By RODD ZOLKOS

Among features of the Greater New Orleans Hurricane and Storm Damage Risk Reduction System insurance industry executives toured with representatives of the U.S. Army Corps of Engineers last fall was the Gulf Intracoastal Waterway West Closure Complex.

Located approximately one-half mile south of the confluence of the Harvey and Algiers canals on the Gulf Intracoastal Waterway, the feature includes a navigable floodgate, a pumping station, floodwalls, shore protection and an earthen levee.

It reduces risk to a large area along the west bank of the Mis-

sissippi River by removing 26 miles of levees, floodwalls, a gate and pumping stations along the Harvey and Algiers canals from the direct impact of storm surge. Approximately 250,000 residents live in the affected area.

Among the most noticeable features of the West Closure Complex are the pumping station and the 225-foot sector gate.

Construction of the sector gate required approximately 97,000 tons of reinforced concrete and two, 750-ton steel gates fabricated in Houston and transported to the site by barge. With the gates closed, the West Closure Complex can defend against storm surge

from a 100-year event.

Equally impressive is the pumping station, which includes 11 individually powered pumps and is capable of pumping 19,140 cubic feet of water per second. The pumping station, which could fill an Olympic-size swimming pool in less than five seconds, is the largest drainage pump station in the world, according to the U.S. Army Corps of Engineers.

The 11 pumps can be controlled from the pump station floor or from a safe house built into the facility to allow it to be manned through an event of any intensity. The pump station can operate continuously at 100% capacity for three days by using backup generators.

BRAINS & BRAWN

SINCE 1992 WESTROPE HAS PLACED BILLIONS WITH MAJOR CARRIERS IN THE U.S. AND GLOBAL MARKETS IN THE BELIEF THAT THE WORLD NEEDS THE BEST WHOLESALE INSURANCE SOLUTIONS.

PROPERTY | CASUALTY | TRANSPORTATION | CONSTRUCTION
HEALTHCARE | EXECUTIVE & PROFESSIONAL LIABILITY | LIFE SCIENCES
BINDING AUTHORITY | WORKERS' COMP | CLAIMS SERVICES

WESTROPE.COM



WESTROPE

ENSURING INSURANCE

Formaldehyde: Growing concerns about exposure at workplaces

CONTINUED FROM PAGE 6

website says that their original treatments contain methylene glycol, which produces a trace amount of formaldehyde gas when heated, and are "substantially below OSHA standards for safe exposure."

"What caused the controversy is misrepresentation by other companies that their products are formaldehyde-free," Mr. Lurie said. "Our newest products, Soft and Soft Chocolate, do not contain any ingredients that produce formaldehyde."

On the Keratin Complex website, Larry Solomon, president, wrote: "We disagree with OSHA's inflammatory and inaccurate report and we are asking for a full retraction. Keratin Complex not only complies with all OSHA standards, but we meet or exceed their safety standards and requirements."

"Some salons have taken appropriate precautions by discontinuing the use of these products. However, as of the spring when we published our report, over 60% of top salons nationwide were still using keratin-straightening products," said a spokeswoman for the Washington-based Environmental Working Group, which has urged the FDA to take these products off the market.

A small salon owner, who wished to remain unidentified, said that one distributor cited by OSHA "swore up and down there was no formaldehyde" in its keratin products. He continued: "We stopped using most of (them). We found that most of those companies haven't been honest with us. A couple of clients want them and we have them sign a release, saying we're not sure what's in the product."

Hair Cuttery, a national chain, advertises on its website that it provides a "Keratin Smoothing System." In response to a question about what precautions are taken to protect stylists against formaldehyde exposure when using keratin products, a spokeswoman for Hair Cuttery parent Ratner Cos. in Vienna, Va., said in an email that "We do not use straightening products that contain formaldehyde in our salons."

When questioned about this discrepancy and whether the company had discontinued using Keratin Smoothing System, she said, "The

system we use is Bionaza Premiere Brazilian Keratin Treatment and it is formaldehyde-free."

Salons across the country continue to advertise keratin hair-smoothing services on their websites, including Joseph Michael's Salon & Spa in Chicago.

"The main precaution we take is a large carbon filter system that's portable and goes with the stylist," said Allison Vannoy, general manager. "We let the stylist decide whether to do the services or not. All are welcome to wear a mask, but most don't. We haven't seen any adverse results and if we do, we'll take a second look," she

said. "We look at the (OSHA) regulations on a pretty regular basis," she said.

