

# Business Insurance

October 11, 2010

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**FERMA LOOKS FOR WAYS TO HELP GLOBAL FIRMS COMPLY WITH LAWS / PAGE 3**

**SCHWARZENEGGER VETOES RULES FOR COMP DISPUTES / PAGE 3**

**ALLIANZ UNIT LEADS COVER OF PLANT IN TOXIC SPILL IN HUNGARY / PAGE 4**

## In Brief

### Health care cover requirement upheld

A federal judge last week upheld a key provision in the health care reform law that will require most U.S. residents to have health coverage in 2014 or pay a financial penalty. U.S. District Court Judge George Steeh said the Commerce clause of the U.S. Constitution gives Congress the authority to impose such a requirement. The ruling, certain to be appealed, came in a lawsuit brought by the Thomas More Law Center in Ann Arbor, Mich., a conservative group. Numerous other challenges to the law have yet to be heard.

### Swiss Re investor suit dismissed

Swiss Reinsurance Co. has won dismissal of an investor suit in which it and two officers were

See **IN BRIEF** page 37

## P/C INSURANCE

# Switzerland luring Bermuda players

*But island remains important market despite departures*

By **MICHAEL BRADFORD**

**HAMILTON, Bermuda**—The trickle of insurers redomesticating from Bermuda to Switzerland appears to be developing into a steady flow, but the moves don't signal an immediate decline in the island's status as major insurance market, experts say.

While the desire to expand globally and uncertainty over Bermuda's tax status are behind some of the moves, the island remains a key insurance and reinsurance center and a gateway to the U.S. market, they say.

Allied World Assurance Co. Holdings Ltd. announced Sept. 30 that it would move its corporate headquarters to Switzerland nearly 10 years after the insurer and reinsurer was formed in Bermuda. Allied World's move was the latest of several by Bermuda-based insurers and reinsurers that redomesticated to the

Central European country or established operations there.

Amlin P.L.C. last week completed the redomestication of its Amlin Bermuda Ltd. subsidiary to Switzerland and renamed the company Amlin A.G.

In addition, Flagstone Holdings Ltd. redomesticated to Luxembourg this year after the reinsurer in 2008 merged its Bermudian and Swiss operating units into one Martigny, Switzerland-based company. In the same year, ACE Ltd., which was domiciled in the Cayman Islands but headquartered in Bermuda, redomesticated to Zurich.

More such moves could be in the offing, experts say.

"There could be more," said Laline Carvalho, a director with Standard & Poor's Corp. in New York. "The redomestication issue is always on the table."

In addition to the redomestications, several Bermuda companies have launched subsidiaries or opened offices in Switzerland in recent years. Those include Endurance Specialty Insurance Ltd.,

See **BERMUDA** page 36

## RISK MANAGEMENT



# Caution urged for staff traveling to Europe

*Training, preparation key amid alerts*

By **JOANNE WOJCIK**

In response to a U.S. State Department travel alert about an alleged al-Qaida plot to attack cities in Europe, security experts advise U.S. employers to conduct business as usual abroad but also to exercise caution, especially if employees are traveling near tourist attractions or using public transportation.

See **TRAVEL** page 33

## RISK MANAGEMENT

# Federal agencies explore enterprise risk management

By **MARK A. HOFMANN**

**WASHINGTON**—A Department of Homeland Security study of risk management practices underscores the federal government's increasing interest in building enterprise risk management programs for its agencies.

In fact, DHS intends to "enhance

and expand" its partnerships with private- and public-sector risk management practitioners to help bolster its own risk management program, according to a summary of the DHS study.

In a document issued late last month, DHS said its Office of Risk Management & Analysis conduct-

**'DHS believes it is fundamentally a risk management department, and our job is to help work with our partners to manage risk.'**

Bob Kolasky, Department of Homeland Security Office of Risk Management & Analysis

The study examined organizational risk management practices, said Bob Kolasky, assistant director of the risk management analysis office.

"DHS believes it is fundamentally a risk management department, and our job is to help work with our partners to manage risk," Mr. Kolasky said. "Because of that, we want to learn from other people their approach to risk management and adapt them to our operating environment."

He said the participants were "basically self-identified," or chosen from people and organizations that had spoken on ERM. The participants' identities are confidential, he added.

See **HOMELAND** page 37

## SPOTLIGHT

### SURPLUS LINES

Market seeks silver lining; stamping office premiums fall 11.1%; wholesalers seek growth outside rates; reform success rises, falls on state efforts; Q&A with NAPSLO's incoming president; rankings for largest U.S.-based surplus lines insurers, wholesale insurance brokers, MGAs, premiums and taxes by state. **PAGE 13**

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# UNITED IN AWARENESS

Terrorism  
Crime  
Kidnapping  
Civil unrest  
Regime instability  
State impunity  
Espionage  
State corruptibility  
Armed conflict

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DAISY SCHENK



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### COMINGS & GOINGS

Search industry executive changes alphabetically by a person's name or company, as well as by date. Click on the Comings & Goings tab.

### WEBCAST: MAKING ERM PAY OFF

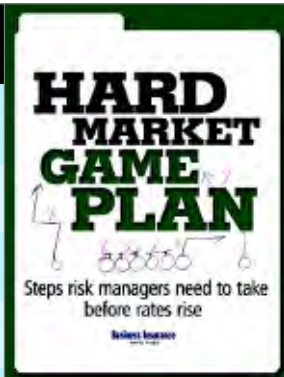
"Value in Enterprise Risk Management: Making ERM Pay Off" will explore ERM's value in strategic planning, with risk experts



John J. Hampton and Laura L. Brooks, on Oct. 27 at 2 p.m. Eastern Time. To register, go to [www.BusinessInsurance.com/webcasts](http://www.BusinessInsurance.com/webcasts).

### MOST POPULAR STORIES Week of October 3, 2010

1. 3M alters retiree health care benefits plan
2. California governor vetoes workers compensation bill
3. U.S. waives health insurance minimums for 1 million
4. AIG failure would have been 'catastrophic': Treasury
5. Workers comp premiums drop fifth straight year: Analysis
6. Jury hits Ford with \$131 million verdict
7. Strong La Niña forecast through spring 2011: CPC
8. Zurich settles Farmers Group class action over fees for \$455M
9. AIG's Lewis retires as insurer's chief risk officer
10. Aon completes acquisition of Hewitt



### Getting ready for the next hard market

This new *Business Insurance* white paper analyzes the economic pressures on the commercial insurance industry to raise rates and strategies risk managers can adopt to prepare for the next hard market. Go to [www.BusinessInsurance.com/whitepapers](http://www.BusinessInsurance.com/whitepapers).

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## WORKERS COMPENSATION

# Calif. workers comp dispute-resolution bill vetoed

*Governor backs AIA stance; proponents cite split court rulings*

By **ROBERTO CENICEROS**

A California lawmaker said Gov. Arnold Schwarzenegger sided with insurers in vetoing legislation that would have required workers compensation insurers to submit dispute-resolution clauses to the state's insurance commissioner for approval.

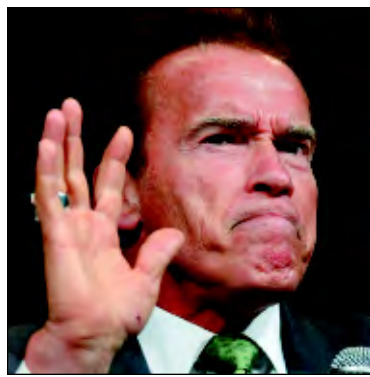
A.B. 2490 also would have required workers comp dispute-resolution clauses to specify that California law applies in coverage disagreements involving Califor-

nia employers.

