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CAPTIVE OWNERS WORRY ABOUT RETENTION ISSUES, GROWTH / PAGE 3

In Brief

EEOC releases revised disability regulations

The Equal Employment Opportunity Commission has released regulations on what qualifies as a "disability" and what constitutes adequate protection of individuals under the Americans with Disabilities Act Amendments Act of 2008. The regulations are designed to determine who has a "disability" and is protected under the 2008 law that modified the 1990 Americans with Disabilities Act. Final regulations implementing the 2008 law are aimed at making it easier for individuals to establish that they qualify under the "regarded as" part of the definition of "disability." The EEOC said, like the original disability law, regulations for the ADA Amendments Act say that not every impairment constitutes a disability.

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SPOTLIGHT CLAIMS MANAGEMENT

Technology advances help adjusters do their jobs faster, more efficiently; employers use bill reviews to control their costs; nurse case managers can reduce overall workers comp costs; *Business Insurance* ranks the largest third-party administrators overall and by specialty. **PAGE 9**

CATASTROPHES

Quake creates claims concerns

Business interruption coverage depends on Japan policy specifics

By **JUDY GREENWALD**

SENDAI, Japan—Risk managers submitting business interruption and contingent business interruption claims as a result of the earthquake and tsunami in Japan face daunting, complex issues in attempting to resolve those claims.

This is because of the intertwining factors involved, including the quake, tsunami, fires, power outages, and infrastructure and nuclear damage.

The issues affect firms with operations in Japan as well as those that either sell or import goods from Japan. In particular, the technology and automobile industries often were cited as most heavily affected, although many others also have been experiencing difficulties.

Observers noted that many major firms have manuscripted property policies that include busi-

ness interruption and contingent business interruption coverage. This means exclusions as well as sublimits vary by policy. Another variable is whether the policies cover only first-tier suppliers or other firms that are further down the supply chain.

Other insurance that may come into play includes extra expense coverage, which covers expenses incurred as a result of the business interruption; civil authority coverage, for loss of business because of government actions; and ingress/egress coverage, which is invoked when firms have restricted access to their facilities.

In addition, supply chain or trade disruption coverage—which, unlike contingent business interruption insurance, may not require property damage to trigger the coverage—may have been purchased, although such policies have not been widely written, experts say.

Many major companies have local, admitted property policies in

See **INTERRUPTION** page 21

WEBCAST
Register for 'Supply Chain Crisis: Business Interruption Coverage and Claims After the Japanese Earthquake' on March 31 at www.BusinessInsurance.com/webcasts.



A worker cleans up a Sony Corp. warehouse near the Port of Sendai. The company is one of several electronics manufacturers affected by the disaster in Japan.

REUTERS

Rapid response advised on losses linked to Japan

By **JUDY GREENWALD**

Risk managers overseeing businesses affected by the disaster in Japan should be studying their property policies and talking with their brokers and insurers to get the claims process moving, observers say.

"Companies have to figure out as soon as possible" where and what their losses are by bringing in their insurers as partners and drawing upon

their brokers' expertise, said Joseph F. Bermudez, a partner with law firm Nelson Levine de Luca & Horst L.L.C. in Denver.

Linda D. Kornfeld, a partner with law firm Jenner & Block L.L.P. in Los Angeles, said they should be "carefully reviewing the coverage provisions in their property policies, including exclusions, policy limits and all sublimits" to determine

See **SUPPLY** page 20

DIRECTORS & OFFICERS LIABILITY

High court rules for plaintiffs in D&O case

By **MARK A. HOFMANN**

WASHINGTON—A unanimous U.S. Supreme Court decision that makes it easier for certain securi-

ties class actions to proceed probably will not lead to a flood of new litigation, legal observers say.

Rather than expanding the available defenses available in cas-

es involving allegations of securities fraud, the justices' ruling last week in *Matrixx Initiatives Inc. et al. vs. James Siracusanano et al.* reaffirmed existing case law concerning what constitutes material information in such cases, they say.

"What it represents in my mind was, although it was a long shot, was an opportunity lost," said Dan A. Bailey, a directors and officers liability law expert and a member of Bailey Cavalieri L.L.C. in Columbus, Ohio. "If the court had gone the other way, the court could have changed significantly some of the rules; but by ruling as

they did, they basically adopted the status quo," said Mr. Bailey, who was not involved in the case.

Plaintiffs had alleged that Scottsdale, Ariz.-based Matrixx and senior executives misled investors in the pharmaceutical maker about allegations that its Zicam cold remedy had caused anosmia—or loss of smell—in some patients. The company argued that it was not obligated to disclose anosmia complaints because they were not statistically significant.

Between 1999 and 2003,

See **MATRIXx** page 19

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slide show

RISK MANAGEMENT SUMMIT: From cyber risks to captives, the 2011 *Business Insurance* Risk Management Summit in New York offered focused insight for risk managers from Fortune 500 companies. Slide shows from both days of the event can be viewed at www.BusinessInsurance.com/RMSummit.

MOST POPULAR STORIES
 Week of March 21, 2011

1. Certain health care reform law requirements delayed
2. AIG, other insurers, brokers agree to settle class action
3. Japan quake, tsunami economic losses could reach \$300B: RMS
4. Japan losses won't significantly harden U.S. rates: Analysis
5. AIG denies Chartist's Moor full bonus after boosting reserves
6. Japan quake may be 'catalyst' for higher reinsurance rates
7. 2011 profit target unattainable due to Japan disasters: Munich Re
8. Japan forecasts earthquake damage may swell to \$309B
9. Cautious outlook on U.S. property/casualty industry: Best
10. Swiss Re estimates Japan quake claims at \$1.2B

GET ONLINE NEWS EACH DAY
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webcast

SUPPLY CHAIN CHAOS: *Business Insurance* offers a new webcast dealing with business interruption issues in the wake of Japan's earthquake earlier this month. "Supply Chain Crisis: Business Interruption Coverage and Claims After the Japanese Earthquake" will take place March 31 at 2 p.m. EDT. Register at www.BusinessInsurance.com/webcasts.

REUTERS/KYODO



LOG ON,
 WEIGH IN

COMMENT: Registered *BusinessInsurance.com* users now can invite friends, join discussions and more.



UPDATED: *BI* offers updated rules and requirements at health care reform's one-year anniversary. On the Home Page.



DIRECTORY: *BI's* Directory of Third-Party Administrators is updated for 2011. Available in the Research Center.

Business Insurance (ISSN 0007-6864) Vol. 45, No. 13, is published weekly, except combined issues the second and third week of August, the fourth and fifth week of November, 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: E-mail 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.

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ENTERPRISE RISK MANAGEMENT

Enterprise risk management 2.0 in the works

By MARK A. HOFMANN

Enterprise risk management continues to grow up.

As the discipline of ERM continues to develop, the practice of strategic risk management is emerging as an important component of an enterprisewide approach to risk.

Growing interest in strategic risk management is being driven by maturation of ERM programs and a desire on the part of corporate boards and others to make better use of risk information in the strategic decision-making process, ERM experts say. The concept, they note, got a boost from the turmoil that rocked the economy beginning in 2008, which spurred some companies to embrace board-level approaches to risk.

"Mature ERM and strategic risk management are really the same thing," said Laurie Champion, managing director-enterprise risk management at Aon Global Risk Consulting in Atlanta. She said strategic risk management essentially is the incorporation of risk awareness and risk information into the corporate strategy process.

Corporate boards are "very much looking for the opportunity to leverage the information that comes out of ERM to help make the strategic process more robust."

The C-suite has the same perspective—they want value out of risk management and ERM, said Ms. Champion. In addition, "ERM leaders within the business are seeing the opportunity to link with other corporate disciplines,

DEFINING STRATEGIC RISK MANAGEMENT

Strategic risk management can be defined as the process of identifying, assessing and managing the risk in the organization's business strategy including taking swift action when risks are realized. SRM involves evaluating how a wide range of possible events and scenarios will affect the strategy and its execution and the ultimate impact on the company's value. "Risk" is all-inclusive, encompassing everything from product innovation risk and market risk to supply chain risk and reputational risk. A primary component and foundation of enterprise risk management, SRM requires the organization to define tolerable levels of risk as a guide for strategic decision-making. It is a continual process that should be embedded in strategy setting and strategy execution.

Source: Mark Frigo, director, Center for Strategy, Execution and Valuation, Kellstadt Graduate School of Business, DePaul University

and they're seeing that this makes a lot of sense as well."

"Organizations are missing value if they fail to link ERM and strategy," she said. "A lot of work is being done in this area."

While high-level risk assessments often have been done from

a compliance perspective, "Now, I think companies are looking for more value out of this ERM effort. They're applying it to ask risk questions a different way," said Corey Gooch, senior enterprise risk management consultant at Towers Watson & Co. in Chicago.

"Instead of saying, 'What are the risks to the business?' They say, 'Here are my strategic objectives. What are the risks that could impact our company's ability to reach those strategic objectives?'" said Mr. Gooch.

Carol Fox, director of the Risk & Insurance Management Society Inc.'s strategic and enterprise risk practice, said that "from RIMS' perspective, strategic risk management is an evolution of enterprise risk management that focuses more on the upside of risk."

Organizations, she said, "limit the value they can create through enterprise risk management if their approach to risk is primarily one of mitigation through controls and compliance."

See **STRATEGIC** page 6

ENTERPRISE RISK MANAGEMENT

Executive buy-in key to ERM success: Panel

By JEFF CASALE

CHICAGO—The financial crisis has increased risk managers' prominence in weighing corporate exposures, but questions remain about how best to identify, communicate and handle those risks, speakers said recently during the ERM Symposium.

Enterprise risk management has been championed during recent years as the way to get a handle on identifying and mitigating corporate risks. Some companies have implemented aspects of ERM into their business plan, but many still are trying to define

ERM and how it can or should be used, speakers said at the mid-March gathering in Chicago.

Several speakers addressed the need for companies to embed ERM into their business practices, saying it will directly affect the way they evaluate their business plans and how they will handle risks—known and unknown.

Still, the experts said, ERM needs "greater buy-in" by top-level executives and board directors for it to be successful.

During a panel discussion, Elizabeth Zlatkus, executive vp and chief risk officer at Hartford

Financial Services Group, said senior management and board members need to look at the data in reports and that "more conviction" is needed from risk managers and chief risk officers to have that data evaluated by their CEO and board of directors to successfully embed ERM.

"The prominence of risk management has been enhanced, but will it sustain?" Ms. Zlatkus asked the audience, addressing the role of a CRO and how it has changed since the financial crisis. "Our hope is that the risk manager stays at the table and risk management stays at the board level

and doesn't go back to the subordinate level."

Much has been made of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act that is intended to improve company accountability and transparency. Speakers on the panel with Ms. Zlatkus said this ultimately would be done through an effective ERM process, but there was disagreement over defining ERM.

"There is no agreement on what ERM is," said Thomas Day, Washington-based managing

See **ERM** page 6

CAPTIVES

Retention, growth top captive owners' concerns

Collateral issues have fallen behind expanded utilization

By RODD ZOLKOS

TUCSON, Ariz.—While collateral remains a concern for captive insurance company owners, it isn't as big a concern as it had been in recent years, according to the Captive Insurance Cos. Assn.'s 2011 fronting survey.

In fact, policyholder retention and growth ranked as the top challenge cited by captive owners in this year's survey, followed by expanded utilization. Collateral issues slipped to third place.

"It was kind of a surprise to me that (collateral) slipped to No. 3," said Rhonda Miller, partner at



The Captive Insurance Cos. Assn. held its 2011 International Conference in Tucson, Ariz., March 13-15.

Risk Evaluation and Design L.L.C., in Durham, N.C., and a panelist discussing the results of this year's CICA survey this month at the association's 2011 International Conference in Tucson, Ariz.

Policyholder retention and

growth was cited as the top challenge by 20% of those responding to this year's survey, followed by expanded utilization at 15%, collateral concerns at 12% and regulatory issues at 11%.

In last year's survey, collateral was cited by 27% of respondents as their top challenge followed by regulatory issues at 16%; policyholder retention and growth at 16%; and tax, fronting and expanded utilization at 7% each. Collateral issues also held the top spot among captive challenges in CICA's 2009 survey.

Another speaker on the fronting panel, Patricia Villarreal, director-risk management, at White Plains, N.Y.-based Starwood Hotels & Resorts Worldwide Inc., said Starwood this year has seen "huge reductions in the amount of collateral required."

"It's been a great surprise, but at the same time we know it's a year-by-year situation," Ms. Villarreal said.

And, said Ms. Miller, "I think even the type of collateral people are using is shifting as well." While letters of credit had been the dominant form of collateral required by fronting insurers, Ms. Miller said she's seeing more captives using trusts or even cash to collateralize fronting arrangements.

Of the 115 captives responding to this year's CICA survey, 84% said they were involved in programs that required them to post collateral, down from 93% of respondents in last year's survey. And 84% of respondents identified the need for admitted paper as one of their primary reasons for

See **CICA** page 6

2011
**BENEFIT
MANAGER OF THE YEAR**

BI accepting nominations for BMOY

If you know an outstanding professional employee benefit manager, nominate him or her for *Business Insurance's* 2011 Benefit Manager of the Year award.

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- Exhibits leadership in achieving change within his or her organization.
- Skillfully uses technology to administer benefit programs and/or identify and address major problems such as health care cost drivers.
- Establishes and/or leads an effective benefit communication strategy to effectively inform employees of benefit program changes.
- Develops in his or her career and promotes the advancement of the benefit profession.

The nomination deadline is April 25. A profile of the winner will appear in the June 27 issue.