"If you follow best practices management, you can use (formaldehyde) safely," said John Reed Sr., owner of Dodd & Reed Funeral Home in Webster Springs, West Va., and past president of the NFDA. "A good exhaust system" is a main precaution as well as "absolutely monitoring the air" and wearing gloves and masks when working with products containing formaldehyde, he said.

"The best precaution is to follow OSHA guidelines, and really the best way is proper ventilation.

Keep that air changing in the room," said Vernie Fountain, a licensed funeral director and owner of Fountain National Academy in Springfield, Mo., which teaches "difficult embalming cases and post-mortem reconstructive surgery."

"I know from limited experience with salons that they don't have a safety and health or hazard communication program that they review with employees," said Jack Luckhardt, president of safety and health consultant The Luckhardt Group in Oviedo, Fla. "They need to check the labels of all the materials they have and make sure

they have a material safety data sheet. They need to get the information and make it available to employees and watch out for warning signs," such as itching or burning in the eyes, said Mr. Luckhardt, a former board member of the American Society of Safety Engineers.

"But one of the problems they're up against is there are manufacturers of hair care products that were labeled as formaldehyde-free, when in fact the products when heated release formaldehyde," he said.

"I think a lot of the salons are flying blind," Mr. Luckhardt said.

Your product is designed to solve problems — So is ours!



One week each month, *Business Insurance* magazine will take a comprehensive look at a subject to help our readers do their jobs better.

- * With cover-to-cover in-depth analysis taking our readers from identification to solution.
- * A detailed Data Poster pullout that highlights critical insights.
- * And solution-oriented reporting to help readers find the answers they need to succeed.

Our readers will refer back to this reference material and share throughout the year.

Make sure your company's product is part of these focused monthly issues or the exclusive Data Poster pullouts.

For more information on all of these great advertising opportunities, call 312-649-5224 or email advertising@businessinsurance.com

Business Insurance
INSIGHTS TODAY FOR THE RISKS OF TOMORROW
www.BusinessInsurance.com

DON'T MISS
Executive Risks
Issue: Jan. 23
Ad close: Jan 11

ADVERTISER

INDEX

Issue of January 9

ADVERTISER	PAGE #
Aon Corporation	2
Arch Insurance	5
Business Insurance	15, 17, 19, 21, 23
Catlin	11
Chartis	24
FM Global	13
UNICUS Claim Controls, Inc.	16
Westrope & Associates, Inc.	18
XL Insurance	7

NFIP: Six months

CONTINUED FROM PAGE 3

Agents & Brokers. He said markets and council members need certainty that the program will exist.

“It’s good news that it didn’t lapse,” said Ben McKay, senior vp in the Washington office of the Property Casualty Insurers Assn. of America. “Avoiding that disruption is always our prime concern. However, it is only a short reprieve.”

“I honestly think this is an opportunity because the five-year reauthorization bill has passed the House and it’s passed the Senate Banking Committee,” said the council’s Mr. Kopperud. “The window of opportunity now is that we’ve got until May to get it through the Senate. I’m confident it will have the votes for final passage. We need leadership to bring it to the floor and have clear strategy for getting it through, but I’m confident in the next five months we can get that.”

Mr. Santos said the next step of the process is to try to get the Senate leadership to schedule floor time for consideration of the Senate Banking Committee’s measure. He noted that the House measure received 406 votes, and the Senate Banking Committee bill passed on a voice vote.

Given strong bipartisan support for the extension, “there’s a good opportunity to get a bill here,” said Mr. Santos.

Jim Grande, senior vp in the National Assn. of Mutual Insurance Cos.’ Washington office, said while there are some differences between the House and Senate measures, they involve technical issues, and he is confident such differences can be bridged.

“There aren’t major substantive differences,” he said. “They are really closely aligned.”

The measures also address such issues as deductibles and mapping standards.

PCI’s Mr. McKay noted that “it would be unenlightened to say that the fact that this is an election year would not have an impact on any legislation.” But he said he hopes the reauthorization of the program does not get caught up in larger issues such as tax reform.

NAMIC’s Mr. Grande said the temporary extension expires May 31, on the eve of the beginning of the Atlantic hurricane season. The timing might provide a “little extra incentive” to extend the program, he said.

“I am always hopeful that this is the last of a long series of short extensions,” he said. “Maybe I’m the last guy who has faith that this Congress can pull together to pass something they all agree on.”