The bill, sponsored by Assemblyman Dave Jones, D-Sacramento, additionally sought to mandate that policyholders and insurers with contracts containing such clauses, including arbitration language, settle any California disagreements in a venue within the state.

Employers and an attorney who brought the issue to Assemblyman Jones' attention said insurers regularly include dispute-resolution language in "side agreements," or insurance program agreements, that are delivered to policyholders only after a policy contract has been agreed upon.

In one case, a California employer "executed" an insurance program



AP PHOTO

**California Gov. Arnold Schwarzenegger has vetoed a bill affecting workers comp insurers.**

agreement nine months after a large-deductible policy became

effective, according to court records in *Ceradyne Inc. vs. Argonaut Insurance Co.* The agreement was retroactive to the policy's effective date and designated that New York would have exclusive jurisdiction over any arbitration dispute.

In an unpublished 2009 opinion, a California Court of Appeal upheld a lower court's denial of the insurer's request to compel arbitration in its dispute with Ceradyne.

The legislation is necessary because federal and state courts in California have split on whether workers comp policy arbitration clauses that have not been submitted to the insurance commissioner for approval are enforceable, said Nick Roxborough, a policyholder

attorney at Roxborough, Pomerance, Nye & Adreani L.L.P. in Los Angeles.

Mr. Roxborough is the attorney who brought the issue to the attention of Assemblyman Jones, a spokesman for the lawmaker said.

California law currently requires workers comp insurers to get the insurance commissioner's approval of their policy forms but does not specifically require that side agreements be part of the filing, according to an analysis of A.B. 2490 prepared for California's Assembly Committee on Insurance.

Under current circumstances, employers may not realize that their

See **CALIFORNIA** page 6

## RISK MANAGEMENT

## FERMA targets multinational compliance

By **SARAH VEYSEY**

**LONDON**—The Federation of European Risk Management Assns. wants to build an industrywide resource to alleviate risk manager concerns that their international insurance programs comply with national laws.

At FERMA's biennial seminar last month, the first time it was held in London, Chairman Peter den Dekker said FERMA would seek to find ways to build an industrywide body of knowledge on compliance issues such as tax laws, regulations and legal changes that can affect international insurance programs.

Trying to ensure that buyers'

international programs are compliant is a costly and time-consuming job for insurance companies, Mr. den Dekker said.

Many insurance buyers are concerned that their international programs may not always entirely comply with local laws, which often are complex and can change quickly, Mr. den Dekker said.

Even within Europe there are many nuances to local laws and taxes, said Régis Demoulin, chief commercial officer of AXA Corporate Solutions, a unit of Paris-based AXA S.A.

Insurance companies have spent, and continue to spend, millions on trying to ensure that global programs

are compliant, he said.

Mr. den Dekker said he hoped that all three parties in the insurance transaction—the buyer, broker and insurer—can work together to find an industry solution to the problem.

While there may be anti-competitive factors to consider, he said he is hopeful that pan-European talks on finding a solution to this issue are possible.

Other issues on FERMA's agenda include making broker remuneration transparent and eliminating conflicts of interest, said Mr. den Dekker.

FERMA's biennial survey of risk managers, released at the seminar, found that 55% of respondents said their broker was transparent about remuneration received, up from

See **FERMA** page 35



**FERMA's Peter den Dekker wants to build an industrywide resource of tax, regulatory and legal issues related to insurance.**

## HEALTH CARE REFORM

## HHS swiftly OKs waivers for 'mini-med' sponsors

By **JERRY GEISEL**

**WASHINGTON**—Government regulators are moving quickly to act on requests by sponsors of "mini-med" health care plans seeking waivers to allow them to temporarily continue offering the arrangements.

The Department of Health and Human Services has already granted to 30 mini-med plan sponsors one-year waivers from a provision in the health care reform law that first restricts and then bars health care plans from imposing annual dollar limits on coverage of essential services starting in 2014.

In nearly all cases, waiver applica-

tions have been approved within two weeks of their receipt. In some cases, HHS has approved waivers within days.

"HHS is committed to strengthening employer-based coverage for employees and retirees, while building a bridge to new competitive marketplaces in 2014," an HHS spokeswoman said.

The waiver affecting the largest group of enrollees was granted to the United Federation of Teachers Welfare Fund in New York, whose mini-med plan has 351,000 enrollees, according to its filing. Other mini-med plan waivers were approved for CIGNA Healthcare for

# 351,000

The waiver affecting the largest group of enrollees was granted to the United Federation of Teachers Welfare Fund in New York, whose mini-med plan has 351,000 enrollees

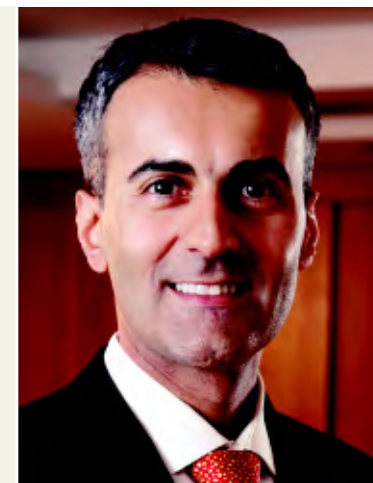
plans with 265,000 enrollees, Aetna Inc. for plans covering 209,423 enrollees and BCS Insurance Group for plans with 115,000 enrollees—including those provided to Oak Brook, Ill.-based fast-food restaurant chain McDonald's Corp.

The waivers are needed because most, if not all, mini-med plans run afoul of federal rules—mandated by

See **MINI-MED** page 6

## Questions Answers

*On Oct. 1, Aon Corp. completed its \$4.9 billion acquisition of Hewitt Associates Inc., by far Aon's biggest acquisition as well as the biggest deal ever involving a benefit consultant. Aon is integrating Hewitt and its Aon Consulting unit and has changed its name to Aon Hewitt Inc. The integration should take about a year to complete, said Baljit Dail, CEO of consulting at Aon Hewitt. In an interview with Business Insurance Editor-at-Large Jerry Geisel, Mr. Dail discussed the strategic rationale for the acquisition, the challenges ahead, and what the deal will mean to Aon and Hewitt clients.*



## Aon Hewitt's new path

**Q: Prior to acquiring Hewitt, Aon Consulting was a very large firm, generating more than \$1 billion in consulting revenues. Why, at this point, did you want to acquire Hewitt?**

We have always admired Hewitt. Their focus on clients and their focus on people is similar to ours. At some point late last year, it started to dawn on us that bringing these two firms together could really improve our client capabilities and create more opportunities for our colleagues and improve shareholder value. The thought process started to accelerate more and more to the point where we were convinced that strategically and financially the deal made a lot of sense.

**Q: Was there a gap in services that acquiring Hewitt will help fill?**

Hewitt has a much stronger benefits administration and outsourcing business. Those clearly are huge strengths. We focused much more on the middle market; Hewitt focuses on the large

market. So we are complementary in terms of our client base. We are much more global, while Hewitt has much more of a North American focus. When I think of the two firms combined, I think they are very complementary.

**Q: Will you will be closing offices because Aon and Hewitt both have offices in the same city?**

An Aon and Hewitt real estate group is going through the process and working with business unit leaders to make decisions where we should keep both offices, or move into one and the close the other, move to a different location. It is a complex process and we are going through that right now.

**Q: Combined, Aon Consulting and Hewitt Associates have about 29,000 employees. How, if at all, do you expect that number to change after the integration is complete?**

We are very much focused on

See **DAIL** page 35

## P/C INSURERS

# Treasury releases report on AIG, TARP

*Treasury says AIG's failure would have been 'catastrophic'*

By MARK A. HOFMANN

**WASHINGTON**—Allowing American International Group Inc. to go bankrupt as it faltered during September 2008 would have been “catastrophic” domestically and internationally, according to a report released last Tuesday by the U.S. Treasury Department.