For more information, visit www.BusinessInsurance.com.

COMPLETE COVERAGE: Read more inside about innovation in risk management from *BI's* Risk Management Summit

RISK MANAGEMENT SUMMIT

Captives offer options despite low rates. **PAGE 15**

Reliance on models contributed to crisis. **PAGE 16**

More awareness needed to prevent cyber breaches. **PAGE 17**

Risk managers need to use data to support decisions. **PAGE 18**

Protect core assets from cyber threats. **PAGE 18**

CASE STUDY: INNOVATION IN RISK MANAGEMENT PROCESSES

International standard makes risk management easier

By **MICHAEL BRADFORD**

NEW YORK—A risk management standard that is becoming recognized globally makes risk managers' jobs easier by providing guidance in developing a program to protect their companies' assets, an expert said during the Risk Management Summit.

The ISO 31000 standard developed by the International Organization for

Standardization is "being more and more touted as the international risk management standard," said Christopher Mandel, president of Excellence in Risk Management L.L.C. in San Antonio. "I think that it is on the right track; it's largely all there with a couple of exceptions," he said during a presentation at the recent conference sponsored by *Business Insurance* in New York.

Mr. Mandel, a former risk manager,

acknowledged that if ISO 31000 had been available to help drive his implementation of risk management programs in the past, his work "would have come together much more quickly" and had a bigger impact sooner.

"Despite the fact that a standard like ISO 31000 or (others) may seem bureaucratic, if you get the right content and

See **STANDARDS** page 16



Mr. Mandel

CASE STUDY: INNOVATION IN ALTERNATIVE RISK FINANCING & CAPTIVES

Coca-Cola Co. takes next step in captive utilization

By **MICHAEL BRADFORD**

NEW YORK—Funding employee benefits through a captive has been a natural progression for The Coca-Cola Co., a company that has gained control of the cost and administration of its worldwide benefits programs by learning how to cover more traditional exposures through its own insurers.

Coca-Cola recently began reinsuring

some of its international pension liabilities through its Dublin-based captive, Coca-Cola Reinsurance Services Ltd. The captive reinsures about \$400 million in annuities written by insurers for benefits provided to enrollees in three Coca-Cola pension plans in the United Kingdom and Ireland.

The company expects to expand the program to another European country soon, Coca-Cola executives announced

during the recent *Business Insurance* Risk Management Summit in New York.

The innovative move to use the captive for international pension obligations came after Coca-Cola first gained years of experience operating captives, Laurie Solomon, Atlanta-based Coca-Cola's director of risk management,

See **CAPTIVE** page 16



Ms. Solomon

CASE STUDY: INNOVATION IN CYBER RISK MANAGEMENT

More technology use means increase in cyber threats

By **SONJA RYST**

NEW YORK—Risk managers must address an array of cyber threats, according to a presentation at the *Business Insurance* Risk Management Summit in New York.

Leslie Lamb, global risk manager at Cisco Systems Inc., said risk is rising as people's computer and Internet usage increases. Meanwhile, malicious behav-

ior against corporate computer systems also is on the rise.

For example, she cited *In re: Hannaford Bros. Co. Customer Data Security Breach Litigation*, a lawsuit that stemmed from thieves breaking into the supermarket's computer system and stealing information, including customers' credit card numbers. More than 4 million records were exposed.

A group of plaintiffs sued in 2008

and alleged that Hannaford Bros. failed to protect cardholder data. However, a federal judge ruled that without any actual and substantial loss of money, consumers could not seek damages.

"We have to look at how we'll continue to protect ourselves," Ms. Lamb said. Threats can range from lost laptops to information improperly tossed

See **CYBER** page 17



Ms. Lamb

CASE STUDY: INNOVATION IN RISK MANAGEMENT TOOLS & TECHNOLOGY

Data analysis helps employers cut costs, reduce risks

By **SONJA RYST**

NEW YORK—Debra L. Rodgers has figured out how data can help ARAMARK Corp. improve its safety and performance.

In a presentation at the *Business Insurance* Risk Management Summit in New York this month, she described how new technology that her team developed came to be.

When Ms. Rodgers, vp-global risk management, joined the Philadelphia professional services company in 2003, she faced the task of assessing a sprawling business. Today, it has 10,000 locations worldwide. Its workforce, which included many part-time workers such as school cafeteria helpers, suffered more than 10,000 injuries in 2004, and its workers compensation costs were increasing enough to affect profits.

To solve the problem, Ms. Rodgers enlisted statistics expert Andrew Pelcin, director of decision support at ARAMARK in Philadelphia, in December 2005 and asked him to help her identify the most dangerous job at the company. When he asked for historical information, he was directed to a file cabinet.

Mr. Pelcin said he'd need a software

See **SAFETY** page 17



Ms. Rodgers

A MINOR RENOVATION TO THE FACTORY AVOIDED A MAJOR OPERATION ON THE EMPLOYEE.

When an employee from a large furniture manufacturer developed recurring wrist pain, our Workers Compensation experts teamed with his doctor to quickly assess the situation. We discovered that changing the layout of his workspace would avoid painful surgery and allow him to continue working while he healed. Our regional medical directors, 24-hour claim response teams and loss control experts work together with you and your broker to develop effective solutions that help you keep employees safer and get them back to work. That's our policy. For more information, contact your broker or agent or visit libertymutualgroup.com/workerscomp.

Strategic: Enterprise risk management 2.0 in works

CONTINUED FROM PAGE 3

One organization that recently began exploring strategic risk management is U.S. Foodservice Inc.

"I think it's really the most holistic way to run your business," said Carol Arendall, vp-risk management for the Rosemont, Ill.-based company. "It's touching all parts of the organization."

Ms. Arendall said part of the reason U.S. Foodservice is embarking on a strategic risk management process is that the company is going through "significant changes" and that "now is the time to embed that mentality in the organization." She stressed though, that U.S. Foodservice is "really just starting" on the process.

Public Service Enterprise Group Inc. also uses the approach.

"PSEG has a strong risk management program that incorporates the assessment and mea-

surement of tactical and strategic opportunities and risks," Enrique Mejorada, vp-risk management and chief risk officer of Newark, N.J.-based energy services said in an email.

Christopher Mandel, president and principal consultant at Fair Oaks Ranch, Texas-based Excellence in Risk Management L.L.C. and former head of ERM at San Antonio-based USAA, said: "I don't think that it needs to be carved out as new discipline. If you're managing risks strategically, you're addressing risks to the corporate strategy, which includes capturing the upside of risk."

To illustrate the concept of "upside of risk," Ms. Fox cited the example of a pharmaceutical company that needs an abundance of clean water to manufacturer its products.

A lack of water would have a great impact on the company's ability to achieve its objectives,

she said. But if the company were to invest in desalination capability or technology, that would not only protect the company against a major risk, it would also enable it to produce clean water for others at a profit, thus creating more value for the enterprise, she said.

"The strategic risk management discipline would drive that different consideration and address the uncertainties of this alternate strategy," said Ms. Fox.

She added that New York-based RIMS recently formed a Strategic Risk Management Development Council to foster advancement in risk management through research, design and implementation of international leading strategic risk practices and research.

"Regulators, customers, investors and other key stakeholders are pressuring organizations to identify and explain how they manage the risks they face," she said. "As more demands are made, the need for more innovative risk practices will expand. Strategic risk practices associated with risk appetite, risk-bearing capacity, emerging risks and integration will advance."

CICA: Captive concerns

CONTINUED FROM PAGE 3

using a fronting insurer, followed by regulatory compliance at 49%.

Fronting prices were characterized as "reasonable" by 63% of those surveyed, with 20% calling fronting prices "expensive." While 63% of respondents reported no change in fronting costs from last year, 25% reported a cost increase of less than 5% and 6% reported a cost decrease.

Asked about their relationship with their fronting insurer, 55% of captives responding said it is "excellent," with 45% describing it as "moderate."

Among the survey's other findings, 10% of respondents characterized reinsurance as "expensive," with 84% calling reinsurance prices "reasonable" and 6% saying they thought reinsurance was "inexpensive." Comparing reinsurance costs to the prior year, 36% of respondents said their

reinsurance costs were unchanged from the year before, 39% said their reinsurance costs had increased and 25% said their reinsurance costs had dropped.

"I definitely think we're going to see some tightening of the reinsurance market," Ms. Villarreal said. She said she recently met with Starwood's European reinsur-

ance underwriters and, on the property side at least, "I definitely think we're seeing signs of a market in transition."

The panel's moderator, Michael R. Mead, president of M.R. Mead & Co. L.L.C. in Chicago, said this year's survey saw many respondents looking to put new lines of coverage into their captives, an indirect result of the ongoing soft traditional market, he said.



CICA CONFERENCE DRAWS MORE THAN 400 ATTENDEES

TUCSON, Ariz.—The Captive Insurance Cos. Assn.'s 2011 International Conference drew more than 400 attendees to the Westin La Paloma Resort and Spa in Tucson, Ariz., March 13-15.

Among subjects covered during the sessions at this year's CICA conference were legislative and political developments, health care reform, fronting, employee benefits in captives, predictive analytics, captive investments, captive tax issues, cell captives and the evolution of mature captives.

CICA's 2012 International Conference is scheduled for March 11-13, 2012, in Scottsdale, Ariz.

For more information, visit CICA's website at www.cicaworld.com.

—By Rodd Zolkos

ERM: Key to success is executive buy-in

CONTINUED FROM PAGE 3

director of the risk and policy division at SunGard Ambit Risk Consulting, adding that part of what ERM really boils down to is transparency and communication.

Dan Rodriguez, New York-based managing director at Credit Suisse Group A.G. and another panelist, said ERM is about communication across different dimensions of a business. He added that the constant awareness of the unknown and the links between risks is essential to being an effective risk manager.

"There seems to be a lack of imagination," he said, providing

the image of a 20-foot spider in a sewer in Stephen King's movie "It" as an example of an unknown risk. "That (spider) is something you should be looking for if you want to be an effective risk manager."

Other topics panel members discussed included the role of the new Federal Insurance Office and whether it would take away states' authority. The panel also discussed the effectiveness of stress tests on financial institutions.

A common message from the panelists, including members of the banking industry and the U.K. Financial Services Authority, was that businesses should evaluate

their risk appetite and exposure daily and evaluate their risk reward. Other panelists included Randall Dodd, former director of the Financial Policy Forum; Michael Ericson, CRO for Federal Home Loan Bank Chicago; Stuart Wason, senior director actuarial division for Office of the Superintendent of Financial Institutions Canada; and John Wengler, CRO for Blue Star Energy Services.

More than 400 people attended this year's symposium, which was presented by the Casualty Actuarial Society, Canadian Institute of Actuaries, Professional Risk Managers' International Assn. and Society of Actuaries.

Commentary

College kids + guns = recipe for disaster

Just as there are pre-employment screening tests for measuring a job candidate's propensity for substance abuse, employers may need to test job-seeking college graduates for their proclivity to pack guns.

That's a bit absurd, but it is entirely possible as gun rights advocates increasingly argue that the Constitution allows them to carry guns anywhere they please, including employer premises and now college campuses.

Gun advocates have battled employers in several states over transporting weapons onto company parking lots and they have been winning those fights.

But even more disturbing to me is a push to allow college students to carry concealed weapons onto college campuses, where young adults traditionally are equipped with the knowledge and values necessary to enter the workforce.

News reports say about a dozen states have been considering such measures.

In Texas, for example, a House of Representatives committee approved a measure March 18 that would allow students and professors to carry firearms on campuses.

I got interested in the subject because the House of Representatives in Idaho, where I live, recently approved a similar measure.

Proponents argue that armed students and professors could help limit the damage from a Virginia Tech-type massacre and prevent overall crime. They also argue that police can't protect them sufficiently.

But the crime rate at my alma mater, Boise State University, and the other colleges in Idaho is extremely low.

Student stress, attempted suicides and binge drinking—which don't mix well with firearms—are bigger concerns than violent crime on college campuses and are among the reasons that police agencies and law enforcement associations cite for opposing guns on campuses.

An International Assn. of Campus Law Enforcement Administrators position paper, for instance, states that there is no credible statistical evidence that allowing concealed firearms reduces crime or saves lives and states that public safety can suffer.

The IACLEA has several con-



ROBERTO CENICERROS

Senior Editor Roberto Cenicerros can be reached at: rceniceros@businessinsurance.com

cerns, including potential confusion for police responding to an active shooter. They might not be able to distinguish the gunman from good citizens with weapons, which could slow their response.

In a recent interview, the police chief in Boise said he has only seen two instances in seven years in which a citizen drew a firearm to prevent crime.

The two pistoleros set out to be heroes. Instead, each ended up looking like Barney Fife.

In one instance, a do-gooder pulled a gun on a suspect only to have a second do-gooder come along a bit later and pull a gun on the first one.

The two pistoleros set out to be heroes. Instead, each ended up looking like Barney Fife, the fumbling deputy from the old "Andy Griffith Show." Fortunately, the police showed up and calmed the people before either pulled the trigger.

But police say they worry they may not be around to calm the situation should college students who have been drinking alcohol decide to settle disputes with easily available guns.

The real challenge today's students face is how to land good jobs when they graduate. What skills and knowledge do they need to compete with increasingly educated workers in the global labor market?

Helping them answer that question is more critical for their well-being, more so than anything they can confront with a gun.

Who insures you doesn't matter. Until it does.



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Business Insurance OPINIONS

Uncertainty marks health law anniversary

THE HEALTH CARE REFORM law's one-year anniversary, which was last week, is an appropriate time to reflect on the statute.