Religion: Exemption entices sponsors

CONTINUED FROM PAGE 3

reporting and PBGC premium purposes, he said.

Mr. Matuska, now retired, and fellow St. Peter’s retirees who got their last summary plan descriptions in January 2006 became aware of the conversion only when St. Peter’s asked the IRS for church plan designation that same year. That decision is pending because of an IRS moratorium on such rulings from 2007 until September 2011, as the agency considered complaints from plan participants and activists. The IRS has resumed recognizing plans on a case-by-case basis. IRS officials did not comment on the status of the St. Peter’s request.

Phil Hartman, director of public relations for St. Peter’s, said in an interview that operating as a church plan “allows us to spread the (contribution) payments, rather than making a lump-sum payment. The benefits are the same.”

Mr. Hartman added that St. Peter’s continued to pay PBGC premiums through 2011 and would like to figure out how to continue being protected by the PBGC or a private insurer despite seeking the church plan designation. Plan officials have not asked the PBGC for a refund.

While many church plans may be well run, “the problem is that plan participants will lose their rights under ERISA and no longer be insured by PBGC,” said Mr. Matuska. “Plan participants and employees are really not getting clear answers to what changes will be made if it is granted church status.”

He noted that St. Peter’s employees would not even be aware of the risk involved in losing ERISA protection if not for a

September 2011 ruling by the IRS clarifying its procedure for determining whether a plan meets the test, including whether it is “established and at all times maintained” by church-affiliated entities. That ruling requires plan sponsors to notify participants that the “protections and rights” applicable to ERISA-covered plans would no longer apply, including PBGC insurance.

How well employees understand what is happening, even with the IRS ruling, is a big concern for activists. “We see a lot on this issue, but current employees are afraid to speak out,” a Pension Rights Center spokeswoman said. The IRS requirement to inform plan participants “only puts the brakes on the most egregious examples” by allowing for participant notification and comments, the spokeswoman said.

To help their employees understand the change, St. Peter’s executives held a series of meetings with employees, “which led us to re-examine” our plans, said Mr. Hartman. “We heard those concerns, and we are looking at ways to address them.” In a Dec. 28 letter to plan participants, President and CEO Ronald C. Rak said that as a result of the concerns raised at the meetings, management is working with outside experts to “actively investigate ways to protect your retirement dollars” and would let participants know by the end of February.

In Washington, one cultural organization with a religious affiliation quickly rescinded its application for church-plan status recently after a storm of protest by participants that was triggered by the IRS-mandated disclosure letter. Noting the “great deal of confusion, anxiety and concern,” a second letter to plan participants

promised to end the application, which the organization had sought to allow longer smoothing of contributions, according to sources. Further information could not be obtained.

The good news, from the PRC’s perspective, is that the IRS notification process gives plan participants a voice.

Pension activists saw a setback in January 2011 when a federal judge in Minneapolis dismissed claims of ERISA violations against Augsburg Fortress Publishers, a subsidiary of the Chicago-based Evangelical Lutheran Church in America. Augsburg terminated its \$9 million defined benefit plan on Dec. 31, 2009, and distributed \$8.2 million in remaining assets in March 2010, on the grounds that it enjoyed church plan status.

But U.S. District Court Judge Michael J. Davis found that the plaintiffs had sufficient evidence to pursue breach-of-contract claims against both entities in state court. “We deny all claims of wrongdoing alleged in the complaint,” Augsburg Fortress President and CEO Beth Lewis said in a statement at the time of the court filing. “The complaint misrepresents the care with which the plan was administered and the communications that occurred with plan participants.”

In a statement, the ELCA said the ruling “is likely the first of other procedural matters still to be decided.”

Officials from the Catholic Health Assn. of the United States, an organization of Catholic hospitals, and the American Hospital Assn. did not return calls for comment.

Hazel Bradford is a reporter for Pensions & Investments, a sister publication of Business Insurance.

were’n’t for RIMS, and I’ve always said that through all those years of volunteering I got more from it than I ever gave to it,” she said.

RIMS’ effort to “go back to basics” in re-examining how to best meet its mission and serve its members “brings some real consistency and real focus for the staff of RIMS, the board of RIMS—and hopefully our members and our partners will benefit from our being really focused,” Ms. Luthi said.

She’s eager to share information about that new focus when the society’s members gather in April for RIMS’ annual conference in Philadelphia.