The government's rescue of AIG is only one part of the report, “Troubled Asset Relief Program: Two Year Retrospective,” which also discussed TARP assistance to financial institutions and the automotive industry.

Federal assistance to AIG, for which the government ultimately held nearly 80% of the company, totaled more than \$180 billion, although the figure dropped to about \$101 billion by June 30 of this year.

Last week, AIG and the federal government announced they had reached an agreement to accelerate AIG's repayment of outstanding federal funds, including those provided by TARP (*BI*, Oct. 4).

The report notes that some observers have argued the insurance holding company should have been “left to fail and file for bankruptcy.”

Treasury counters that the size of AIG's balance sheet and the nature of its liabilities meant that bankruptcy “would have been catastrophic to global financial and



Treasury says AIG was one of the United States' largest life insurers, and that its failure would have threatened the savings of millions of people in the United States.

AP PHOTO

insurance markets.” Treasury says AIG was one of the United States' largest life insurers, and that its failure would have threatened the savings of millions of people in the United States. The report further notes that AIG provided financial protection to municipalities, pen-

sion funds and other entities.

“Doubts about the value of AIG life insurance products could have generated doubts about similar products provided by other life insurance companies, and opened an entirely new channel of contagion and panic,” said Treasury.

“While the decision to save AIG was not an easy one, it was a better choice for the American people than facing the catastrophic risks of letting it fail, given the state of the financial system at the time,” said Treasury.

The full report is available at <http://www.financialstability.gov>.

## CATASTROPHES



REUTERS/LANDOV

A worker cleans up the hazardous sludge in Devceser, Hungary, last week. Reports said pollution levels from the spill had decreased.

## Allianz leads cover in Hungary spill

**MUNICH**—Allianz S.E.'s Allianz Hungaria Biztosító Zrt. unit provided liability coverage for a Hungarian aluminum plant that spilled more than 184 million gallons of hazardous sludge that flooded three villages.

The spill from the Magyar Alumínium Zrt. aluminum plant at Ajka in western Hungary poured through several villages and threatened the Danube River.

The spill killed at least seven people. According to the Associated Press, the company said the sludge did not constitute hazardous waste under European Union rules.

An Allianz S.E. spokesman in Munich confirmed that the insurer's Hungarian unit provided liability coverage for the aluminum company, but he declined to provide further details.

—By Mark A. Hofmann

## WORKERS COMPENSATION

## No workers comp for murder victim's widow

By ROBERTO CENICEROS

**NASHVILLE, Tenn.**—The widow of a worker whose murder on his employer's premises remains a mystery is not entitled to workers compensation death benefits, Tennessee's Supreme Court ruled last week.

The ruling in *Ana R. Padilla vs. Twin City Fire Insurance Co.* stems from the July 13, 2007, death of Jose Sanchez, a mill worker who generally began work each day long before other workers arrived at Xelica L.L.C. in Nashville, Tenn., court records state.

The owner of the business found Mr. Sanchez that day shot to death. But with few clues, the unsolved murder eventually was turned over

to a police department's homicide cold-case unit.

Ms. Padilla sued for death benefits for herself and her daughter, presenting evidence that the shop was in a high-crime area. She argued

READ documents from this case and other public documents at [www.BusinessInsurance.com](http://www.BusinessInsurance.com)

that that the only reasonable conclusion is that Mr. Sanchez was killed during a burglary and the assault was therefore connected to his job, court records show.

But a trial court concluded that there was not enough evidence to establish that burglary was a motive for the murder as nothing was taken from the premises and

there was no sign of a forced entry. The court also concluded that there was no evidence the murder was related to Mr. Sanchez's private life.

It therefore concluded the murder resulted from a “neutral assault.” The court also declined to apply Tennessee's “street risk” doctrine, because the employer's premises were not open to the public.

The street risk doctrine applies in cases where an employer exposes a worker to street hazards that could cause an injury, court records state.

The trial court dismissed Ms. Padilla's complaint, and a Special Workers' Compensation Appeals Panel affirmed the trial court's dismissal.

The Supreme Court then agreed with the panel's finding.

## HEALTH CARE REFORM

## Reform law triggers changes for retirees at 3M Co.

By JOANNE WOJCIK

**ST. PAUL, Minn.**—3M Co. is changing the way it provides health care benefits to retirees in response to the enactment of federal health care reform law, which has enhanced Medicare Part D drug coverage and will make individual coverage more readily available.

The St. Paul, Minn.-based manufacturer announced the changes to employees this month, though they will not take effect until 2013 for Medicare-eligible retirees and 2015 for non-Medicare-eligible retirees.

The company also maintained that it will continue its tradition of providing retirees with “a valuable retiree medical benefit.”

“The difference is, retirees will use a 3M-provided account to help purchase an individual plan in the individual insurance marketplace, instead of a 3M retiree medical plan with a traditional coinsurance design,” the company explained in a memo to employees.

3M noted that “the significant changes to the individual insurance



AP PHOTO

St. Paul, Minn.-based 3M Co. is changing the way it provides health care benefits to retirees.

See 3M page 34

Where there's a risk

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## California: Governor vetoes workers comp legislation

CONTINUED FROM PAGE 3

contracts contain arbitration provisions limiting their due process rights, said Michael Tichon, general counsel for Pacific Hospital of Long Beach, who supported the legislation.

"The arbitration provisions in the contracts are something an employer needs to look at because there is certainly no due process in those provisions," Mr. Tichon said.

While the legislation did not specifically say it applied only to large-deductible policies, most related disputes involved large-deductible policies.

The Washington-based American Insurance Assn. asked Gov.

**'The arbitration provisions in the contracts are something an employer needs to look at because there is certainly no due process in those provisions.'**

Michael Tichon,  
Pacific Hospital of Long Beach

Schwarzenegger to veto the bill, arguing that the legislation would needlessly interfere with the ability of employers and insurers to negotiate large-deductible contracts.

In a Sept. 30 veto message, the governor agreed with the AIA's position.

The bill is unnecessary because there is no evidence a problem exists and it could reduce "the competitive market for workers compensation California now enjoys," the governor said. "The high-deductible contract negotiations the bill seeks to impact are conducted by sophisticated participants on both sides of the table that are well-versed in all aspects of workers compensation and other insurance products."

Supporters of the bill and the bill's author disagreed.

"California businesses should not be dragged to far-off states like New York to resolve disputes with their workers compensation insurer," Assemblyman Jones said in a statement. "The governor had a chance to protect California businesses and provide for these disputes to be resolved in California. Instead, he sided with out-of-state insurers and against California businesses."

## Mini-med: HHS acts quickly on waivers

CONTINUED FROM PAGE 3

the health care reform law—that set a minimum annual dollar limit on essential benefits that health care plans must provide in 2011, 2012 and 2013. The minimum limit is \$750,000 in 2011, \$1.25 million in 2012 and \$2 million in 2013.

Starting in 2014, the law bars annual limits for essential benefits.

The minimum limits, though, are far more than the maximum benefits provided through mini-med plans, which typically are offered to low-wage, part-time or seasonal employees who, in many cases,

could not afford coverage in other group plans offered to full-time employees.

According to a survey by consultant Mercer L.L.C. in New York, the median annual maximum benefit provided by sponsors of mini-med plans with at least 20,000 employees was \$10,000 in 2009.

Seven percent of employers with at least 500 employees offer mini-med plans, according to Mercer.

Under the health care reform law, low-wage employees might qualify for government-subsidized coverage that will be available from insurers offering coverage through new state

insurance exchanges starting in 2014, reducing the need for mini-med plans.