There are many provisions—extending coverage to employees' adult children, eliminating pre-existing medical condition exclusions and extending federal health insurance premium subsidies to the lower-income uninsured—that enjoy widespread support and are in the national interest.

The same cannot be said for several other provisions, especially the individual mandate, the legality of which is being challenged in numerous lawsuits and, to a lesser extent, the employer mandate.

At this juncture, there is a word that perhaps best describes how we and many others feel about the law: uncertain.

No one knows how the legal challenges will turn out, as well as whether employers, especially midsize organizations, will keep their health care plans or fold them because it may be financially advantageous to do so.

There also is uncertainty about what may be the biggest issues of all: Whether states will have the wherewithal to set up and administer insurance exchanges and whether the various tax increases laid out in the law will adequately fund the extension of subsidized coverage to tens of millions of previously uninsured U.S. residents.

In the meantime, we think the best action for employers is to continue to do what they have been rigorously doing during the past 12 months: Master the key details of the law and redesign their plans to comply with the law and to best meet corporate and employee needs.

There is a word that perhaps best describes how we and others feel about the law: uncertain.

Move swiftly to help recover Japan claims

THE EFFECTS of this month's catastrophic earthquake and tsunami in Japan will be felt for years and possibly decades.

Yet, somewhat paradoxically, that makes it all the more important that risk managers whose companies have sustained losses from the disaster launch their claims process as quickly as possible.

As we report on page 1, risk managers face an unusually daunting task resolving business interruption and contingent business interruption claims arising from the catastrophe. Much of the affected area has been evacuated because of fears of radiation exposure while infrastructure in areas where radiation is not an issue—at least not yet—has sustained extreme damage. That has made the claims adjusting process extremely difficult.

Further complicating the situation is that disputes invariably will arise between policyholders and underwriters as to the cause of losses and whether coverage exists. For example, would business interruption losses stemming from rolling blackouts be covered and, if so, how?

But the very complexity of the situation makes it imperative that risk managers exposed to potential losses from the earthquake, tsunami and related events begin working on their claims now. The process will be complicated and time-consuming, which is all the more reason to begin it without any unnecessary delays.



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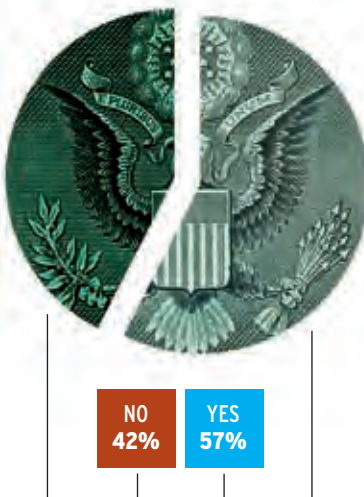
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NEXT WEEK'S QUESTION

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ADVERTISING: Boston: 617-292-4856;

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SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by

Crain Communications Inc.

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ADJUSTING

[TO IMPROVEMENTS IN
CLAIMS TECHNOLOGY]



Advances in technology help claims adjusters do their jobs faster, more efficiently

By **MICHAEL BRADFORD**

Of all the professionals who could benefit from advances that make technology faster, more accurate and lighter, claims adjusters would be among the obvious candidates.

The nature of their work means adjusters often are looking for claims locations that are hard to find because a disaster has wiped out the landmarks. They usually tote laptops to use while nursing coffee in a place with Wi-Fi after a day of gathering information in the field.

Technology has improved the way adjusters do their jobs, and the evolution is continuing with the introduction of electronic tablets and improvements in handheld devices and GPS systems.

The past several years have brought major changes in claims adjusting technology, a pace that has quickened, said Jack Petersen, general executive adjuster with VeriClaim Inc. in Naperville, Ill.

"When I first started, we were waiting for the mailman" to deliver claims-related documents, he said. "Then it was fax. Now, email."

See **TECHNOLOGY** next page

Claims
Management

SPOTLIGHT

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NEXT SPOTLIGHT April 4: Risk Management Technology

Technology: Claims adjusters can do jobs faster, more efficiently

CONTINUED FROM PREVIOUS PAGE

More recently, adjusters have gained the ability to sit at a claim site and discuss a loss with the parties involved through a smartphone or computer teleconference, Mr. Petersen said.

"I suspect Skype will become a substitute for conference calls," he said, particularly because the Internet-based service allows for video conferencing that gives the process a face-to-face feel. "That will probably be an area that will get legs and take off."

"It's constantly evolving," David Getman, assistant vp and

director, technical analysis and support group at Cunningham Lindsey in Dallas, said of technology available to adjusters.

Hand-held devices

One of the latest frontiers to be explored is hand-held devices, Mr. Getman said. New applications are being developed that could make iPads, iPhones and BlackBerry smartphones more adjuster-friendly, he said.

In the early stages of development are applications that would be especially useful to adjusters working on low-severity, high-frequency claims, such as damage to

small structures, Mr. Getman said.

Eventually, the aim is to use these devices to send loss information to a central processing unit where it can be merged with other claims-related data, Mr. Getman said.

Phones are helpful in the field, but they have limitations that adjusters need to work around, said VeriClaim's Mr. Petersen.

"None of the phone devices are great with attached documents," he said, and that's one reason adjusters still need to carry laptops on the job. "They can sit in a McDonald's and pull up detailed documents with a laptop."

Crawford & Co. is testing Hewlett Packard Co.'s Slate, a tablet device similar to Apple's iPad but with a distinct difference, said Ken Tolson, vp, east region for U.S. property and casualty.

Unlike the iPad, which operates on the Macintosh operating system, Slate operates on a Windows platform and provides "distinct advantages because our systems in the nonpad environment are Windows-dependent," Mr. Tolson said. That ability to sync Slate with other systems is important, he said.

Crawford adjusters are testing the Slate on property, casualty and

multiline claims, Mr. Tolson said.

"The pad technology is here to stay," he said. "We'll see if it is a replacement for the laptop. I think it might be."

Saving time that can be used to make the company more responsive and efficient is driving much of the adjusting technology innovations, sources say.

"It's all about the amount of time it takes to do the task," said David Hopp, Chicago-based strategic project planning director for process improvement at Sedgwick Claims Management Services Inc.

Sedgwick has been adding functions to its SMART claims management system since August, making it easier for its adjusters to collect claims information and tie it together quickly so claims are settled faster.

For example, "where it was taking an examiner time to find a letter, then merge it with a claim, the system now does it all," said Mr. Hopp. "There is a very significant time savings" generated by the system, which frees personnel to work on other tasks, he said.



The expertise to insure from warehouse to warehouse



Unlike the iPad, which operates on the Macintosh operating system, Hewlett Packard Co.'s Slate operates on a Windows platform, offering adjusters the ability to sync Slate with other systems in the nonpad environment.

GPS systems have been around long enough to become a mainstay of the adjusting profession, but new capabilities are making those devices more valuable, experts say.

"Clearly for travel and finding locations, it's important, but also for marking a large premises in terms of what you see" related to the loss, said Mr. Petersen. When a disaster erases street signs, traffic lights and other landmarks, a GPS becomes invaluable and "saves untold amounts of time," he said.

"We're finding that the younger adjusters are more savvy with technology than us older guys who have been doing it for 30-plus years," said Mr. Petersen.

As baby boomers leave the workforce, younger replacements are apt to be more comfortable and proficient with technology, said Mr. Getman. "As we go into that generation, technology will only advance and improve," he said.

Like it or not, changes are coming, Mr. Tolson said.

"The rate of change is faster today than yesterday, and it will be faster tomorrow than it is today," he said.

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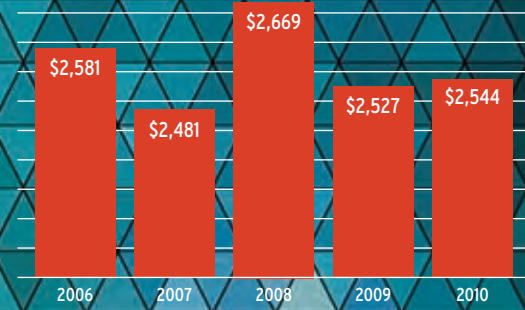
DATA snapshot

THIRD-PARTY ADMINISTRATORS

VISIT the Business Insurance Research Center to access full searchable directories and directories in PDF and Excel formats. WWW.BUSINESSINSURANCE.COM/DIRECTORIES

TPAs' REVENUES SINCE 2006

The 10 largest TPAs' revenue from self-insured clients in 2010 was 4.7% below the five-year high in 2008 but 2.5% above the five-year low in 2007, in millions of dollars.



Source: BI survey

LARGEST THIRD-PARTY CLAIMS ADMINISTRATORS

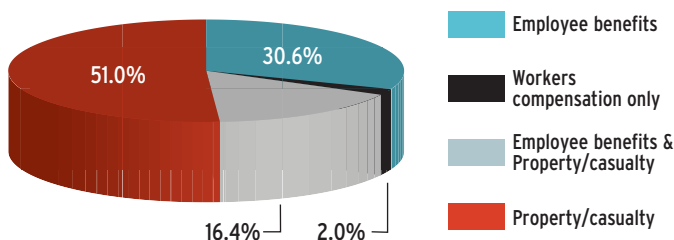
Ranked by 2010 revenues from claims handled for self-insured clients.

RANK	Company/address	Phone/website	2010 revenues from self-insured clients	2010 claims paid	Total clients	Claims staff	Principal officer(s)
1	Sedgwick Claims Management Services Inc. ¹ 1100 Ridgeway Loop, Memphis, Tenn. 38120	901-415-7400 www.sedgwickcms.com	\$808,152,678	\$9,533,386,681	1,928	6,911	David A. North, president/CEO
2	Gallagher Bassett Services Inc. The Gallagher Centre, 2 Pierce Place, Itasca, Ill. 60143-3141	630-773-3800 www.gallagherbassett.com	\$401,900,000	\$5,508,000,000	3,115	2,813	Scott Hudson, president
3	UMR Inc. 11 Scott St., Suite 100, Wausau, Wis. 54403	866-881-0800 www.umar.com	\$393,949,776	N/A	1,576	N/A	Jay M. Anliker, CEO
4	Broadspire Services Inc., a Crawford Co. 1001 Summit Blvd., Atlanta, Ga. 30319	866-625-1662 www.choosebroadspire.com	\$236,467,690	\$2,400,000,000	739	1,617	Ken Martino, president/CEO
5	ESIS Inc. 436 Walnut St., Philadelphia, Pa. 19106	215-640-1000 www.esis.com	\$195,400,000	\$2,500,000,000	773	1,092	David Patterson, president
6	Meritain Health 300 Corporate Parkway, Buffalo, N.Y. 14226	800-242-6226 www.meritain.com	\$193,000,000	\$2,530,672,814	2,300	272	Elliot Cooperstone, CEO
7	CoreSource Inc. 400 Field Drive, Lake Forest, Ill. 60045	800-832-3332 www.coresource.com	\$86,619,141	\$2,272,273,376	752	877	Nancy Eckrich, president
8	York Risk Services Group Inc. ² 99 Cherry Hill Road, Parsippany, N.J. 07054-0253	973-404-1247 www.yorkrsg.com	\$86,000,000	\$2,727,000,000	4,873	975	Tony Galioto, president/CEO
9	Wells Fargo Third Party Administrators and Wells Fargo Disability Management 426 Leon Sullivan Way, Charleston, W.Va. 25301-1713	800-332-4732 www.wellsfargo.com	\$74,512,426	\$1,722,966,524	808	554	Kent Boyer, senior vp/COO- Wells Fargo Third Party Administrators; David P. Cook, senior vp- Wells Fargo Disability Management
10	Cannon Cochran Management Services Inc., dba CCMSI 2 E. Main St., Suite 208, Danville, Ill. 61832	800-252-5059 www.ccmsi.com	\$67,500,000	\$770,202,735	460	700	G. Bryan Thomas, president/CEO

¹ Includes Specialty Risk Services L.L.C. purchased in December 2010. ² Formerly York Insurance Services Group Inc. N/A=Not available

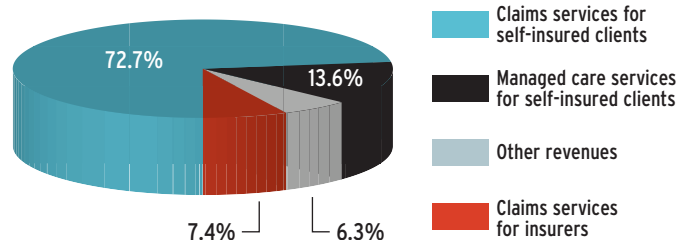
TYPES OF CLAIMS ADMINISTERED

Types of claims handled by all companies listed in the Business Insurance directory.



BREAKDOWN OF REVENUE FOR TPAs

Revenues for all companies listed in the Business Insurance directory.



Source: BI survey. Researched by Kevin Edison and Karen Tucker

LARGEST PROPERTY/CASUALTY TPAs

TPAs that specialize in property/casualty claims administration, ranked by 2010 revenues from self-insured clients.

RANK	1
Company	GALLAGHER BASSETT SERVICES INC.
Revenues	\$401,900,000
RANK	2
Company	BROADSPIRE SERVICES INC., A CRAWFORD CO.
Revenues	\$236,467,690
RANK	3
Company	ESIS INC.
Revenues	\$195,400,000
RANK	4
Company	YORK RISK SERVICES GROUP INC. ¹
Revenues	\$86,000,000
RANK	5
Company	CANNON COCHRAN MANAGEMENT SERVICES INC., DBA CCMSI
Revenues	\$67,500,000

¹ Formerly York Insurance Services Group Inc.

LARGEST WORKERS COMPENSATION TPAs

Ranked by workers compensation claims paid in 2010.