“For me, it will be an opportunity to meet with our members and share with them the work that our board and RIMS staff have done,” Ms. Luthi said.

“I think it’s really important to keep in front of everyone that the RIMS board are practicing risk managers,” she said. And, in the society’s refocusing exercise, “RIMS is practicing strategic risk management,” Ms. Luthi said. “I think it’s a great story to tell our members.”

Luthi: RIMS reaches out

CONTINUED FROM PAGE 3

society’s board for 11 years and has been vp and board liaison to RIMS’ Finance Committee and Spencer Educational Foundation Committee. She is a member of RIMS’ Golden Gate chapter as well as the Sacramento Valley chapter, which she co-founded in 1991.

The new RIMS president began her professional career as a teacher.

“During the summer I went to work for a Fortune 500 company in the personnel department,” she said. “They wanted me to stay, and I said, ‘No, I’m a teacher.’” But when she asked what sort of positions might be available, she was told about a job in the risk management department, though there was an initial misunderstanding. “I said, ‘Mismanagement? There’s a mismanagement department?’” she recalled. “And from that, a career was born.”

Ms. Luthi credits her association with RIMS with helping her advance her risk management career. “I would say I would not be where I am at all in my career if it

addressing risk, Ms. Luthi said it’s important that RIMS reach out to practitioners in those areas as well.

Addressing the third “R”—reach—will involve “raising the profile of RIMS and risk practitioners,” Ms. Luthi said, something she envisions the society doing through geographical expansion, political advocacy, media outreach and “even in the digital realm.”

In that digital realm, Ms. Luthi said she believes RIMS has done a “fantastic job” thus far with its Twitter feed, Facebook page, blog and online forums. But with social media playing an increasing role in personal and professional lives, the organization will continue to explore ways to meet the digital information needs of its members.

“I’m going to learn how to tweet,” she said.

Ms. Luthi has been a RIMS member for nearly 32 years. She served on the New York-based

Business Insurance

Publisher/General Manager, Strategic Business Media:
Mark Stach (Chicago)

Associate Publisher/ Online General Manager/Event Director:
Paul D. Winston (Chicago)

Editor: Gavin Souter (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Matt Scroggins (Chicago)

Assistant Managing Editors:
Charmain Benton (Chicago);
John D. Thomas (Chicago)

Art Editor: William Murphy (Chicago)

Senior Editors: Roberto Cenicerros (Boise);
Judy Greenwald (San Jose);
Mark A. Hofmann (Washington);
Sarah Veysey (London);
Joanne Wojcik (Denver);
Rodd Zolkos (Chicago)

Associate Editors: Matt Dunning (New York);
Sheena Harrison (Chicago);
Mike Tsikoudakis (Chicago)

Copy Desk Chief: Katherine Downing (Chicago)

Copy Editor: Ann Reus (Chicago)

Video Producer/Copy Editor:
Mallory Gillikin (Chicago)

Research Director: Kevin P. Edison (Chicago)

Research Editor: Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Advertising Sales Director:
Susan Stilwill (Chicago)

Regional Sales Managers:
Ron Kolgraf (Boston); Robert B. Murray (New York); Mary Pemberton (Denver)

Southeast & Classified Advertising Manager:
Monique Murray (New York)

Production Manager: J. Thomas Janka (Chicago)

Assistant to the Publisher:
Justine Karl (Chicago)

Marketing Manager:
Kathy L. Barnes (Chicago)

Audience Marketing Director:
Michelle O'Malley (Chicago)

Events Manager:
Rebecca Briggs (New York)

Digital Product Manager:
Christina Kneitz (Chicago)

EDITORIAL: Boise: 208-286-1425;
Chicago: 312-649-5200;
Denver: 303-278-7444; London: 44-207-457-1400;
New York: 212-210-0100; San Jose: 408-774-1500;
Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856;
Chicago: 312-649-5224; Denver: 303-898-4043;
New York: 212-210-0136

SUBSCRIPTIONS & SINGLE COPY SALES:
1-877-812-1587 (U.S. & Canada)
1-313-446-0450 (All other locations)

Business Insurance is published by
Crain Communications Inc.
Chairman: Keith E. Crain
President: Rance Crain
Secretary: Merrilee Crain
Treasurer: Mary Kay Crain
Executive Vice President/Operations:
William A. Morrow
Senior Vice President: Gloria Scoby
Vice President/Group Publisher:
Christopher Crain
Group Vice President/Technology, Circulation, Manufacturing:
Robert C. Adams
Vice President/Production & Manufacturing:
Dave Kamis
Chief Information Officer: Paul Dalpiaz
G.D. Crain Jr. Founder (1885-1973)
Mrs. G.D. Crain Jr. Chairman (1911-1996)
S.R. Bernstein
Chairman-executive committee (1907-1993)



Opioids: Stronger drugs raise concerns

CONTINUED FROM PAGE 1

Frazer, Pa.-based Cephalon Inc. and Stamford, Conn.-based Purdue Pharma L.P., according to the National Institutes of Health.