Until then, mini-med plan providers can obtain waivers from the required minimum annual benefit in situations where meeting those requirements would result in a significant decrease in access to benefits or significantly increase premiums, HHS said last month.

It isn't known how many other waiver requests from mini-med plan providers are pending.

The complete list of waivers is available at <http://www.hhs.gov/ocio/regulations/patient/appapps.html>.

## Commentary

# From ergonomics to sarcasm, Oct. is packed



**ROBERTO CENICERROS**

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With October packed full of too many causes to observe, employers may want to ignore National Stamp Collecting Month and pay particular attention to National Ergonomics Month.

I say this without sarcasm, although October is also Sarcas-tics Awareness Month. It's Vegetarian Awareness Month, Clergy Appreciation Month and Adopt-a-Dog Month, which I did in September, a week early.

There also are illnesses to consider in October, including AIDS Awareness Month and Breast Cancer Awareness Month. Gays & Lesbians want their history recognized in October just like Hispanics want their heritage considered, while Roller Skating Month also is vying for attention.

The list is long as many organizations seek recognition during the fall.

Ignoring these pronouncements is generally all too easy. But a news release from the American Society of Safety Engineers convinced me that perhaps I should encourage employers to get behind National Ergonomics Month.

The release points out that workplace musculoskeletal disorders pose direct and indirect costs for employers. A 2005 Bureau of Labor Statistics report found that sprain and strain injuries accounted for more than 75% of MSD cases that caused missed workdays.

While that may be the latest data available, the trend is not likely to change when more recent years' data becomes available, according to the ASSE.

"MSDs are a growing concern in all industries from office work to shipyards, from restaurants to hospitals; and are increasingly on OSHA's radar scope," ASSE's Ergonomics Branch Chair Jeremy Chingo-Harris said in the statement.

So National Ergonomics Month may be as easy to blow off as celebrations of pretzels or country ham, which also claim October.

But OSHA's leadership doesn't seem inclined to let employers forget that musculoskeletal disorders plague a lot of workers and protecting employees from work-related repetitive stress falls on employers' shoulders.

"OSHA has recently brought added attention to occupational ergonomics by proposing the addition of a new column on the OSHA 300 log for tracking work-related MSDs," according to the ASSE. "Current OSHA regulations do not have a specific standard addressing ergonomics, but

(OSHA) maintains the ability to cite a company for poor ergonomics under the general duty clause."

OSHA's heightened interest in protecting workers from MSDs should encourage employers that haven't done so to consider ergonomic practices that alleviate MSD risks. Those include work requiring repetitive motions, frequent heavy lifting and prolonged awkward pos-

**National Ergonomics Month may be as easy to blow off as celebrations of pretzels or country ham, which also claim October.**

tures among other risk factors that tend to cause back, arm, wrist and neck injuries.

Good ergonomic designs can improve productivity and increase worker satisfaction as well as avoid injuries, according to the ASSE.

"Companies need to start asking if they can afford the cost of not incorporating ergonomic practices into their operations," Mr. Chingo-Harris added.

They need to get fired up about ergonomics. After all October is Fired Up Month, whatever that is.

In addition to OSHA's increased interest in ergonomic practices, National Ergonomics Month may be a good time for employers to establish an appropriate safety program. They can make an event out of it, which lets their employees know they care and can boost morale.

But some employers are never going to pay attention to worker safety. Perhaps when the OSHA inspector comes around, they can say they were distracted preparing for a celebration in November when it is Peanut Butter Lover's Month.

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# Business Insurance OPINIONS

## Will Switzerland be the next Bermuda?

IS BERMUDA'S HEYDAY OVER?

That is the question one might ask as the trickle of insurers and reinsurers redomesticating from Bermuda to Switzerland develops into a steady flow.

In September, Allied World Assurance Co. Holdings Ltd. said it would move its corporate headquarters to Switzerland nearly 10 years after the insurer and reinsurer launched in Bermuda. Those already making the move include Amlin P.L.C., now Amlin A.G., and ACE Ltd., while Flagstone Reinsurance Holdings S.A., which redomesticated to Luxembourg, has merged its Bermudian and Swiss operating units into one Swiss-based company. More moves are expected, and the trend has sparked debate as to whether Bermuda might be losing its appeal as an insurance hub.

Switzerland's appeal is understandable. Bermuda has come under U.S. scrutiny among "tax havens" on which President Barack Obama called for a crackdown. Some Bermuda reinsurers see

Europe as potentially offering a more sophisticated regulatory environment based on Solvency II. Certainly, one cannot fault companies for making a move that is best for them. And it is not as if the streets of Hamilton are deserted. Many insurers and reinsurers remain, and even those that are moving their headquarters are largely leaving their Bermuda operations intact, at least for now.

Regardless of where companies are headquartered, it should not have a direct, immediate effect on the risk managers with whom they do business.

Still, one cannot but wonder if the days when Bermuda was a hotbed of industry innovation are over. Does the creative fervor that developed a nurturing environment for industry pioneers such as Centre Reinsurance Holdings Ltd. exist in Switzerland? With companies leaving, does Bermuda still have the same nimbleness that led to the quick setup of catastrophe reinsurers after the 2005 hurricane season? We can only wait and see.

## Risk managers can help DHS keep country safe

NEITHER THE PUBLIC nor the private sector holds a monopoly on wisdom when it comes to risk management. That's why we're quite pleased to see the federal government tapping the expertise available in the private sector and other levels of government as it attempts to enhance its own risk management capabilities.

As we report on page 1, the Department of Homeland Security recently conducted a study of risk management practices of other organizations to bolster its own program.

DHS intends to continue enhancing its risk management practices and expand its partnerships with public and private risk management practitioners.

Even though risk management at a federal department certainly doesn't mean exactly the same thing as it does at a manufacturer or municipal government, risk management processes—especially the evolving discipline of enterprise risk management—can be applied to all types of entities. That's what DHS and other federal agencies are doing.

Analyzing and managing risk is essential to the success of any enterprise. By seeking risk management wisdom beyond the corridors of government, DHS and other agencies are helping assure the continued success of the greatest political enterprise of all.

*One cannot but wonder if the days when Bermuda was a hotbed of industry innovation are over.*



### WRITE

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

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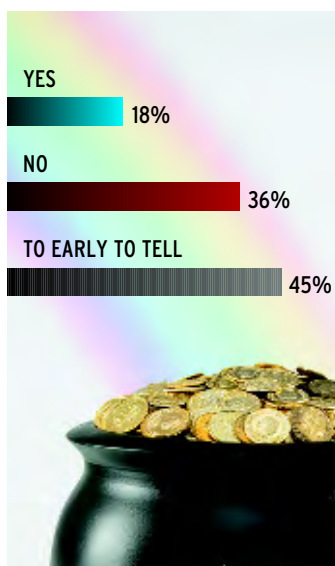
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#### THIS WEEK'S RESULTS

Q Will U.S. taxpayers make a good return on the  
AIG bailout?



#### NEXT WEEK'S QUESTION

Q: Is your organization discouraging travel to Europe due to terrorism risk?

### READ

Perspectives and expert analysis online at  
[www.businessinsurance.com/section/perspectives](http://www.businessinsurance.com/section/perspectives)

## Keep interests in mind in court

When a policyholder seeks defense coverage from an insurer, the insurer may reserve its rights to recoup the costs if it's determined the policy does not cover the claim. Given differing court rulings, both sides should protect their interests, say William J. Carter, Mariana D. Bravo and Matthew D. Berkowitz of law firm Carr Maloney P.C.

in Washington. These steps may decide an insurer's ability to recoup uncovered defense costs or a policyholder's ability to receive defense coverage.



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## Products & Services

### Hartford offers E&O to home inspectors

**HARTFORD, Conn.**—Hartford Financial Products has introduced a professional liability program for residential home inspectors.