RANK	1
Company	SEDGWICK CLAIMS MANAGEMENT SERVICES INC. ¹
Claims paid	\$6,441,885,865
RANK	2
Company	GALLAGHER BASSETT SERVICES INC.
Claims paid	\$3,567,000,000
RANK	3
Company	ESIS INC.
Claims paid	\$1,753,000,000
RANK	4
Company	BROADSPIRE SERVICES INC., A CRAWFORD CO.
Claims paid	\$1,600,000,000
RANK	5
Company	TRISTAR RISK MANAGEMENT
Claims paid	\$693,000,000

¹ Includes Specialty Risk Services L.L.C. purchased in December 2010.

LARGEST EMPLOYEE BENEFIT TPAs

TPAs that specialize in employee benefit claims administration, ranked by 2010 revenues from self-insured clients.

RANK	1
Company	UMR INC.
Revenues	\$393,949,776
RANK	2
Company	MERITAIN HEALTH
Revenues	\$193,000,000
RANK	3
Company	CORESOURCE INC.
Revenues	\$86,619,141
RANK	4
Company	HEALTHSCOPE BENEFITS
Revenues	\$65,142,906
RANK	5
Company	POMCO GROUP
Revenues	\$41,800,000

Employers focus on bill review services as costs rise

State fee schedules, variety of codes complicate process

By **ROBERTO CENICEROS**

Employers that want to manage their expenses for handling workers compensation claims are paying more attention to the way bill review providers calculate the charges for their work, industry sources say.

A need to offset claims costs driven by rising medical expenses is driving the increased employer attention, observers say.

Employers also “have become much more aware of the creative ways vendors are billing for services,” said Joe Paduda, a consultant and principal at Health Strategy Associates in Madison, Conn. “It’s rife with revenue-generating opportunities for vendors.”

Bill review is the process of using software systems to evaluate medical provider charges to assure the charges conform to state-mandated fee schedules or usual and customary standards. Bill review

‘If you go to a per-bill charge, it’s a lot easier for a client to understand what they are paying.’

Paul Braun,
Aon Global Risk Consulting

services also assure that any medical network discounts are applied to claims.

But fee schedules differ by state, they change regularly, and they are fraught with varying rules in applying charges for 13,000 different medical billing codes, said Paul Glover, chairman and CEO for ISG Holdings Inc., which owns StrataCare L.L.C., an Irvine, Calif.-based bill review and analytics company.

“There are all sorts of games people play with the codes” when charging for treating injured workers, Mr. Glover said.

“Bill review is really part of a self-insured or insurer’s financial control system,” Mr. Glover said. “It’s where they can get assurance that their medical spend is accurate as far as price and...the utilization of services.”

But the statements that employers receive for bill review services often are convoluted because of a wide range of methods that outside providers—including stand-alone bill review companies, third-party administrators and insurers—use in calculating their charges for the services provided, several sources agree.

In addition to assuring adherence to state fee schedules and that network discounts are applied, bill review services typically provide other work, such as

performing bill analyses that look for duplicate charges or illogical medical procedures.

Many workers comp bill review companies also maintain business units with people who negotiate with medical providers to reduce out-of-network charges and fees for services that may not be covered by a state’s fee schedule, said Paul Braun, managing director of casualty claims for Aon Global Risk Consulting in Los Angeles.

But understanding bill review charges often poses a challenge when providers use different

billing formulas for each of their services, sources said.

For instance, a bill review company might charge on a per-bill basis, say \$8 or \$9, for each medical provider bill that it reviews for fee schedule compliance, Mr. Braun said.

But when negotiating fees with out-of-network medical providers, bill review firms’ charges may be based on percentage of savings achieved, which could be 25% of the amount of savings resulting from their negotiations, Mr. Braun said.

“One of the recommendations we have promoted to clients is to make it simple and (negotiate for) a per-bill charge,” Mr. Braun said. “If you go to a per-bill charge, it’s a lot easier for a client to understand what they are paying. The confusion really comes when (charges) are on a percentage of savings.”

Bill review firms also may charge on a per-line basis, or a fee for each line showing an expense on a medical provider’s bill, but handling varies greatly.

Some providers may calculate three physical therapy treatments

as a single line requiring a single bill review charge, Mr. Paduda said. Other companies may calculate those same three visits as three separate charges.

“When you look at a bill, you want to make sure you have a very clear understanding of exactly what each data point is, what each charge is, what the basis for that charge is and what the methodology is for arriving at that,” Mr. Paduda said.

Employers need to ask bill

See **BILL REVIEW** next page



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Careful use of nurse services can help reduce comp costs

By JOANNE WOJCIK

Although they are an added expense, nurse case managers can significantly reduce the duration and cost of workers compensation claims by guiding injured employees' medical treatment and return-to-work efforts, experts say.

However, nurse case managers also can increase overall workers comp costs if they are brought into a case too late or do not follow evidence-based medical protocols for managing injuries and disabilities, experts warn.

The key, workers comp experts say, is to establish criteria up front about when and how to use nurse case managers and continuously monitor their activities so they do not bill more hours than necessary to close a case.

"Case management is like a spice in a recipe. We don't want to use too much or too little," said Gary Anderberg, Philadelphia-based practice leader for analytics and outcomes at Broadspire Services Inc., a unit of Crawford & Co.

A nurse case manager's job is to facilitate workers comp claims by advocating for the injured employee's medical needs and ensuring a continuous flow of communication among providers, claims adjusters, the claimant and the employer.

In some cases, nurse case managers provide "triage" immediately after an injury is first reported to ensure the injured employee gets appropriate treatment and is positioned for a speedy recovery. At other times, they work in the field, accompanying patients on physicians' visits, making home visits to ensure injured claimants are appropriately managing their care, or meeting with supervisors to arrange for modified duty or worksite modifications to enable the claimant to return to work.

While most workers comp medical case managers are registered nurses, cases involving complex or catastrophic injuries may have doctors as case managers. Some insurers and third-party administrators provide their own nurse case managers, while others outsource the function to firms that specialize in workers comp case management services.

Medical case managers typically bill by the hour, with fees ranging from \$80 to \$125 per hour. In triage situations, medical case managers generally charge a flat rate, averaging about \$80 per call. In some situations, case managers are paid a flat rate for "task assignments," such as accompanying an employee to a doctor's appointment or evaluating an employee's worksite conditions.

Even though they are an additional expense, nurse case man-

Predictive models enhance case management decisions

While adjusters and employers once decided when to use nurse case managers, that changed in 2004 at Sedgwick Claims Management Services Inc. when the TPA rolled out a predictive model combining employers' historical claims data with responses to a guided interview in which claimants are asked psycho-social questions, such as how they feel about their supervisor or about their medical literacy.

"There are different schools of thought on nurse case management," said Kimberly George, senior vp and national managed care practice leader at Sedgwick CMS in Chicago. "Before predictive modeling, a client would select the criteria such

as all sprains and strains, or all claimants with more than one claim or those with two or more days off. It's more scientific now."

Broadspire Services Inc. also uses a predictive software program that performs a guided interview to "sniff out which claims are going to be outliers," said Gary Anderberg, Philadelphia-based practice leader for analytics and outcomes. "It asks the usual dates-and-dollars questions—when the injury occurred, dates off work—but it also inquires about medical treatment, pain levels and overall health, as well as family situation and household size. All these things are highly predictive," he said.

—By Joanne Wojcik

agers have reduced overall workers comp costs in most cases, industry experts say.

For example, at Boston-based Liberty Mutual Insurance Co., nurse case managers have shaved an average of \$6,100 off medical and indemnity costs for the workers comp claims on which they were involved, producing a return on investment of 8-to-1.

"There are certain cases where having a medical resource could truly have an impact," said Maureen McCarthy, senior vp of work comp and managed care at Liberty Mutual. "Say someone injures their knee and has no other medical conditions that could impede recovery, and the provider is treating within medical guidelines. We probably wouldn't assign a medical resource to that case. But if you take the same facts with a person who is 100 pounds overweight or who has co-morbid complicating conditions, that would get a medical resource."

Liberty Mutual uses a variety of medical resources based on individual claim facts, ranging from telephonic case managers who

provide initial triage to field nurses who meet face-to-face with injured workers throughout their recovery. Regional medical directors based in all of Liberty Mutual's claims offices work on cases that require additional medical expertise, such as catastrophic injuries, Ms. McCarthy said.

Case managers also have reduced the likelihood that a claimant will seek help from a lawyer, said Rebecca Shafer, president of Amaxx Risk Solutions Inc. in Hartford, Conn.

Litigation rates dropped by one-third in a nurse case management pilot program administered by MEDSTAR Medical Management of Long Beach, Calif., said Pam Guiles, vp of operations. In addition, the duration of cases was halved, she added.

In general, only about 10% of all U.S. workers comp claims use nurse case managers, according to experts. However, the number has grown in recent years as a result of the introduction of nurse triage programs.

With such early intervention, the nurse case manager performs

an initial evaluation to determine if self-care is sufficient or if a claimant should be directed to a health care facility. Based on the extent of the injury, a nurse case manager also will decide whether nurse follow-up is necessary, said Emil Bravo, executive vp at Gallagher Bassett Services Inc. in Itasca, Ill.

Under GBS's model, "a triage nurse reviews every claim that comes into our call center and, based on initial criteria, determines whether it should be referred for case management," Mr. Bravo said.

While most insurers and TPAs use prior claims experience to determine when to assign nurse case managers, employers also can make that decision. They may also use predictive modeling (see box).

For example, Denver Public Schools, which self-insures its workers compensation program for its 12,500 employees, decides case-by-case whether to call in a nurse case manager, said Stephen Finley, director of risk management.

"A case manager on the front end saves us money by providing an opportunity to direct care early," Mr. Finley said.

At other times, the school district will involve a nurse case manager if a claimant is showing little or no improvement, said Karen Bright, the district's workers comp supervisor.

She cited a recent claim in which an employee slipped on spilled milk in a school cafeteria and sprained her knee. "It just kept getting worse and worse," Ms. Bright said. In fact, the claimant blamed a later fall down stairs in her home on her sprained knee. After the nurse case manager was brought in, "we learned that the person was going through a divorce, and there were other things going on in her life. The injured worker was trying to create her own treatment."

Regardless of whose decision it is to use a case manager, there are times when they can increase overall workers comp costs, experts warn. "If it's not managed, it could be a significantly growing expenditure," said G. Bryan Thomas, CEO at Cannon Cochran Management Services Inc, a TPA based in Danville, Ill.

For example, field case management in a traumatic brain injury case could amount to \$3,000 a month or more, he said.

"There's an incentive for the case manager to bill as many hours as possible," said Joseph Paduda, a principal of Health Strategy Associates in Madison, Conn.

To make sure the case manager doesn't get carried away, claims adjusters like those at First Niagara Risk Management Inc. in Buffalo, N.Y., usually serve as gatekeepers, requiring nurses to conduct an initial triage and then report back with recommendations, said Dan Conley, vp and corporate qualifying officer.

"If it's plausible and makes sense to the adjuster, then he or she may approve. They don't just give nurses a 'blank check,'" Mr. Conley said.

Bill review: New focus as costs rise

CONTINUED FROM PREVIOUS PAGE

review providers a lot of questions and never assume their billing methods work a certain way, Mr. Paduda said.

However, other experts say per-bill or per-line charges combined with percentage of savings charges can save employers money.

Sedgwick Claims Management Services Inc. charges a per-line or per-bill fee for applying state fee schedules. It also charges a percentage of savings for obtaining preferred provider organization discounts and other services, such as negotiating out-of-network charges, said Mike McFadin, Sedgwick CMS' operations manager for bill review in Dublin, Ohio.

But Sedgwick CMS caps its percentage of savings charges for services such as out-of-network negotiations and it aggressively pursues fee schedule reductions, he said.

'When you look at a bill, you want to make sure you have a very clear understanding of exactly what each data point is, what each charge is, what the basis for that charge is and what the methodology is for arriving at that.'

Joe Paduda,
Health Strategy Associates

To grasp their true bill review expenses, Mr. McFadin advocates that employers know their average cost per bill and their average savings per bill.

Untangling bill review expenses is challenging, said Mike Farrand, workers comp medical cost containment director of the strategic outcomes practice for Willis Group Holdings P.L.C. in Radnor, Pa.

But software models can help employers decipher their payments and help them select a bill review service by projecting the cost impact of various vendors' billing methods, Mr. Farrand said.

An apples-to-apples comparison of bill review providers requires an employer to evaluate the amount of "actual savings" each company has obtained for its entire book of business in each state where the employer has workers, said workers comp consultant David Donn, president of David Donn Consulting Inc. in San Francisco.

Employers need to see the providers' actual savings broken out by fee schedule services, network discounts and specialty review, he said.

"At the end of the day," Mr. Donn said, "this is a money management issue."



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EXECUTIVE PANEL: INNOVATION IN ALTERNATIVE RISK FINANCING & CAPTIVES

Captives offer options despite soft market

By MICHAEL BRADFORD

NEW YORK—If you liked the way the insurance market looked last year, you're going to love 2011, a rating agency executive said.

Insurers are facing the same challenges this year as last, with added pressure from catastrophes such as earthquakes in New Zealand and Japan, said Steven M. Chirico, assistant vp at Oldwick, N.J.-based A.M. Best Co. Inc.

Speaking in New York at the *Business Insurance* Risk Management Summit, Mr. Chirico said the commercial property/casualty market experienced "growing pressure on a number of fronts in 2010 that will continue in 2011."

Still around are "things like sustained competitive pressure on pricing, lingering but receding effects from the Great Recession, decreasing reserve adequacy levels, falling investment yields" and volatile financial markets, Mr. Chirico said.