Current hydrocodone painkillers, such as Vicodin, contain up to 10 milligrams of hydrocodone. Those pills typically are taken every four to six hours, leading to a daily maximum dosage of 60 milligrams, said Jim Andrews, senior vp of pharmacy services at Healthcare Solutions, a Duluth, Ga.-based PBM specializing in workers comp.

Drugs such as Zohydro, which likely would be taken twice a day, could result in a daily dosage of up to 100 milligrams if the strongest pill is approved by the FDA, Mr. Andrews said.

That potential increase in hydrocodone usage is cause for concern, said Dr. Robert Bonner, Hartford, Conn.-based vp of medical practices and medical director for The Hartford Financial Services Group Inc.

"That's going to put another very potent drug in the marketplace," Dr. Bonner said.

In a statement, Zogenix said Zohydro would be safer than hydrocodone/acetaminophen pills because acetaminophen is "known to cause significant liver toxicity when taken in large doses over time."

Full hydrocodone pills aren't expected to reach the market

until next year, sources say. But workers comp experts are planning now to prevent potential health hazards, including addiction and overdoses.

Much of that will mean placing the new medications on specialized drug formularies that would require workers comp patients to receive approval before being issued some potent opioid prescriptions.

Sedgwick Claims Management Services Inc. began discussing such a strategy for Zohydro and other full hydrocodone drugs last month, said Kimberly George, Chicago-based senior vp of the managed care practice and client services.

The TPA uses a formulary that allows some medications to be approved based the severity of a patient's injury.

If a claimant is prescribed opioids for an injury that doesn't typically warrant such powerful medications, Sedgwick's claims examiners or nurse case managers may intervene and help the patient receive less potent drugs or medical treatments that could relieve their pain, Ms. George said. She said the company likely would use the same protocol for full hydrocodone pills.

Sedgwick's plan was developed several years ago with the introduction of drugs such as Actiq, a painkiller lollipop that contains the potent narcotic fentanyl.

"I think that really opened the eyes of Sedgwick, and certainly

our pharmacy partners and clients, to track and identify medications like this," Ms. George said.

Monitoring and intervention also are done by companies such as Atlanta-based TPA Broadspire Services Inc., Hartford, Coventry and Healthcare Solutions.

"The true solution lies in an integrated approach across all medical practices, and one of our best allies in trying to create better solutions is case management," said Coventry's Mr. Carpenter.

Hartford's Dr. Bonner said some workers comp patients could receive Zohydro or similar prescriptions if the drug is deemed appropriate for an injured worker.

"Although there are concerns about this very potent drug, the Hartford would not automatically deny payment for it," Dr. Bonner said. "However, we would put it through a review process to make sure that it made sense for that patient."

Sources say they track the development of multiple drugs that could be used in workers comp, but Mr. Andrews said such medications may not always be as problematic as anticipated.

For instance, Healthcare Solutions was concerned whether last year's release of Lazanda, a fentanyl nasal spray, could create problems for injured workers. However, Mr. Andrews said that medication has not been prescribed much in workers comp.

Dr. Jacob Lazarovic, Broad-

spire's chief medical officer in Sunrise, Fla., said claim monitoring and patient intervention are the top tools that the workers comp industry has to stem abuse of hydrocodone and other medications.

"Whether it's a new or old drug, I think the industry is trying to deal with addiction issues and abuse issues, and I think it's fair to say that (the process) hasn't been perfected and hasn't been done as aggressively as it should have been in the past," Dr. Lazarovic said. "But I think more and more so, we are dealing with it in a more aggressive and successful way."

In a separate statement, Zogenix said Zohydro would be more difficult for patients to receive than drugs currently on the market. The medication would be classified as a Schedule II controlled substance by the U.S. Drug Enforcement Administration, which would prevent patients from receiving refills without a new prescription.