The coverage aims to mitigate exposures faced by home inspectors as home buyers rely heavily on their expertise in purchasing property, the Hartford, Conn.-based profes-

sional and management liability unit of Hartford Financial Services Group Inc. said in a statement.

The Home Inspectors Errors and Omissions Liability program is offered as a stand-alone policy and can be tailored to the individual residential home inspector needs.

It is designed for firms with up to five inspectors and includes coverage on an admitted basis. It also offers optional radon gas, termite and premises liability and defense coverage for disciplinary proceedings, among others.

The program is administered exclusively through Exton, Pa.-based Elite MGA L.L.C.

For more information, contact John Cheffer, Hartford professional liability underwriting specialist, at

860-843-5514 or [john.cheffer@thehartford.com](mailto:john.cheffer@thehartford.com).

### Marsh policy covers precious, base metals

**LONDON**—Marsh Ltd. has developed a precious and base metals insurance policy that provides up to \$1 billion of coverage.

The policy aims to mitigate risks for firms that trade, store and transport precious and base metals and may be underinsured, the London-based unit of Marsh & McLennan Cos. Inc. said in a statement.

The program was designed for financial institutions, metals and mining companies, metal traders, refineries, transporters and storage companies. It covers "all risks of

physical loss or damage," including theft, political risks, and advanced loss-of-profit protection, Marsh said.

For more information, contact Philip Turner, head of Marsh's specie practice in London, at 44-207-357-3974 or [Philip.Turner@marsh.com](mailto:Philip.Turner@marsh.com).

### Mutual of Omaha updates enrollment system

**OMAHA, Neb.**—Mutual of Omaha Insurance Co. has launched an updated online voluntary enrollment system for employers.

The online service complements Mutual of Omaha's existing enrollment methods by providing employees personalized, "needs-based communications" regarding

their employers' benefits offerings, the Omaha, Neb.-based insurer said in a statement.

The system's features include personalized enrollment materials in one place, options for tracking and reporting for employers, and flexibility in coordinating benefit enrollment with plan enrollment periods.

For more information, contact Marty Traynor, vp of voluntary benefits for Mutual of Omaha, at 402-351-2839 or [marty.traynor@mutualofomaha.com](mailto:marty.traynor@mutualofomaha.com).

### Philadelphia covers film production risks

**BALA CYNWYD, Pa.**—Philadelphia Insurance Cos. has introduced insurance coverage for the film production industry.

The coverage is part of the insurer's entertainment products designed for film producers and companies including documentaries, industrial films, commercials and educational films in addition to film schools, Bala Cynwyd, Pa.-based Philadelphia Insurance said in a statement.

The program addresses exposures in the film industry such as faulty film and third-party property damage, among others. The policy includes general liability with abuse and molestation, inland marine, property, auto and excess liability for film production companies with costs of \$1 million or less per production.

For more information, contact Donna Mescall, underwriting manager for Philadelphia Insurance, at 610-538-2187 or [dmescall@phlyins.com](mailto:dmescall@phlyins.com).

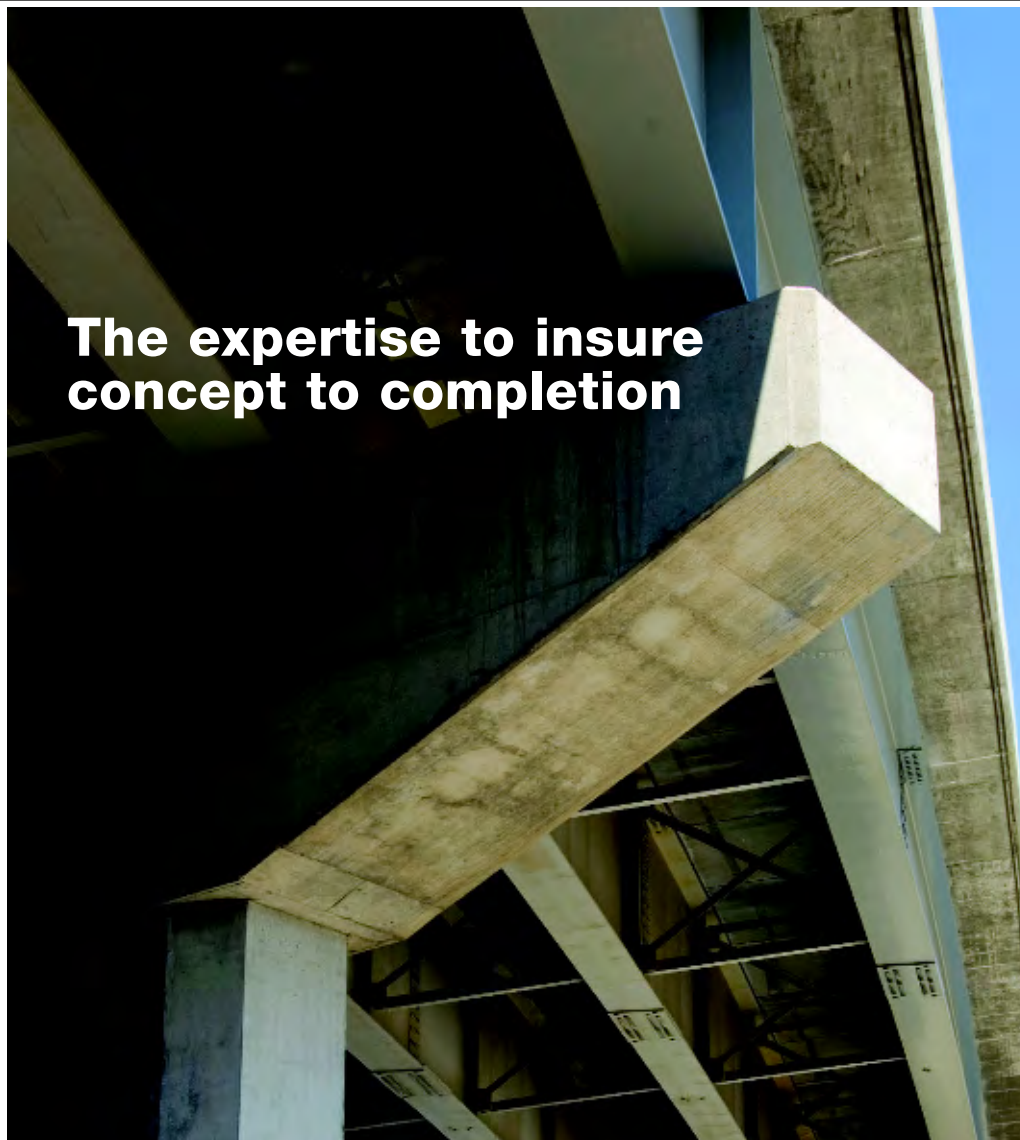
### OneBeacon offers legal services

**FARMINGTON, Conn.**—OneBeacon Professional Insurance is offering a defense attorney to provide risk management services to its managed care policyholders.

The services will be provided by the Hollywood, Fla.-based Law Offices of Steven M. Ziegler P.A., the Farmington, Conn.-based unit of OneBeacon Insurance Group Ltd. said in a statement.

The service includes an online portal with risk management tools available, which is managed by the law firm, which also provides contract, policy and procedure reviews, seminars and access to the firm's resources during a crisis.

For more information, contact Susan Angelo, senior vp of OneBeacon Professional Insurance's managed care division, at 617-725-6201 or [SAngelo@OneBeaconPro.com](mailto:SAngelo@OneBeaconPro.com).



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

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## Surplus Lines

## SPOTLIGHT

'I think there is  
always opportunity  
in this marketplace.'

James Drinkwater, AmWINS Group Inc.