"Despite 2009 and 2010 being fairly benign catastrophe years, 2011 has started out with a bang, or maybe I should say a rumble," he said, referring to the earthquakes. "All predictions are for a lively Atlantic hurricane season this year."

Best's official outlook on the commercial property/casualty market is negative for 2011, he said.

Captive insurers, though, will continue to provide "maximum value" to their parent companies through dividend payments, premium discounts for divisions with low loss activity, more frequent and larger loans to the parent companies, and more creative uses for the insurers, Mr. Chirico said.

While the buzz about using captives to fund employee benefits is as loud as ever, few parent companies actually do so, he said.

"Out of the 50-odd single-parent captives that we rate, one has significant benefit exposure in their captive," Mr. Chirico said. While it's been talked about often during the past five or six years, captive owners don't often go beyond the talking stage, he said.

Few parent companies take steps to have benefits personnel, risk management and captive management work together in examining such ideas, he said.

"The benefits people are all worried about this captive because, at the end of the day, they're responsible for the benefit performance for the company and the employees. And they don't really have control over the financing and such, unless you can kind of cross-fertilize that and get some discussions going between those silos."

Sandra A. Bigglestone, director of the captive insurance division of the Vermont Department of Banking, Insurance, Securities and Health Care Administration, said funding employee benefits is a good opportunity to "provide bulk"

to a captive and diversify its risks.

"It's an excellent funding mechanism for employee benefits," she said of captives. The aim is not to create a profit center, but to cover the cost of providing benefits, Ms. Bigglestone said. "But there may be an opportunity to utilize potential savings to expand benefits to your employees. You could be increasing the value of the company to your employees."

One increasing use of captives involves "friends-and-family" situations, Mr. Chirico said, in which captives provide coverage for a company's customers and service providers. "Philosophically, what it does for the captive is get you some spread of risk without going to true third-party insurance because the company is already comfortable doing business with a vendor or customer."

Increasingly, risk managers are using captives to fund terrorism exposures, Ms. Bigglestone said.

"The U.S. government will reinsure 85% of a terrorism risk. If there's an act of terrorism, it must be certified" by the Treasury secretary to trigger coverage, she said.

The session was moderated by Stephen M. Wilder, vp of risk management at Burbank, Calif.-based The Walt Disney Co.



Ms. Bigglestone

MICHAEL MARCOTTE

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EXECUTIVE PANEL: INNOVATION IN RISK MANAGEMENT PROCESSES

Reliance on models contributed to crisis

By MICHAEL BRADFORD

NEW YORK—Risk management failures led to losses during and after the financial crisis, and only diligent attention to what went wrong can prevent similar problems in the future, a panel of experts said during *Business Insurance's* Risk Management Summit.

Among the missteps was relying too much on models, which created a false sense of security, said Michael Kerner, New York-based CEO of Zurich Global Corporate in North America. Investment assumptions that turned out to be wrong led financial institutions to make bad decisions, he said during a panel discussion at the conference.

"They believed it themselves, they got other people to believe it, and decisions were taken on the basis of those models," Mr. Kerner said. "These models will spit out an answer, and often the uninformed and the uneducated will move forward with that answer and just run with it," he said.

A "model is a model and it shouldn't be confused with the truth. Anytime anyone gives you a model, you have to understand what's underlying it," Mr. Kerner said.

"I think the average chief risk officers in major financial institutions were not practicing enterprise risk management the way I think of it," said Christopher Mandel, president of Excellence in Risk Management L.L.C. in San Antonio. "They were market credit risk guys" who handled the biggest risks facing their organizations, but they were not practicing "end-to-end risk management."

That is still going on in some instances, Mr. Mandel said, "because those job assignments are driven by certain perspectives on what's most important. A lot of people aren't seeing the whole discipline from end to end as the important issue," focusing instead on making sure their credit risk is managed well, he said.

There are other equally important risks that some financial services companies may be overlooking, Mr. Mandel said. Those organizations need to consider that an "operational-risk event could take this whole company down, whether it's a 9/11 situation or whatever. There are myriad examples, a whole spectrum of possibilities."

Silos are among the dangers facing risk managers, Mr. Kerner said.

"You've got to be careful not to operate



MICHAEL MARCOTTE

Michael Kerner, CEO of Zurich Global Corporate in North America, spoke during a session at the *Business Insurance* Risk Management Summit in New York.

in silos," he said. Risk managers have to "think laterally" about how risks are connected and consider the exposures that exist because of those connections.

Diligence and patience are required if risk managers are going to ensure their organizations are protected, Mr. Kerner said.

It is important for businesses to "find all of the risks in all of the dark places in the organization," he said. "The obvious risks are in the sunlight and you see them, but there's a lot of stuff in the shadows; and it's only over a period of time that they come to manifest themselves."

"That's not something you can deal with on Day 1" of structuring an enterprise-wide program, Mr. Kerner said. "It will come over time" as the risk manager overcomes resistance to efforts to uncover all the risks throughout an organization and "people are more transparent about what they are doing."

Risk managers also have to overcome a "consciousness issue" that has marked their profession, said John J. Hampton, professor of business at St. Peter's College in Jersey City, N.J.

Traditionally, "you didn't get any points for telling people, 'I think this is kind of a dangerous thing for us to do,'" Mr. Hamp-

ton said. It's important for someone in the organization to ask, "Are we betting the company? And if you're betting the company, you really need to give some thought to that."

Zurich was able to recognize the tangible value of its ERM approach during the financial crisis and during other catastrophes, Mr. Kerner said.

"The enterprise risk approach around investments...really manifested itself well in the stress environment we saw" during the financial crisis, he said. The potential of severe earthquakes in Chile "would be another example. That flagged in our enterprise risk management as an exposure that was out of whack with the reward we were getting and the exposures that we had in other parts of the world."

As a result, Zurich began reducing its exposure in Chile in 2007 and minimized its losses when last year's devastating earthquake struck there, Mr. Kerner said.

"Unfortunately, we've had the opportunity to test some of our systems over the last two or three years and, fortunately, they've come out quite strong," Mr. Kerner said.

The session moderator was Lori Jorgensen, senior director of finance and risk management at Microsoft Corp. in Redmond, Wash.

Standards: Aid risk managers

CONTINUED FROM PAGE 4

you apply it the right way and with distinction depending on your company and your culture," it can help drive a successful risk management program, Mr. Mandel said.

Risk management is governed by a set of principles laid out in the standard that direct control of the risk function, he said. "It defines a framework, which is really just a set of component parts that say how you manage risk. And then it gets into the tactical, the process elements that define further, at a lower level, how that's accomplished."

"I want to confess up front," he said, "I wasn't focused on third-party external ERM standards" when developing risk management programs in the past. "It made more sense to design to the specific needs and requirements of the company and its culture than any standards of the past could offer. With ISO 31000 being widely adopted and accepted globally, this seems to me to be the most useful in expediting risk strategies going forward."

While ISO 31000 and other standards can seem daunting to risk managers, they actually help them do a more effective job, Mr. Mandel said.

In defense of standards, particularly ISO 31000, Mr. Mandel said they help create benchmarks and provide benchmarking tools. They also help risk managers "systematically identify risks and problems. They provide guidelines for problem-solving and decision-making, and provide tools to support that as well," he said.

Specialized training can be derived from standards. "You can use that as a basis for educating other people in the company" who individually can function as a "little risk manager," Mr. Mandel said.

"Standards can help establish operational controls and procedures that tie directly to the risk management process and, hopefully, integrate with it," he said. "They provide measurable and verifiable goals and methods for accomplishing specific risk-related objectives" and can establish "a kind of continuous improvement mentality" regarding risk management, he said.

ISO 31000 is a guide for principles and implementation of the risk management function, Mr. Mandel said. "That's important because it's not a bunch of specific rules you have to follow; it's a guide and I think that's the best thing about it."

Lori Jorgensen, senior director of finance at Microsoft Corp. in Redmond, Wash., moderated the session.

Captive: Coca-Cola takes next step

CONTINUED FROM PAGE 4

said during the conference.

The company has experience covering benefits through a captive. Coca-Cola already had in place Red Re Inc., a South Carolina-domiciled captive writing terrorism and other coverages. It was expanded to write reinsurance for fronting insurers that cover Coca-Cola's international life, health and disability programs, Ms. Solomon said.

"That was our first successful foray into the employee benefits arena," she said.

Coca-Cola also is awaiting a private letter ruling from the IRS on

an innovative plan to use Red Re to fund retiree health care obligations for about 4,000 U.S. retirees and dependents.

Ms. Solomon said Coca-Cola has been in the captive business more than 15 years, and its experience in funding property/casualty risks in captives left it with a good understanding of how to do the same with benefits programs.

"We understand how cash flow works, how we move money in our international operations—paid at the local level and then moved to the captive so that it's centralized and managed," Ms. Solomon said. "That experience

was there; that was used as the backdrop of trying to figure out how we could get into the employee benefits arena."

Coca-Cola had been handling "quite significant" property/casualty risks in its captives for "quite some time," said Stacy Apter, senior global benefits consultant with Coca-Cola and a panelist at the conference. "Why would we not be taking advantage of the same efficiencies on the employee benefits side when they are more predictable risks?"

Medical coverage, for example, is almost like a cash-flow operation, she said, and it is not diffi-

cult to predict yearly costs.

There are advantages in moving benefit programs to a captive, Ms. Solomon said. "It's the exact same thing that any of us who have captives on the (property/casualty) side would recognize immediately: the centralization of funding, the understanding of losses, the coordination of premium collection."

Funding benefits in a captive gives the parent "consistency and stability in funding and financing" instead of having company units in different countries operate on their own in buying insurance, she said.

"It is a very efficient way of running insurance," Ms. Apter said.

At the same time tax benefits are accrued for writing local policies, the ability to reinsure the

program into the captive provides a way for the parent to centralize and control its programs, she said.

Regulators have been receptive to Coca-Cola's plans for funding its pension obligations in a captive, Ms. Apter said.

After lengthy discussions in Ireland, for example, regulators dealing with underfunded pension plans were pleased with Coca-Cola's method of handling its retiree obligations, she said.

"The idea that we were fully funding a pension plan—they thought that was a fantastic idea," Ms. Apter said.

The panel discussion was moderated by Stephen M. Wilder, vp of risk management at Burbank, Calif.-based The Walt Disney Co.

Cyber: Threats increase with Internet usage

CONTINUED FROM PAGE 4

into dumpsters, she said. The easiest path for a thief to access a network is by way of a work station or user, she said.

Ms. Lamb advises risk managers to assess the likelihood and potential impact of threats to their companies such as website copyright infringement claims, regulatory fines or loss of revenue due to an attack. She said they should consider how much liability exposure their company has in the event of a breach.

To address such threats, she said companies can hold educational forums with their staff to discuss online security. She also said companies can establish cross-functional teams involving the legal department, human resources and enterprise risk management so they get into the habit of discussing risk regularly. Security "requires a collaborative approach," Ms. Lamb said.

She said collaborating well with service providers also is important. Before signing agreements, risk managers need to obtain detailed information about what data a service provider has, how it uses the information and what it does to protect it. Agreements should state clearly each party's responsibilities and which party would pay the associated costs should a data breach occur. With some providers, an audit of the arrangement by an independent party may be prudent, Ms. Lamb said.

Insurance is available for employee-related theft or third-party unauthorized access to private information, regulatory compliance costs such as credit monitoring services for affected customers, transmission of viruses to third-party computers and systems, network business interruption, and expenses associated with a threat directed at the company to release confidential information, among other things.

But contract agreements can get tricky. A member of the audience pointed out that service providers may agree to compensate a company for losses, but sometimes the fine print in contracts limits their liability to the first two months of service.

Ms. Lamb recommended giving security risks separate and careful treatment in contract agreements, and using specific language to get the maximum protection possible.

Audrey Rampinelli, vp or risk management at Loews Corp., moderated the session.

Safety: Data analysis helps employers cut costs, reduce injuries

CONTINUED FROM PAGE 4

program to collect data about what was happening at ARAMARK and, once the software was devised, the resulting analysis found ways to make improvements. For example, many workers' injuries resulted from slipping, tripping or falling. One reason for this was a cleaning agent that made the floors slippery, so the company switched cleaning agents, Ms. Rodgers said.

Injuries weren't the only problem she faced. When Hurricane Katrina struck in 2005, ARAMARK's headquarters struggled to

determine which of its operations were affected.

But Ms. Rodgers and her team were ready for Hurricane Ike in 2008. They had gathered data from government agencies predicting where the storm would go and notified ARAMARK locations in those areas, explaining what staff should do to mitigate the risks and handle a loss if one should happen.

When Ike did hit, ARAMARK headquarters had enough information to identify which people were affected and to send help where it was needed.

Ms. Rodgers' software tool

monitors other situations as well, such as U.S. earthquakes. Her staff also can monitor new situations on the fly.

When a water main broke in Massachusetts and contaminated the water supply last year, ARAMARK sent emails to potentially affected staffers and notified those that were affected about precautions they should take to ensure the safety of the food they served.

"If there's a concern, we know which operations will sustain the shock and communicate with them quickly," Ms. Rodgers said.

She also used available data to

better collaborate with her co-workers. For example, ARAMARK employees often used to call her risk management department for help on an insurance contract the same day it was supposed to be signed.

But then Ms. Rodgers said that if they would send in their contracts earlier and populate them with the data needed for making an assessment, she would give them data about what was happening in their area on things such as the local average hourly salaries or turnover rates. Now she gets every contract when it first arrives.

"It was a total paradigm change," Ms. Rodgers said.