The DEA ranks controlled substances from Schedule I, which include illegal drugs, to Schedule V, which include drugs with "low potential for abuse." Hydrocodone pills on the market today have a Schedule III classification.

Since only clinical data is available right now for Zohydro, only time will tell if the full hydrocodone pills are approved and if their benefits outweigh the potential risks for such drugs, Mr. Andrews said.

"The question now is: Is the cost and benefit worth (it)," Mr. Andrews said.

inBrief

CONTINUED FROM PAGE 1

2011 airline hull, liability losses lowest in 7 years

Airline hull and liability losses totaled about \$1.18 billion in 2011, the lowest since 2004, according to Ascend Worldwide Group Holdings Ltd. The insured losses were \$966 million less than 2010 and \$820 million less than the estimated \$2 billion of premiums written during 2011. The good performance in 2011 likely will increase pressure for rate reductions in 2012. The fatal accident rate for airlines improved during 2011 to one event per 1.52 million flights from one event per 1.3 million flights in 2010, making it the safest year since Ascend began tracking the data in 1970.

New Longshore Act regs to take effect this month

Regulations are set to take effect this month for a rule under the U.S. Longshore and Harbor Workers' Compensation Act that excludes most workers who maintain or repair recreational boats and watercraft. An amendment under the American Recovery and Reinvestment Act of 2009 excluded laborers who repair or dismantle any recreational water vessel from coverage under the Longshore Act, so long as they are covered under a state's workers comp law. Final regulations regarding the recreational vessel exclusion will take effect Jan. 30.

Med mal market evolving: Moody's

The evolving U.S. health care delivery system presents opportunities and challenges for medical professional liability insurers, according to an analysis by Moody's Investors Service. It notes that the medical professional liability insurance market is "highly fragmented" with more than 200 insurers. The analysis notes that while the medical professional liability market traditionally has been volatile, the sector has benefited from strong pricing trends in the early 2000s and favorable liability claims trends more recently.

Funding: Liabilities rise

CONTINUED FROM PAGE 3

into their plans in 2010 and the more than \$92 billion employers contributed in 2009.

"We are expecting some pretty significant contribution increases," said Jonathan Barry, a partner with Mercer's retirement and risk and finance consulting group in Boston. And those hefty plan contributions are "going to be a big burden for some employers," said Sheldon Gamzon, a partner in New York with PricewaterhouseCoopers LLP.

The jump in required plan contributions will lead yet more employers to freeze their pension plans, Mr. Gamzon said. That would continue a trend that began to take root about eight or

nine years ago.

Last year, more than 40% of Fortune 1000 companies that sponsor defined benefit plans had frozen at least one of those plans, compared with just 7.1% that had done so as of 2004, according to a Towers Watson analysis.

Still, freezing a plan provides only limited relief to employers worried about soaring plan contributions, with employers still liable to fund benefits that have accrued prior to the freeze.

"You can turn off the faucet, but the bathtub is still full of water," Mr. Barry said.

Potentially, relief could come from federal lawmakers, who twice in recent years temporarily eased plan funding requirements.

One change came in late 2008,

when the Great Recession was gaining steam. The change involved a provision in the Pension Protection Act of 2006 that generally requires employers to put enough money in their plans each year so the plans will be fully funded after seven years. That target was phased in so plans had to fund to a 92% target in 2008, while the target was 94% in 2009, 96% in 2010 and 100% in 2011.

If the target is missed in any year, employers then were required to fund toward the 100% target. The 2008 law removed that requirement so that even if the funding target were missed for a year, the funding target for the next year would not bump up to 100%.

For example, if an employer missed the 92% funding target in 2008, its funding target for 2009 still would be 94%, not 100%.

Then in 2010, Congress provided additional relief, giving employers more time to amortize funding shortfalls for any two plan years between 2008 and 2011. But certain conditions attached to the relief sharply limited its appeal.

Experts have their doubts as to whether Congress will ease funding rules again. "Personally, I'd be surprised. Pension funding relief is not high on" lawmakers' agenda, Mr. Barry said.

"We'll have to see how this plays out," said Mike Archer, director of intellectual capital development in Parsippany, N.J., for Towers Watson's North America retirement practice.

For now, the only sure thing that will boost plans' funding levels will be strong equity market returns and rising interest rates, Mr. Barry said.



DON'T....
let your access to **BusinessInsurance.com** end!