## Surplus lines market seeks silver lining

*Some find opportunity despite soft rates, weak economy, competition*

By KRISTIN GUNDERSON HUNT

While surplus lines insurers see little change for the market during the next 12 months as rates remain soft and the economy remains weak, there are some areas where they expect to see some growth.

Surplus lines insurers continue to provide valuable capacity in the property catastrophe market, and increased medical malpractice liabilities arising out of the health care reform law may also require capacity from the non-admitted market, they say.

For the most part, though, sur-

plus lines insurers foresee little change.

"I see more of the same," said John Edack, senior executive vp and chief regional officer of Arch Insurance Group Inc. in San Francisco. "I really don't see any significant change into 2011."

Premiums collected by surplus lines insurers fell for the third consecutive year, according to an A.M. Best Co. Inc. special report last month. Direct written surplus lines premiums totaled \$32.95 billion in 2009, a 4.1% decline from the previous year and the least premiums written since 2003, according to Best data.

"The lines of business that have historically been placed in the (excess and surplus lines) market have become more attractive to standard markets and, as such,

we're seeing a lot of competition from the standard market in areas we haven't seen in the past," said James Drinkwater, president of the brokerage division of AmWINS Group Inc. in New York.

Competition has increased for business in the life science, transportation, property catastrophe, health care products liability and construction industries, Mr. Drinkwater said. But competition breeds innovation, and surplus lines insurers are finding ways to offer new products and distinguish their companies in order to attract and retain business, he said.

"I think there is always opportunity in this marketplace," Mr. Drinkwater said. "Diversification is important."

Experts said they see the most opportunities for the surplus lines

market in property and health care.

Peter Eastwood, Boston-based president and CEO of Lexington Insurance Co., a unit of Chartis Inc., said even though the property/casualty part of the E&S market has declined for three years, it remains a critical part of the business.

"It's been a very event-driven decade and many of those events have been natural catastrophes," Mr. Eastwood said. "Property catastrophe is still a line of business where the surplus lines market continues to provide meaningful capacity."

In addition, the constitutionality of health care tort reform, which has imposed caps on noneconomic damages in many states, has been challenged throughout the country,

See **SURPLUS LINES** next page

STAMPING OFFICE  
PREMIUMS FALL 11.1%  
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### BI RANKINGS

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LARGEST WHOLESALE  
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LARGEST MGAs/  
UNDERWRITING MANAGERS  
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SURPLUS LINES PREMIUMS  
AND TAXES BY STATE  
PAGE 22

## Surplus lines: Finding opportunities despite soft rates

CONTINUED FROM NEXT PAGE

opening the door for practitioners to be underinsured if the caps are overturned, expert said.

Mr. Edack said he expects to see surplus lines market growth in miscellaneous health care facilities—such as surgery centers or health spas—as an improving economy, an aging U.S. population and health care reform spur more people to use health care services.

“To meet these demands, new innovative methods of delivering outpatient services will be needed,” he said. “These are usually based on the need to increase efficiency.”

He said he also expects increasing demand for physicians’ assistants or nurse practitioners to manage more people using health care services.

“The health care distribution system in the U.S. will be stretched, and it will require new delivery methods to respond to patients’ needs,” Mr. Edack said, which likely will increase demand for E&S cover.

All these circumstances entail risks that then may set up opportunities for insurers, particularly in the surplus lines market, experts said. Capitalizing on such opportunities requires keeping an eye on societal trends, Mr. Eastwood said.

He said the green movement and

the financial crisis are examples of timely events that have prompted action on behalf of surplus lines insurers. He said the green movement has launched coverage for carbon credits and green building risks. The financial meltdown has provoked coverage for distressed assets, he said.

“It’s about finding societal trends that are taking place that can give you growth you might not otherwise get,” Mr. Eastwood said.

Ultimately, though, the market is unpredictable, Arch Insurance’s Mr. Edack said. “Our crystal ball is not clear enough to predict which major or sublines of business might

see an increase in exposure, rate and premium,” he said.

Also unclear is how much the E&S market will be affected by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which was signed into law in July and includes the Nonadmitted and Reinsurance Reform Act.

NRRA is intended to streamline the regulation of surplus lines by making the insured’s home state the only state where brokers must pay taxes on multistate surplus lines deals. Currently, brokers allocate and pay taxes to each state.

What is unclear is how the states that are not the home state in a

multistate transaction will receive their share of tax revenue, which often generates income for states supporting a surplus lines market.

“The states are scrambling,” said Phil Ballinger, executive director of the Austin-based Surplus Lines Stamping Office of Texas. “Their most immediate concern is to try to get an agreement in place that will permit them to get their allocated taxes back.”

The states have until July 2011 to develop an interstate compact—a contract between two or more states facilitating an agreement on the tax allocation issue (see story, page 28).

“If the states don’t come to some sort of agreement, those that don’t—under federal law—might not be entitled to their fair share of taxes,” said Fred Heese, chief financial examiner of the Missouri Department of Insurance in Kansas City, Mo.

Reaching an agreement by the deadline could prove challenging, though, Mr. Ballinger said. Not only do the various states and entities involved have to reach agreement, each state legislature has to pass leg-

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To learn more about Swiss Re’s E&S solutions or to schedule a meeting at the 2010 NAPSLO Annual Convention, please visit [www.swissre.com/NAPSLO](http://www.swissre.com/NAPSLO).

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**‘We want a system that is efficient for brokers, but also one where the states will receive their proper amount of tax on the risk exposure in their states.’**

Dan Maher,  
Excess Line Assn. of New York

islation approving the compact.

The Excess Line Assn. of New York, National Assn. of Professional Surplus Lines Offices Ltd., state stamping offices and other organizations have proposed the Surplus Lines Insurance Multistate Comprehensive Compact. Mr. Heese said SLIMPACT is the most likely candidate for adoption because it is well-developed and timing is key.

SLIMPACT would create a one-stop shopping clearinghouse, with a small physical staff and an online component, where surplus lines brokers could calculate and allocate taxes for each state, according to NAPSLO. Each state in which an entity does business would receive data and taxes even if the policyholder’s home state is elsewhere.

“We want a system that is efficient for brokers, but also one where the states will receive their proper amount of tax on the risk exposure in their states,” said Dan Maher, executive director of ELANY.

If the states can come to an agreement, experts said NRRA ultimately will benefit the surplus lines market by generating business and growth—just like developing new products and expanding their lines of business.

“It’s a customer-friendly act that will allow customers and a larger prospect base to more easily access the surplus lines market,” Lexington’s Mr. Eastwood said. “It should result in growth of the surplus lines market industry.”

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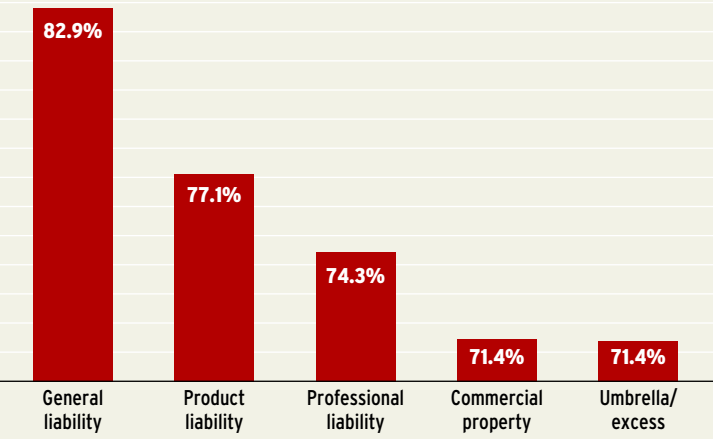
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**MOST COMMON CLASSES OF BUSINESS PROVIDED**