The software system, the Decisions Metrics & Monitoring system, allows Ms. Rodgers to do other things as well. It includes a dashboard that users can manipulate to see how different variables affect company performance.

The intellectual property for the tool belongs to ARAMARK, but an unnamed service provider devised the program. "I can only tell you that there's somebody looking at licensing it," Ms. Rodgers said.

Donald J. Sullivan, vp risk management at Baxter International Inc., moderated the session.

EXECUTIVE PANEL: INNOVATION IN CYBER RISK MANAGEMENT

Execs often unaware of cyber threats

Despite company efforts, fraud an ongoing threat

By SONJA RYST

NEW YORK—Many company executives are unaware of the cyber threats they face, experts said during a presentation at the *Business Insurance* Risk Management Summit in New York.

"We're not doing all we can to control our exposures," said Scott Schleicher, assistant vp of technology products at XL Insurance. He said most attacks aren't sophisticated and the vast majority of data breaches can be avoided.

For example, there are large companies that don't even require employees to have password protection on their iPhones, he said.

Meanwhile, data breaches continue. Mr. Schleicher pointed to reports on the Open Security Foundation's data loss database, at *DataLossDB.org*, a research project aimed at documenting known data loss incidents. In recent weeks alone, incidents have occurred at organizations ranging from retailers to universities. He said he "worries most" about losing money on claims for things such as paying fines for noncompliance with privacy regulations or notifying customers that their personal data has been exposed.

New technology poses risks as well, said Eugene H. Spafford, executive director of Purdue University's Center for Education and Research in Information Assurance and Security. Many companies are thinking about how to take advantage of cloud computing, in which services are provided over the Internet, he said. However, if someone doctors a cloud system early on, then they can control the system before it is deployed. Anyone planning to use a cloud computing system needs to ensure that nobody else is actually running what's on it, he said.

"All the virtual memory systems that clouds are based on are vulnerable," Mr. Spafford said. "We (at CERIAS) know how to break into all of them. None of them is secure, so you shouldn't have a lot of faith in any of them right now."

He also said there are immediate and longer-term risks when someone hacks into a computer system. A hacker can copy data but not use it for a year or two. Some-



MICHAEL MARCOTTE

Eugene H. Spafford, executive director of Purdue's Center for Education and Research in Information Assurance and Security, said all cloud computing systems are vulnerable.

times hackers will insert programs that may not be triggered for a long time. "Most people, when they look at the problem, don't understand that the cyber risk is both immediate and long-term risk," Mr. Spafford said.

For example, Google Inc. in December detected a targeted attack originating from China that resulted in the theft of its intellectual property. Google soon discovered that what first appeared to be solely a security incident also involved at least 20 other large companies from a wide range of businesses, including finance, media and chemical sectors, according to Google's official blog.

"At least 50 other companies were also involved in a similar case," but most wouldn't talk about it in the media, Mr. Spafford said. "Some of them were penetrated for a period exceeding a year and they didn't know the characteristics of what was going on."

Google said on its blog that evidence suggested that the attackers wanted access to the Gmail accounts of Chinese human rights activists, but the hackers only saw email subject lines, not what was inside

the emails.

The United States is behind on some technology security issues, the panelists said. European merchants no longer accept credit cards with magnetic stripes on them, which are common in the United States. Instead, European merchants insist on cards that combine computer chips with personal identification numbers for enhanced security.

But even that method isn't foolproof.

Mr. Spafford said individuals have gone to European restaurants alleging they are service personnel for the machines that read the "chip-and-PIN" credit cards. The criminals then put an additional chip, which duplicates the customer PIN information swiped into it and enables data theft.

How do risk managers keep up with the evolution of cyber risk?

"It's not clear that we'll be able to," Mr. Spafford said. "There's always going to be some level of fraud."

Audrey A. Rampinelli, vp, risk management at the New York-based diversified holding company Loews Corp., moderated the session.

EXECUTIVE PANEL: INNOVATION IN RISK MANAGEMENT TOOLS & TECHNOLOGY

Data provides much-needed risk management tool

But careful analysis essential in making informed decisions

By SONJA RYST

NEW YORK—Risk managers should take steps to improve the information they use to manage their insurance programs, according to executives at claims services providers.

Decisions affecting everything from claims frequency to variations in policy language often are made without the support of relevant data. As a result, risk managers often depend on their brokers for anecdotal information about insurance, they said this month at the *Business Insurance* Risk Management Summit in New York.

But that situation may change. "There's been a bit of a rush to analytics," said John Dempsey, Wilton, Conn.-based managing partner of the forensic accounting and claims-related services provider Dempsey Partners L.L.C. "I think it's great that we have data out there. One funny thing



David A. North, president and CEO of Sedgwick Claims Management Services Inc., and John Dempsey, managing partner at Dempsey Partners L.L.C., discussed technology advances at the Risk Management Summit.



MICHAEL MARCOTTE

about it, though, is that everyone is going to have those analytics." Mr. Dempsey said the data will be aggregated and made widely available, which empowers buyers and leads to more alternatives.

Mr. Dempsey said he sees buyers as the "primary driver of inno-

vation." By examining data and questioning data or processes for managing data that they suspect are inadequate or out of date, risk managers sometimes can improve the performance of their risk management programs, he said.

David A. North, president and

CEO of Memphis, Tenn.-based claims services company Sedgwick Claims Management Services Inc., said buyers should carefully consider the data they receive and use it not only for improved awareness but also for making changes. "We work so hard to build databases," Mr. North said. People should ask themselves what those databases are telling them, he said.

Once data is collected and analyzed, risk managers may find that they want to reassess how they manage their claims processes, he said.

To illustrate his point, he explained that 47% of the workers compensation insurance claims Sedgwick CMS processed last year represented 1% of its clients' loss costs. Every risk manager has enough information to run that kind of data and find similar results, Mr. North said.

He said you wouldn't go to your boss and say, "I have a great idea. I'm spending a lot of our resources to solve a fraction of our prob-



VIEW a photo gallery from the *Business Insurance* Risk Management Summit in New York online at www.BusinessInsurance.com

lems...And yet, we're part of an industry where that happens." He said he doesn't understand why risk managers don't use such data to go to regulators or insurers and ask for changes.

Risk managers also should consider their information carefully when they purchase insurance, said Mr. Dempsey.

Some risk managers use an auction process to purchase insurance, he said. For the lines of business where such an approach is feasible, auctions can help drive down costs, he said.

Mr. Dempsey said brokers have grown "more and more focused" on placing business throughout the years, at the expense of service.

He thinks eventually the industry will split into groups that provide placement or claims services.

"Placement is becoming king," Mr. Dempsey said.

The session was moderated by Donald J. Sullivan, vp, risk management at Baxter International Inc. in Deerfield, Ill.

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT • SOUTHERN DISTRICT OF NEW YORK
 In re GLOBAL GENERAL AND REINSURANCE COMPANY LIMITED
 Debtor in a Foreign Proceeding

NOTICE OF ORDER GRANTING RECOGNITION OF A FOREIGN MAIN PROCEEDING, PERMANENT INJUNCTION AND RELATED RELIEF

NOTICE IS HEREBY GIVEN THAT, in connection with the petition filed on January 28, 2011 (the "Petition") by Simon Brinklow (the "Petitioner"), in his capacity as the duly authorized foreign representative, as defined in section 101(24) of title 11 of the United States Code (the "Bankruptcy Code"), of GLOBAL General and Reinsurance Company Limited (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued an Order Granting Recognition of a Foreign Main Proceeding, Permanent Injunction and Related Relief (the "Order") [Docket No. 14], which provides, among other things, that:

- The proceedings respecting the Company's Scheme of Arrangement (the "Scheme") in the High Court of Justice of England and Wales (the "High Court") and the Scheme are granted recognition pursuant to section 1517(a) of the Bankruptcy Code;
- The proceeding respecting the Scheme in the High Court and the Scheme, are granted recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code;
- All relief afforded a foreign main proceeding pursuant to section 1520 of the Bankruptcy Code is granted;
- Sections 361 and 362 of the Bankruptcy Code apply with respect to the Company and all of the property of the Company that is within the territorial jurisdiction of the United States in relation to Claims (as defined in the Order);
- The Scheme (including any modifications or amendments thereto) shall be given full force and effect in the United States, and shall be binding on and enforceable against any person or entity that is a Scheme Creditor (as defined in the Order), including, without limitation, against such person or entity in its capacity as a debtor of the Company in the United States;
- All Scheme Creditors are permanently enjoined from taking any action in contravention of, or inconsistent with, the Scheme;
- Except as otherwise provided in the Order or in the Scheme, all Scheme Creditors are permanently enjoined from seizing, repossessing, transferring, relinquishing or disposing of any property of the Company, or the proceeds thereof, in connection with any Claims in the United States;
- Except as otherwise provided in the Order or in the Scheme, all Scheme Creditors are permanently enjoined from: (a) commencing or continuing any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative action, proceeding or process whatsoever) in connection with any Claim, including by way of counterclaim, against the Company or any of its property in the United States, or any proceeds thereof, and seeking discovery of any nature against the Company; (b) enforcing any judicial, quasi-judicial, administrative judgment, assessment or order, or arbitration award obtained in connection with any Claim, and commencing or continuing any proceedings in connection with any Claim (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Claim against the Company or any of its property in the United States; (c) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring the Company to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative action, proceedings or process whatsoever) in connection with any Claim and such statute, rule or requirement will be rendered null and void for such proceedings; (d) drawing down any letter of credit established by, on behalf of or at the request of, the Company that relates to a Claim or the Scheme Business (as defined in the Order) in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (e) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement that relates to a Claim or the Scheme Business in which the Company has an interest in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established; and
- In accordance with the terms of the Scheme, all persons and entities in possession, custody or control of property of the Company or the proceeds thereof, are required to turn over and account for such property or proceeds thereof to the Petitioner, the Company, or the Scheme Manager.

Copies of the Order, the Scheme and the Petition are available upon written request to the undersigned counsel.

CHADBOURNE & PARKE LLP • Attorneys for the Petitioner • 30 Rockefeller Plaza
 New York, New York 10112 • (212) 408-5100 • Attn: Howard Seife, Esq. and Francisco Vazquez, Esq.

LEGAL NOTICE

NOTICE TO ALL CREDITORS OF FINAL DIVIDEND PERCENTAGE

UNITED STANDARD INSURANCE COMPANY LIMITED
 (In Scheme of Arrangement)

NOTICE IS HEREBY GIVEN that the Scheme Administrators, Nigel Rackham and Mark Batten of PricewaterhouseCoopers LLP, declare the final dividend percentage to be 37.94 per cent. Together with the first dividend of 27 per cent, the total dividend is 64.94 per cent. This will apply to all Scheme Creditors whose Claim has been agreed by the Scheme Administrators in the First and Final Claims Opportunity Deadlines in accordance with the Scheme of Arrangement. Such Creditors have been notified of the agreement of their Claim and received a Crystallisation Statement.

Creditors who have not submitted a Scheme Claim Form by either the First or Final Claims Opportunity Deadline, do not have the opportunity to submit any further claim.

All enquiries should be addressed to the Scheme Administrators, United Standard Insurance Company Limited, c/o PricewaterhouseCoopers LLP, Plumtree Court, London, EC4A 4HT, United Kingdom, fax number +44 (0) 20 7213 1736, or email united.standard@uk.pwc.com.

Capitalised terms in this Notice are as defined in the Scheme. Dated this 21 March 2011.

Mark your Calendar...

Risk Management Technology

Publishing: April 4
 Classified Ad Close: March 29
 Ranking: Risk Management Software

Contact Monique Murray at 212-210-0129 For Details

Cyber security strategies should focus on core assets

By GAVIN SOUTER

NEW YORK—Risk managers can't protect their organizations' operations from all cyber threats, so they should focus on protecting their core assets, former senior White House adviser Richard A. Clarke said at the Risk Management Summit.

Speaking at the *Business Insurance* summit in New York, Mr. Clarke told the audience of risk managers to concentrate their cyber security efforts on whatever they determine to be their organizations' "crown jewels."

Mr. Clarke, who is an on-air consultant for ABC News and teaches at the John F. Kennedy School of Government at Harvard University in Cambridge, Mass., said all large corporations have had cyber security breaches, and hackers "left back doors, so they



MICHAEL MARCOTTE

Former senior White House adviser Richard A. Clarke

will get back in."

"So figure out what you really need to protect and protect that," he said. Companies should isolate those exposures and build "belt and suspenders" protection programs to secure them, Mr. Clarke said.

Insurance coverage available for the risks most companies face, Mr. Clarke added. Insurers are unable to build actuarial tables to assess cyber risks properly because companies do not report data breaches in many cases, he said.

Matrixx: High court rules for plaintiffs

CONTINUED FROM PAGE 1

Matrixx received some complaints about Zicam and anosmia and two doctors compiled data on 10 such patients. Nearly 300 individual lawsuits were filed concerning Zicam through October 2004, according to the shareholders' brief.

During that time, Matrixx officials expressed optimism about future growth and did not mention the complaints and lawsuits. In early 2004, media outlets began to report the allegations, causing a decline in Matrixx's stock value. Matrixx officials initially called the allegations "completely unfounded," but they later admitted they did not know if Zicam caused anosmia and decided to conduct studies.

The U.S. District Court for Arizona granted Matrixx's motion to dismiss the lawsuit in March 2006, saying the number of allegations about which Matrixx executives were aware was not statistically significant. However, the 9th U.S. Circuit Court of Appeals reversed that decision in October 2009, concluding that was the wrong standard for a motion to dismiss. The appeals court said questions of statistical significance should be decided at trial.