REGISTER TODAY AND GET 10 ARTICLES A WEEK
OR SUBSCRIBE TODAY FOR UNLIMITED ACCESS!

www.businessinsurance.com/section/subs

Business Insurance®



Legal stink over cat litter claims

A federal judge has temporarily barred Clorox Co. from running what a competitor alleges is a false and disparaging advertising campaign for its brand of cat litter.

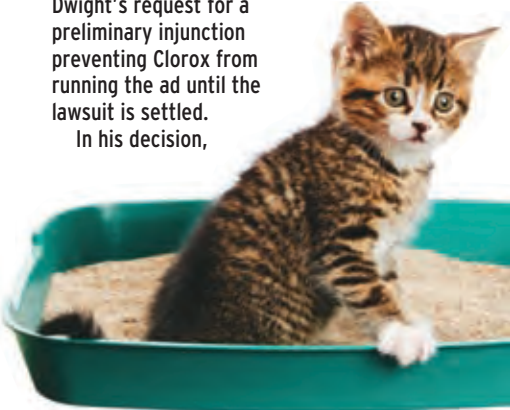
Church & Dwight Co. Inc., the Princeton, N.J.-based maker of Arm & Hammer baking soda and its related cleaning products, initially sued Clorox last January over television commercials for Fresh Step cat litter. According to court documents, the spots claimed that cats prefer Fresh Step over Arm & Hammer's Super Scoop litter because Fresh Step was better at eliminating odors.

Oakland, Calif.-based Clorox Co. agreed to pull the ads, and Church & Dwight dropped its lawsuit. However, a new Clorox commercial appeared less than two weeks later.

"This time, Clorox upped the ante by making a superior odor elimination claim not simply against one variety of Arm & Hammer cat litter products, but the company's entire line of cat litter products," Church & Dwight alleged in a second suit filed against Clorox last March.

On Wednesday in New York, U.S. District Court Judge Jed Rakoff granted Church & Dwight's request for a preliminary injunction preventing Clorox from running the ad until the lawsuit is settled.

In his decision,



Judge Rakoff said Clorox's laboratory "jar tests" proving Fresh Step's claim of superiority over the Arm & Hammer products were "insufficiently reliable to meet the required legal standards," and that the commercial would likely cause "irreparable harm" to Church & Dwight if the spot continued to run.

"It is highly implausible that 11 panelists would stick their noses in jars of excrement and report 44 independent times that they smelled nothing unpleasant," Judge Rakoff wrote in his decision.

Church & Dwight has asked that a federal jury force Clorox to permanently scrap the ad and run "corrective advertising" to dispel the false claims. The company also is seeking to recover damages as well as any profit Clorox made as a result of the ads.

CONTRIBUTING: Matt Dunning, Judy Greenwald, Joanne Wojcik

End Page



REUTERS

Lady Gaga's former personal assistant says the pop superstar owes her more than \$379,000 in overtime pay.

Lady Gaga's attendant wants overtime pay

Lady Gaga's former personal assistant is not exactly going gaga over her erstwhile boss these days.

In fact, Jennifer L. O'Neill is suing her former boss, claiming the flamboyant pop singer owes her more than \$379,000 in overtime pay.

In a lawsuit filed last month in federal district court in New York, Ms. O'Neill says she worked for Lady Gaga in early 2009 and also from about February 2010 through her termination in March 2011. She said she attended to her needs at home as well as during her travels for her global tours "from city to city throughout the world, at locales including stadiums, private jets, fine hotel suites, yachts, ferries, trains and tour buses. Plaintiff was always behind the scenes and figuratively, if not literally, always at her side," says the lawsuit.

Ms. O'Neill said her duties included confirming Lady Gaga's schedule, reviewing and reconciling her credit card statements, ordering meals and ensuring they were correctly prepared and served at specific times, ensuring the availability of chosen outfits "and the promptness of a towel following a shower" and "serving as a personal alarm clock" to keep the singer on schedule.

Ms. O'Neill said her annual salary was \$75,000, but she was not paid overtime for working more than 40 hours a week. She said she was on duty 24 hours a day, "from the earliest working hour, for being responsive to the slightest need throughout the day, and for addressing spontaneous random matters in the middle of the night."

Ms. O'Neill is suing Lady Gaga under the federal Fair Labor Standards Act and New York state labor law. In addition to the more than \$379,000 in overtime, she is seeking an equal amount "in the form of liquidated damages" as well as reasonable attorneys' fees, costs and prejudgment interest.