Percentage of surplus lines insurers providing coverage



Source: BI survey

**OVER AND UNDER**

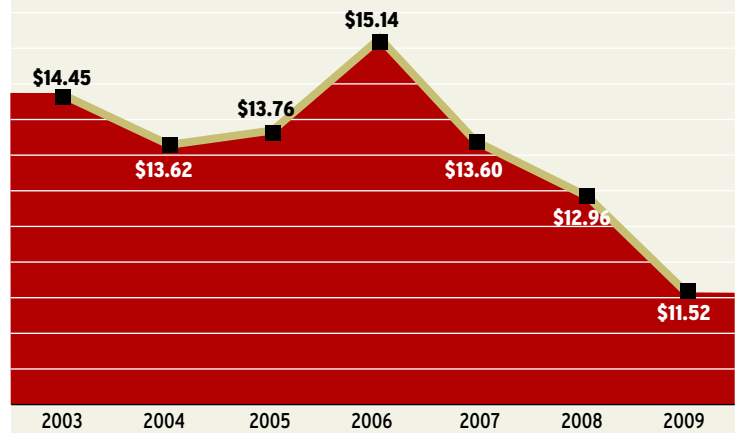
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Landmark American Insurance Co.	61.6%
American Empire Surplus Lines Insurance Co.	64.1%
Westchester Surplus Lines Insurance Co.	70.0%
RSUI Indemnity Co.	71.0%
Mt. Hawley Insurance Co.	73.5%
HIGHEST	
General Star Indemnity Co.	145.3%
Chartis Specialty Insurance Co.	118.7%
Penn-American Group Inc.	114.9%
AEGIS Insurance Services Inc.	111.7%
Western World Insurance Co.	105.1%

Source: BI survey

**PREMIUM GROWTH HAS DECLINED FOR THREE YEARS**

Nonadmitted direct written premiums by the top 10 surplus lines insurers, in billions of dollars



Source: BI survey

# Largest U.S.-based surplus lines insurers

Ranked by 2009 nonadmitted direct written premiums

Rank	Company/Address	Parent	Phone/website	2009 direct written premiums	% change	2009 gross premiums	% change	2009 net written volume	2009 net income (loss)	Principal officer
1	Lexington Insurance Co. <sup>1</sup> 100 Summer St., Boston, Mass. 02110	Chartis Insurance Holdings Inc.	617-330-1100 <a href="http://www.lexingtoninsurance.com">www.lexingtoninsurance.com</a>	\$5,401,943,496	-10.2%	\$6,211,053,675	-12.3%	\$3,082,902,296	\$629,642,038	Peter Eastwood, president/CEO
2	Steadfast Insurance Co. <sup>1</sup> 1400 American Lane, Schaumburg, Ill. 60196-1056	Zurich Financial Services Group	847-605-6000 <a href="http://www.zurichna.com">www.zurichna.com</a>	\$1,111,044,133	-7.1%	\$1,301,505,450	-8.1%	N/A	\$32,746,752	Nancy D. Mueller, president
3	Scottsdale Insurance Co. <sup>1</sup> 8877 N. Gainey Center Drive, Scottsdale, Ariz. 85258-2108	Nationwide Mutual Insurance Co.	480-365-4000 <a href="http://www.scottsdaleins.com">www.scottsdaleins.com</a>	\$1,030,448,496	-4.1%	\$2,445,050,759	-2.5%	\$583,689,219	\$27,792,493	Michael D. Miller, president/COO
4	Chartis Specialty Insurance Co. <sup>1,2</sup> 175 Water St., 18th Floor, New York, N.Y. 10038	Chartis Insurance Holdings Inc.	212-770-7000 <a href="http://www.chartisinsurance.com">www.chartisinsurance.com</a>	\$788,283,305	-34.3%	\$787,430,834	-33.7%	\$125,850,994	\$27,393,292	David N. Fields, president
5	Columbia Casualty Co. CNA Center, 333 S. Wabash, Chicago, Ill. 60604	CNA Financial Corp.	312-822-5000 <a href="http://www.cna.com">www.cna.com</a>	\$733,206,970	-0.6%	\$733,458,041	-0.7%	N/A	\$3,355,427	Thomas F. Motamed, chairman/CEO
6	Landmark American Insurance Co. 945 E. Paces Ferry Road, Suite 1800, Atlanta, Ga. 30326-1160	Alleghany Corp.	404-231-2366 <a href="http://www.rsui.com">www.rsui.com</a>	\$570,978,740	-2.9%	\$580,677,339	-2.5%	\$51,113,803	\$17,020,546	E.G. Lassiter, chairman/CEO
7	Evanston Insurance Co. 10 Parkway N., Deerfield, Ill. 60015	Markel Corp.	847-572-6000 <a href="http://www.markelcorp.com">www.markelcorp.com</a>	\$522,149,261	-15.2%	\$691,386,679	-13.8%	\$509,647,733	\$53,634,346	Gerry Albanese, president
8	Illinois Union Insurance Co. 436 Walnut St., Philadelphia, Pa. 19106	ACE Ltd.	215-640-1000 <a href="http://www.aceusa.com">www.aceusa.com</a>	\$457,403,299	-15.9%	\$458,468,562	-16.0%	N/A	\$7,896,389	John J. Lupica, president
9	Westchester Surplus Lines Insurance Co. 436 Walnut St., Philadelphia, Pa. 19106	ACE Ltd.	215-640-1000 <a href="http://www.aceusa.com">www.aceusa.com</a>	\$456,130,444	-11.9%	\$463,004,925	-11.5%	\$26,017,123	\$11,804,521	John J. Lupica, president
10	Arch Specialty Insurance Co. 300 Plaza Three, Jersey City, N.J. 07311	Arch Capital Group Ltd.	201-743-4000 <a href="http://www.archinsurance.com">www.archinsurance.com</a>	\$444,208,876	-5.5%	\$458,816,897	-7.2%	(\$22,999)	\$12,390,434	Mark D. Lyons, chairman/CEO

<sup>1</sup> Figures reported on pooling basis. <sup>2</sup> Formerly American International Specialty Lines Insurance Co. N/A=Not applicable

Source: BI survey

Researched by Kevin Edison

Visit [www.businessinsurance.com/directories](http://www.businessinsurance.com/directories) for more information and to access the full searchable Directory of Surplus Lines Insurers. Business Insurance now offers the option to purchase the entire online directory as an Excel file or as a PDF.



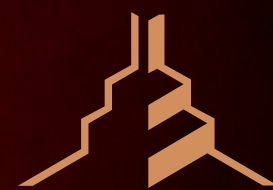
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**LARGEST WHOLESALE BROKERS**

Ranked by 2009 wholesale premium volume including employee benefits and property/casualty

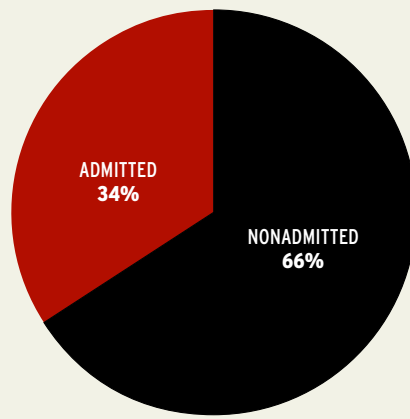
COMPANY	TOTAL PREMIUM VOLUME
Crump Group Inc.	\$5,367,016,578
AmWINS Group Inc. <sup>1</sup>	\$5,021,989,431
CRC Insurance Services Inc.	\$2,927,759,007
Swett & Crawford Group Inc. <sup>2</sup>	\$2,287,000,000
All Risks Ltd.	\$655,000,000
ARC Excess & Surplus L.L.C.	\$505,000,000
Westrope	\$366,515,200
U.S. Risk Insurance Group Inc.	\$325,000,000
Partners Specialty Group L.L.C.	\$317,000,000
Gresham & Associates Inc.	\$279,509,173

<sup>1</sup> AmWINS Group Inc. and Colemont Insurance Brokers merged into a combined entity in April 2010. <sup>2</sup> 2009 revenues are pro forma including Cooper Gay Risk Services Inc. and Swett & Crawford Group Inc., which merged in July 2010.