In its ruling last week, the U.S. Supreme Court upheld the appeals court. Writing for the court, Associate Justice Sonia Sotomayor rejected what she called Matrixx's "bright-line rule that adverse event reports regarding a pharmaceutical company's products are not material absent a sufficient number of such reports to establish a statistically significant risk that the product is causing the events."

Medical experts and the U.S. Food and Drug Administration rely on evidence other than statistically significant data to establish an inference of causation, Justice Sotomayor wrote. "It thus stands to reason that reasonable investors would act on such evidence," she wrote for the court.

"I don't expect it to affect a ton of cases," said Jay Sushelsky, a senior staff attorney at AARP Foundation in Washington, which filed a brief supporting the shareholders. Such cases are fact-specific and each pleading "has to be taken on its own merits."

Mr. Sushelsky said he was pleased with but not surprised by the decision. He said the fact that

'I think it was a missed opportunity for the court to provide some guidance.'

Colin Wrabley, Reed Smith L.L.P.

the decision was unanimous was "not necessarily remarkable" because the justices followed existing case law.

"Certainly, with respect to materiality element as a general matter, it doesn't change anything. The court reaffirmed the

standard that it articulated in its prior materiality precedents," said Colin Wrabley, a partner in the Pittsburgh office of Reed Smith L.L.P. who filed a brief supporting Matrixx on behalf of the Chicago-based Defense Research Institute.

"Matrixx doesn't change anything and, in that respect, I think it was a missed opportunity for the court to provide some guidance. Its significance lies in its impact on companies like Matrixx, pharma and medical device companies and their decisionmaking about whether to disclose adverse event reports. I think the effect of this decision is going

to be to put additional pressure on those types of companies to disclose those reports in most circumstances," Mr. Wrabley said.

"Anything the Supreme Court says has an impact on the world. However, I don't think this is going to have as wide an impact because the Supreme Court reaffirmed the existing standard for determining materiality," said Erik J. Olson, a partner in the Palo Alto, Calif., office of Morrison & Foerster L.L.P., who filed a brief supporting Matrixx on behalf of San Francisco-based life sciences trade group the Bay Area Bioscience Assn.

"In three circuits, there had been a rule that statistical significance had been required and, for those circuits, it will now be easier for

plaintiffs to state a claim," said Mr. Olson, who said one aspect of the decision deserved more attention.

The court noted that "the scope of your obligation to disclose facts depends on whether you speak and what you say," he said. "Companies can control what they have to disclose by controlling what they say about the subject matter. So if they say nothing, they don't have obligation to disclose anything and if they use measured language, then their obligation to disclose other information is reduced," he said.

"It's a return to the fundamental principle that you're not obligated to speak; but when you speak, you have to speak truthfully," Mr. Olson said.

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UP CLOSE

Comings & Goings



RAFAEL FERNANDEZ

NEW JOB TITLE: San Diego-based director of loss control and claims for Cavnac & Associates Insurance Brokers.

PREVIOUS POSITION: San Diego-based vp and senior consultant for Marsh Risk Consulting.

GOALS FOR NEW POSITION:

Expand the agency's loss control and claims service offerings to help customers control their cost of risk.

INDUSTRY CHALLENGES:

A diverse and aging workforce, a slowly recovering economy and increasing regulatory requirements will continue to pose a challenge to employers and insurers.

INDUSTRY OUTLOOK:

I believe the California (property/casualty) market will still feel the effects of the state's poor economy for quite some time.

FIRST MARKET EXPERIENCE:

I worked as a vocational rehabilitation counselor assisting injured employees get back to work.

CAREER HIGHLIGHT:

There are

too many to list. What stands out are all of the outstanding people I've had the privilege to work with.

ADVICE: It does not matter how technically savvy you are if you cannot effectively promote a sound approach to managing risk within your company or with clients.

WHAT YOU WANTED TO BE

GROWING UP: An airline pilot.

OUTSIDE THE INDUSTRY, A DREAM JOB:

Professional tournament sport fishing.

HOBBIES: Camping with family, fishing and sports.

FAVORITE BOOK: "A Confederacy of Dunces" by John Kennedy Toole.

CAN'T-MISS TV SHOW: Any Los Angeles Kings telecast.

ON A SATURDAY AFTERNOON:

If not fishing with the kids, working around the house.

EMAIL OR PHONE, AND WHY:

Phone. Email depersonalizes so much of our communication today.

Supply: Rapid response advised on Japan losses

CONTINUED FROM PAGE 1

the full scope of insurance coverage that may be available.

Risk managers also have notification responsibilities, said Laura A. Foggan, a partner with law firm Wiley Rein L.L.P. in Washington. "There are, of course, responsibilities to provide prompt notice and to promptly collect information, but those responsibilities are not necessarily inflexible in a crisis situation."

Kevin Kamraczewski, a partner with law firm SNR Denton L.L.P. in Chicago, said policyholders must establish "documentary proof of what your income loss was and what your extra expenses are" as a result of business interruptions caused by the catastrophe.

Duncan Ellis, New York-based property practice leader for broker Marsh Inc., said documentation should include notifications of government- or civil authority-ordered rolling blackouts because "all of these are going to be quite important in keeping track of additional expenses (the policyholder) may be incurring and keeping a very watchful eye on your bottom line to see what impact" the catastrophe has had.

Ms. Kornfeld said policyholders should be careful in how they describe the loss in internal and external communications because "the insurer might later argue that the early characterizations are admissions" that assist it "in denying coverage or reducing its coverage duties."

Experts say patience also may be required.

It "can take anywhere from 180 days-plus to finally work out what the agreed-upon loss was" associated with the catastrophic event, said Robert Glasser, managing director and head of the business interruption and insurance claims practice at BDO Consulting in New York.

Jon Hall, executive vp at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global, said contingent business interruption losses "don't unfold typically as quickly" as business interruption losses because policyholders may still have some inventory on hand and "there is an expectation that their supplier will get up and running and fill the pipeline before anything happens." It "really depends on how long the suppliers are out of business," he said.



Ms. Foggan

LATEST QUAKE LOSS ESTIMATES

SENDAI, Japan—Several multinational insurers and reinsurers have begun estimating their losses as a result of the March 11 earthquake and tsunami that devastated much of Japan. The projections include:

■ Germany-based **MUNICH REINSURANCE CO.** puts its losses at around €1.5 billion (**\$2.13 BILLION**).

■ Switzerland-based **SWISS REINSURANCE CO.** said its losses would be approximately **\$1.2 BILLION**.

■ American International Group Inc. estimated its New York-based **CHARTIS INC.** property/casualty unit lost **\$700 MILLION**, and that its Osaka, Japan-based **FUJI FIRE & MARINE INSURANCE CO. LTD.** lost at most **\$508 MILLION** in connection with government-backed earthquake-related claims.

■ Germany-based **HANNOVER RE GROUP** estimated losses at €250 million (**\$354.2 MILLION**).

■ France-based **SCOR S.E.** said its losses would be no more than €185 million (**\$262.1 MILLION**).

■ Zurich-based **ACE LTD.** estimated its Japan losses at **\$200 MILLION TO \$250 MILLION**.

Other insurers and reinsurers have yet to announce their loss estimates from the Japan disaster.

—By Sonja Ryst

Market Moves

Allianz unit enters midmarket in Canada

TORONTO—Allianz Global Corporate & Specialty has begun offering insurance and services to mid-size companies in Canada.

The insurer's entrance into the Canadian midmarket segment is in response to client demand, the Toronto-based unit of Allianz S.E. said in a statement.

"Many of our clients have told us for years that they would like to see us enter this market segment," Delphine Maidou, head of market management for Allianz Global Corporate & Specialty in Canada, said in the statement.

The insurer said it designs property insurance specifically for mid-market companies and provides access to other products without packaging policies as business operations expand.

Coverage is available for mid-size companies across various sectors such as manufacturing, pharmaceuticals, chemicals, contractors and heavy machinery. Coverage also includes companies with international operations.

Dallas-based broker changes name, offices

DALLAS—Goss Reinsurance Brokers L.L.C. has changed its name to Advocate Reinsurance Partners L.L.C.

The new moniker is intended to better describe the reinsurance brokerage's mission, the Dallas-based unit of U.S. Risk Insurance Group Inc. said in a statement.

"What better way to reinforce our mission than put it on the front door and our business cards?" Randall Goss, chairman of Advocate Reinsurance Partners, said in the statement.

The broker serves middle-market insurers, captives, self-insurance funds and risk retention groups, among others.

The brokerage also has moved its headquarters to 2501 North Harwood St., Suite 1250, Dallas, Texas, 75201. The telephone number is 214-753-4200.

ACE USA reorganizes medical risk units

NEW YORK—ACE USA has reorganized its medical liability operations into two units, ACE Medical Risks and ACE Life Sciences.

The reorganization focuses on the individual needs of the medical malpractice and life sciences markets, the Philadelphia-based retail division of ACE Ltd. said in a statement.

Caroline Clouser, most recently senior vp and chief underwriting and compliance officer of insurance-North America, has been promoted to executive vp to lead ACE Medical Risk.

Ms. Clouser oversees all underwriting, marketing and operations for the insurer's medical facilities, medical program business, managed care and long-term care segments, according to the statement.

Lee Farrow has been promoted to senior vp to lead ACE Life Sciences, overseeing the unit's strategic direction and underwriting activities for biotechnology, specialty pharmaceutical and medical device companies. Most recently, he was assistant vp of life sciences.

Both are based in New York and report to Ross Bertossi, president of ACE USA's casualty lines.

TO SUBMIT ITEMS

MARKET MOVES

BI's Market Moves column reports on activities by insurance industry companies and related entities.

PRODUCTS & SERVICES

BI's Products & Services column reports on new product offerings.

Please send Product & Services and Market Moves news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. 60601 or email mtsikoudakis@businessinsurance.com.

Comings & Goings ONLINE

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

BROKERS

- Willis Group Holdings P.L.C.
- Lockton Cos. L.L.C.
- Bollinger Inc.

INSURERS

- Starr Indemnity & Liability Co.
- NAS Insurance Services
- Zurich Financial Services Group
- Starr Marine Agency Inc.

AGENTS

- Assured Agencies L.L.C.

OTHER PROVIDERS

- Stroock & Stroock & Lavan L.L.P.
- Jenner & Block L.L.P.
- Towers Watson & Co.

Interruption: Quake creates claims concerns

CONTINUED FROM PAGE 1

Japan, with gaps covered by master policies issued in the United States, experts say.

Exacerbating the impact of the Japanese catastrophe for many companies is the widespread adoption of "just-in-time" or "lean" inventory systems, which limit inventory on hand to minimize expenses and reduce the chances of parts becoming obsolete (see box).

It is important that policyholders affected by the March 11 quake and tsunami start the claims process as quickly as possible, observers say (see story, page 1).

Jon Hall, executive vp at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global, said, "This is going to be significant as far as claims coming in," but "we don't have the people on the ground yet" in Japan to evaluate the damage because of the infrastructure and radioactivity issues.

Also, "There's so much manuscripted coverage in the area that nobody's quite sure" the extent to which companies will have the appropriate coverage, said Kevin Kamraczewski, a partner with law firm SNR Denton L.L.P. in Chicago.

In addition, "a lot of these claims are really going to take quite some time" to be worked out, said Duncan Ellis, New York-based property practice leader for Marsh Inc.

A spokeswoman for Dallas-based Texas Instruments Inc., for instance, said in an e-mail that it

is too early to describe "if or how much the damages will be offset by insurance." The company's Miho, Japan, manufacturing facility suffered substantial damage in the earthquake.

Other companies affected include Toyota Motor Corp., whose U.S. manufacturing arm reportedly was preparing for a possible shutdown because of part shortages from Japan. A spokesman could not be reached.

Insurers and reinsurers have begun to report losses as a result of the quake (see box, page 20).

The coverage issues are complex, said Linda D. Kornfeld, a partner with law firm Jenner & Block L.L.P. in Los Angeles. "A big question that will be addressed between insurers and policyholders, I presume, is, 'What is the ultimate cause of the business interruption losses that are being suffered by the policyholder?'"

"These policies are very complicated and have a number of exclusions that apply, depending in some instances upon the cause of the loss," Ms. Kornfeld said.

While property policies commonly exclude coverage of earthquakes and tsunamis, "many policies that have a large reliance on Japan probably do have manuscripted policies" that provide for this coverage, said Laura A. Foggan, a partner with law firm Wiley Rein L.L.P. in Washington.

Nuclear risks, though, are "pretty much excluded from all policies," said Robert Glasser, managing director and head of the business interruption and insurance

Fine-tuning foreseen of just-in-time strategies

Companies may fine-tune their "just-in-time" or "lean" inventory management strategies as a result of the disaster in Japan, experts say.

Just-in-time management is a manufacturing and retail strategy under which companies keep their inventory as lean as possible to limit costs as well as avoid being stuck with obsolete stock. This can involve the use of single-source suppliers, which poses risks if their operations are disrupted.

Wallace Hopp, Herrick professor of manufacturing and of operations and management science at the University of Michigan's Stephen M. Ross School of Business in Ann Arbor, Mich., said just-in-time management dates back to Henry Ford in the 1920s. Toyota laid it out as a strategy in the 1940s, but it took until the 1980s for it to be widely adopted in the United States.

Japan is the second-largest exporter to the

United States behind China, Mr. Hopp said, predominantly in the automotive, computer and electronics industries.

Forensic accountant Bill Myers, senior partner of New York-based RWH Myers & Co. L.L.C., said the Japan disaster has been "such a massive event that companies are not going to be able to completely switch to alternative suppliers."