PepsiCo in fight over unwelcome ingredient

When Ronald Ball took a swig from a can of Mountain Dew he pulled from a vending machine at work, he didn't yell "Yahoo!" like in the old TV commercials.

Instead, he ran to the men's room and spit out a mouthful of mouse, a lawsuit claims.

Mr. Ball is suing PepsiCo Inc., makers of Mountain Dew, as well as Pepsi's bottling arm, in Madison County Circuit Court in Edwardsville, Ill., seeking damages in excess of \$75,000 in connection with his disturbing find. Mr. Ball also sued the owners of the Wood River, Ill., Shop N'Save chain where the soda was purchased, but those defendants have since been dropped from the case.

PepsiCo responded to Mr. Ball's suit last April with expert testimony asserting that the mouse should have either dissolved or transformed into a "jelly-like substance" in the acidic soft drink between the time it was bottled in August 2008 and when it was opened in November 2009.

According to court documents, "By 30 days of exposure to the fluid, all of the mouse's structures will disintegrate to the point where the structures (excepting possibly a portion of the tail) will not be recognizable and, therefore, the animal itself will not be recognizable. Instead, after 30 days in the fluid, the mouse will have been transformed into a 'jelly-like' substance."

But Mr. Ball has witnesses who can attest to the mouse's preservation, according to his lawyer, Samantha Unsell, an associate at the law firm of Thomas Q. Keefe Jr. P.C. in Belleville, Ill.

After returning from the men's room on that fateful November day, Mr. Ball emptied the can into a Styrofoam cup in front of coworkers to show them the surprise inside, she told *Business Insurance*. And though he initially handed over the mouse to PepsiCo to prove his claim, it was later returned to Mr. Ball's custody so that it could be used in court, she said.

In response to the PepsiCo expert testimony, Mr. Ball's lawyers filed an amended complaint on Nov. 21 and are awaiting a trial date.



AP PHOTO

Honda Civic owner Heather Peters is suing the automaker in small claims court, accusing the company of misrepresenting the hybrid model's fuel efficiency.

PERFORMANCE GRIPE FUELS HONDA SUIT

A disgruntled Honda Civic owner is hoping her small claims complaint against the automaker will be a big win for customers frustrated with the hybrid model's mileage performance, the Associated Press reported last week.

After opting out of several class action lawsuits accusing the company of misrepresenting the Civic Hybrid's fuel efficiency, Heather Peters chose to pursue a potentially bigger settlement from American Honda Motor Co. Inc. in a Torrence, Calif., small claims court, according to a press release she issued Dec. 28 urging other customers to file similar claims.

In her suit, Ms. Peters claims her 2006 car was never capable of achieving the 50 miles per gallon that Honda advertised—it struggled to reach 30 miles per gallon as the battery wore down, according to her website.

Ms. Peters is seeking damages for the extra gas she was forced to buy up to \$10,000, which is the California state maximum for small claims settlements.

If she is successful, Ms. Peters said she hopes other customers will file small claims cases, instead of accepting class action settlements as low as \$200. In her statement, she said the absence of attorney participation would help level the playing field.

"Class actions are great for little cases, but not for cases like this where Honda's false advertising is costing already cash-strapped families more every day at the gas pump," Ms. Peters said.

"It's time for Honda to go one on one with its customers where they can't hide behind high-priced lawyers. I want people to know that small claims court is not so scary, it's a lot like Judge Judy."

Business Insurance
Risk Manager
OF THE YEAR
2012

Business Insurance
Risk Management
HONOR ROLL
2012

Save the Date

APRIL 17, 2012 | PHILADELPHIA, PA

BUSINESSINSURANCE.COM/RMOY

For additional information about the event or partnership opportunities, please contact Becky Briggs, Event Manager at RBriggs@BusinessInsurance.com or 212-210-0132

Presented by:

Business Insurance



Go where your
VISION
LEADS YOU.

**We'll help
make it possible.**

No matter where opportunity takes you, Chartis will be at your side, with cutting-edge insurance solutions. Last year alone, our carriers launched innovations ranging from new coverages for the changing healthcare industry to robust executive liability products and online risk management tools. This year we'll continue to innovate, to help keep you moving forward.

Learn more at www.chartisinsurance.com

CHARTIS 
Your world, insured

All products are written by insurance company subsidiaries or affiliates of Chartis Inc. Coverage may not be available in all jurisdictions and is subject to actual policy language. For additional information, please visit our website at www.chartisinsurance.com.