Just-in-time management is too valuable a strategy to discard entirely, but the situation in Japan may result in some fine-tuning, observers say.

Robert Glasser, managing director and head of the business interruption and insurance claims practice at BDO Consulting in New York, said the disaster in Japan likely will lead manufacturers and retailers "to identify more alternative suppliers that are not in the same geographical area."

—By Judy Greenwald

claims practice at BDO Consulting in New York.

But even if there is coverage, sublimits may differ, said Ms. Kornfeld. "For example, if your loss is caused by flood, you may have a \$500,000 sublimit," while a \$2 million sublimit may apply for a loss caused by an earthquake.

In Japan, "you have the additional layer of complexity," with multinational U.S. and European companies having coverage under their local Japanese policies and master policies, FM Global's Mr. Hall said.

Dollar losses from individual business interruption claims are likely to exceed those from contingent business interruption claims, but the number of contingent business interruption claims are likely to be greater, experts said.

"From what we've seen to date, the majority of our clients" are tapping their contingent business interruption coverage rather than

their direct business interruption coverage, said Al Tobin, national property leader for Aon Risk Solutions in New York.

Companies without facilities in Japan that have contingent business interruption coverage first must establish that their supplier suffered physical damage, say observers.

Marsh's Mr. Ellis said some policies cover a first-tier supplier, but fail to "take into account there is a secondary or even tertiary supplier," which could lead to a failure to obtain coverage. "You have to look at the territorial wording on your policy" to ensure there is coverage for the particular geographic area that is affected, he also said.

"So many insureds don't even really know who their suppliers are," which makes it difficult for insurers from an underwriting perspective, Mr. Ellis said.

"Insurance companies always

raise arguments about the valuation of the loss," said policyholder attorney Robert M. Horkovich, a partner with law firm Anderson Kill & Olick P.C. in New York.

"The insurance companies always argue, 'Well, you could have found an alternative supply...or you didn't lose that much market share,' or a poor economy explains the business loss. 'There is frequently a battle of experts,'" Mr. Horkovich said.

One possible knotty issue for policyholders that have business interruption and/or contingent business interruption policies is the impact of rolling blackouts ordered by the Japanese government.

Coverage "would probably depend on the wording of the policy and wording of the order for directing the blackout," including whether it was ordered because of property damage, said Wiley Rein's Ms. Foggan.

News In Brief

CONTINUED FROM PAGE 1

N.J. law loosens collateral requirements

A measure signed into law last week by New Jersey Gov. Chris Christie liberalizes the collateral requirements of non-U.S. reinsurers doing business in the state. The Reinsurance and

Surplus Lines Stimulus and Enhancement Act grants the state banking and insurance commissioner more discretion in determining collateral requirements, provided that the reinsurer has surplus or its equivalent in excess of \$250 million and if the reinsurance is "negotiated at least in part" by a reinsurance intermediary or representative of the reinsurer acting in New Jersey.

Oral complaint triggers anti-retaliation law

In an apparent victory for employees, the U.S. Supreme

Court ruled that oral complaints to management can be used subsequently to invoke the Fair Labor Standards Act's anti-retaliation provision. According to the decision in *Kevin Kasten vs. St.-Gobain Performance Plastics Corp.*, Mr. Kasten brought an anti-retaliation lawsuit against his former employer, stating that he was terminated in retaliation for repeatedly complaining about the location of the firm's time clock, which he said prevented workers from receiving credit for the time they spent changing their work clothes. In a separate lawsuit, a federal judge found that the company's practice violated the

act. Two lower courts had held that the law did not protect oral complaints. However, the nation's highest court ruled otherwise. The court remanded the case for further proceedings.

Commercial insurance pricing remains flat

Commercial insurance prices remained flat overall for the eighth consecutive quarter, according to the latest Towers Watson & Co. survey. The consulting firm said not only did prices remain flat, accident-year loss ratios also deteriorated from the same period a year ago.

Noted

The **Bermuda Insurance Institute** has honored Michael Murphy, former legal counsel at American International Group Inc., with its Lifetime Achievement Award which will be presented in May. Neill Currie, president and CEO of reinsurer RenaissanceRe Holdings Ltd., was named the BI's Industry Leader of the Year....**Kentucky** became the first state to enact a surplus lines insurance multistate compliance compact to enact insurance premium tax provisions of Dodd-Frank Wall Street Reform and Consumer Protection Act.



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Contributing: Jeff Casale, Judy Greenwald, Mark A. Hofmann, Mike Tsikoudakis

1 wheel + 2 tickets = \$3M lawsuit

How many wheels does a unicycle have?

The answer seems obvious, but New York contends that a law that prohibits anyone from riding a two- or three-wheeled device on city sidewalks also applies to single-wheeled ones.

According to the New York Daily News, that interpretation has led circus performer Kyle Peterson to file a \$3 million lawsuit late last year against the city, alleging it violated his rights when police issued him two tickets for riding his unicycle on the sidewalk.

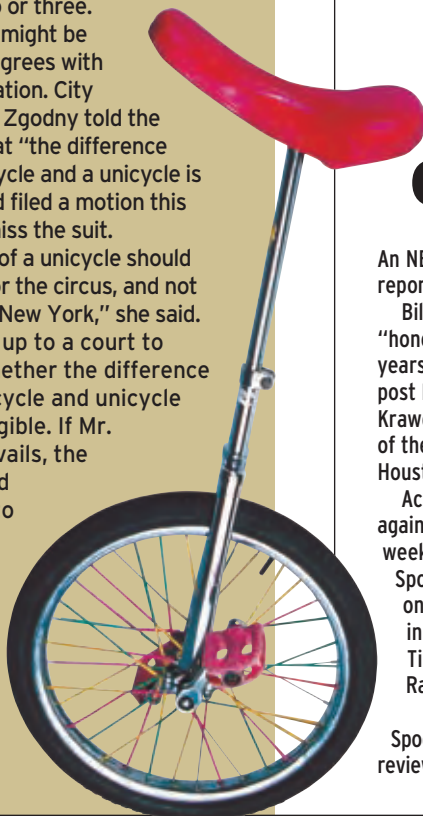
The paper noted that courts had dismissed both tickets. Mr. Peterson said he was held for about an hour while police checked to see if he had any outstanding warrants.

Mr. Peterson argues that the prohibition shouldn't apply to him because he was riding on one wheel, not two or three.

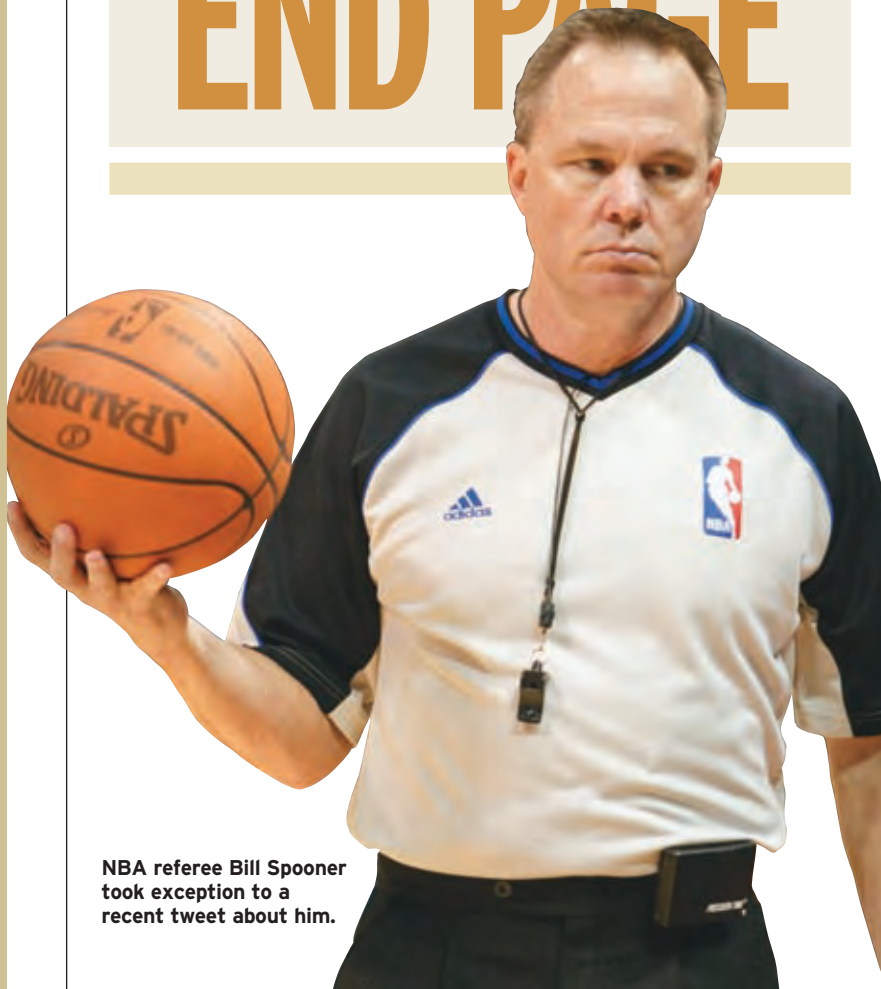
The city, as might be expected, disagrees with that interpretation. City attorney Vicki Zgodny told the newspaper that "the difference between a bicycle and a unicycle is negligible" and filed a motion this month to dismiss the suit.

"The riding of a unicycle should be reserved for the circus, and not the streets of New York," she said.

So now it's up to a court to determine whether the difference between a bicycle and unicycle really is negligible. If Mr. Peterson prevails, the city might find itself having to hand over more than a negligible amount of cash.



Business Insurance END PAGE



NBA referee Bill Spooner took exception to a recent tweet about him.

NEWS.COM

Ref cries foul on writer's tweet

An NBA referee has called a foul on a reporter who criticized him in a tweet.

Bill Spooner, who said he has "honestly" refereed NBA games for 22 years, took exception with a Twitter post by Associated Press writer Jon Krawczynski during a Jan. 24 matchup of the Minnesota Timberwolves and Houston Rockets.

According to the suit the ref filed against the reporter and the AP last week in Minnesota federal court, Mr. Spooner called a second-quarter foul on a Minnesota player that resulted in the ref getting chewed out by Timberwolves head coach Kurt Rambis.

After Mr. Rambis' questions, Mr. Spooner told the coach he would review the call at halftime and get back

to him. Mr. Rambis asked how he'd get the points back, but Mr. Spooner offered no response, according to the suit.

However, Mr. Krawczynski didn't hear it that way and tweeted: "Ref Bill Spooner told Rambis he'd 'get it back' after a bad call. Then he made an even worse call on Rockets. That's NBA officiating, folks."

Houston won the contest 112-108. In the suit, Mr. Spooner alleged that Mr. Krawczynski's tweet was a defamatory accusation of game-fixing.

Mr. Spooner's suit seeks more than \$75,000 in damages, that the tweet be unpublished and that the AP retract its statement, "We believe all of the facts we reported from the game in question were accurate," a spokesman told reporters.

Professor's job shimmies away

A former assistant professor who moonlighted as "Professor Shimmy" in a burlesque show is protesting the "F" she received from the administration at John F. Kennedy University.

Sheila M. Addison, a former assistant psychology professor who was fired in June for her performance in the Hubba Hubba Revue in San Francisco, is suing the Pleasant Hill, Calif., university and President Steven A. Stargardt.

According to the federal suit she filed this month in San Francisco, the defendants defamed her in statements that accused her of bringing "public disrespect, contempt and ridicule to the university as a result" of her performances at the burlesque club.

They also said her students "lost respect for her as an instructor" and that they were "shocked and dismayed when they saw the videos of her performances," which have gone viral on campus.

Ms. Addison said in the suit that the review challenges gender roles, typical body



Sheila M. Addison, also known as Professor Shimmy, performs her burlesque act at the Hubba Hubba Revue.

images and explores "the subversion of sexuality through performance art."

The suit also said while she was performing as Professor Shimmy, a male professor was doing an off-campus play that "included disrobing and partial nudity onstage," and that he was "held to a different standard because of his gender and not disciplined for his performance."

The lawsuit, which seeks back pay, compensatory and punitive damages, among other redress, also accuses the defendants of breach of contract, termination for political activity and harassment for failure to conform to gender stereotypes, among other charges.

The college could not be reached for comment.

Ruling a 'SLAPP' in couple's faces

A California appellate court has ruled that CBS Broadcasting Inc. can't be sued for defamation for allegedly portraying real-life married real estate agents unfavorably.

Scott and Melinda Tamkin alleged that an episode of "CSI: Crime Scene Investigation" used them as fodder in the show's portrayal of a pair of married real estate agents with deviant and hedonistic tendencies.

California's Second District Court of Appeal said the couple's suit is barred by the state's anti-SLAPP statute—which stands for strategic lawsuit against public participation—that bars suits that aim to punish the exercise of free speech, according to court documents.

Sarah Goldfinger, a writer for the show, met the couple when they were the real estate agents handling a home she offered to buy.



When the show aired in 2009, the couple's surname was changed to "Tucker." However, the draft of the episode that contained their real last name was leaked to various "CSI" fan sites as was the casting synopsis, according to court documents.

The Tamkins alleged defamation and invasion of privacy by CBS and Ms. Goldfinger "by creating from whole cloth characters engaged in a reckless lifestyle of sexual bondage, pornography, drunkenness, marital discord, depression, financial straits, and possibly even murder," according to the suit.

However, in its March 1 ruling, the appellate court said, "All of the causes of action in plaintiffs' complaint were subject to being stricken under the anti-SLAPP statute" and sided with the network in reversing a lower court's decision that the statute did not apply.



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