Source: BI survey

**MIX OF BUSINESS: ADMITTED VS. NONADMITTED**

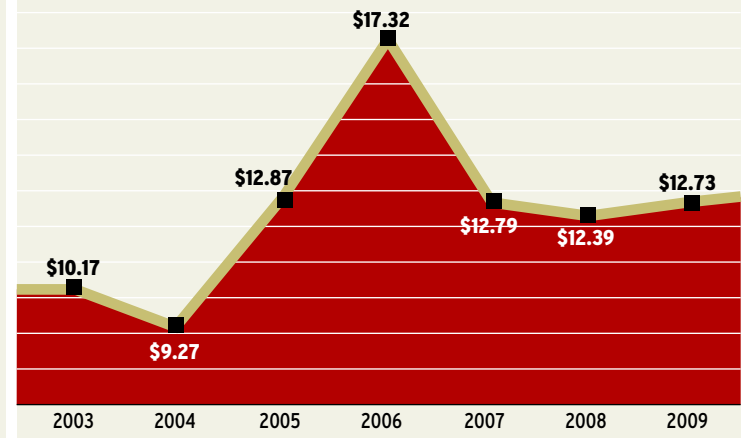
Business performed by all wholesale brokers



Source: BI survey

**PREMIUM GROWTH**

Written premiums by the top 10 wholesale brokers, in billions of dollars



Source: BI survey

# Largest insurance wholesalers

Ranked by 2009 wholesale premium volume from property/casualty placements\*

Rank	Company/Address	Phone/ Web site	2009 premium volume	% change	2009 gross revenues	% change	Surplus lines	Underwriting manager	Wholesale broker	Managing general agent	Lloyd's of London coverholder	Employees	Principal officer
<b>1</b>	<b>AmWINS Group Inc.<sup>1</sup></b> 4725 Piedmont Row Drive, Suite 600, Charlotte, N.C. 28210	704-749-2700 <a href="http://www.amwins.com">www.amwins.com</a>	\$3,720,202,294	68.3%	\$360,624,687	47.4%	61.0%	0.0	81.3%	14.5%	4.2%	1,826	M. Steven DeCarlo, CEO
<b>2</b>	<b>CRC Insurance Services Inc.</b> 1 Metroplex Drive, Suite 400, Birmingham, Ala. 35209	205-870-7790 <a href="http://www.crcins.com">www.crcins.com</a>	\$2,927,759,007	1.3%	\$304,201,948	2.9%	80.0%	17.0%	69.0%	14.0%	0.0	1,128	Thomas J. Curtin, co-chairman/CEO
<b>3</b>	<b>Swett &amp; Crawford Group Inc.<sup>2</sup></b> 3715 Northside Parkway N.W., Building 200, Suite 800, Atlanta, Ga. 30327	404-240-5200 <a href="http://www.swett.com">www.swett.com</a>	\$2,287,000,000	-3.8%	\$188,999,999	-4.7%	N/A	N/A	N/A	N/A	N/A	896	Neal Abernathy, CEO
<b>4</b>	<b>Crump Group Inc.</b> 105 Eisenhower Parkway, Roseland, N.J. 07068	973-285-0300 <a href="http://www.crump.com">www.crump.com</a>	\$1,344,173,000	-8.6%	\$395,000,000	-6.0%	12.0%	0.0	92.0%	7.0%	1.0%	2,727	John Howard, CEO
<b>5</b>	<b>All Risks Ltd.</b> 10150 York Road, Fifth Floor, Hunt Valley, Md. 21030	800-366-5810 <a href="http://www.allrisks.com">www.allrisks.com</a>	\$655,000,000	-7.9%	\$65,000,000	-5.1%	67.0%	5.0%	55.0%	35.0%	5.0%	441	Nicholas Cortezi, CEO
<b>6</b>	<b>ARC Excess &amp; Surplus L.L.C.</b> 1122 Franklin Ave., P.O. Box 9240, Garden City, N.Y. 11530	516-747-4100 <a href="http://www.arcbrokers.com">www.arcbrokers.com</a>	\$505,000,000	-6.8%	\$44,000,000	4.8%	20.0%	5.0%	95.0%	0.0	0.0	127	Christopher J. Cavallaro, managing director
<b>7</b>	<b>Westrope</b> 801 W. 47th St., Suite 500, Kansas City, Mo. 64112	816-842-8222 <a href="http://www.westrope.com">www.westrope.com</a>	\$366,515,200	2.4%	\$28,037,000	3.4%	54.0%	0.0	93.0%	6.0%	1.0%	146	Kevin T. Westrope, president/CEO
<b>8</b>	<b>U.S. Risk Insurance Group Inc.</b> 10210 N. Central Expressway, Suite 500, Dallas, Texas 75231	800-232-5830 <a href="http://www.usrisk.com">www.usrisk.com</a>	\$325,000,000	-20.9%	\$58,500,000	-14.6%	95.0%	15.0%	52.0%	16.0%	1.7%	434	Randall G. Goss, chairman/CEO
<b>9</b>	<b>Partners Specialty Group L.L.C.</b> 100 Tournament Drive, Suite 214, Horsham, Pa. 19044	484-322-0400 <a href="http://www.psgins.com">www.psgins.com</a>	\$317,000,000	-5.8%	\$25,887,000	-5.4%	64.0%	0.0	97.0%	2.0%	10.0%	156	Maureen C. Caviston, president
<b>10</b>	<b>Gresham &amp; Associates Inc.</b> 1 Gresham Landing, P.O. Box 927, Stockbridge, Ga. 30281	770-389-1600 <a href="http://www.gresham-inc.com">www.gresham-inc.com</a>	\$279,509,173	-9.3%	\$33,534,450	-4.4%	50.0%	0.0	60.0%	40.0%	0.0	224	James V. Gresham, chairman/CEO

\* Companies deriving more than 50% of their premium volume from wholesale brokerage. Excludes brokerages that do not break out wholesale premium volume. <sup>1</sup> AmWINS Group Inc. and Colemont Insurance Brokers merged into a combined entity in April 2010. <sup>2</sup> 2009 revenues are pro forma including Cooper Gay Risk Services Inc. and Swett & Crawford Group Inc., which merged in July 2010. N/A=Not available.

Source: BI survey  
Researched by Karen Tucker

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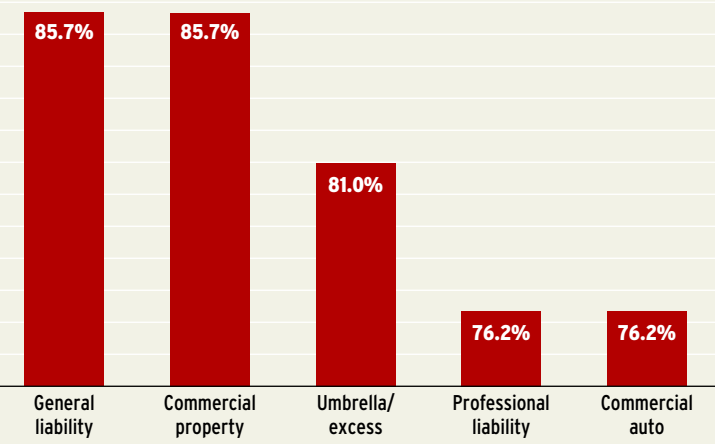
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is*

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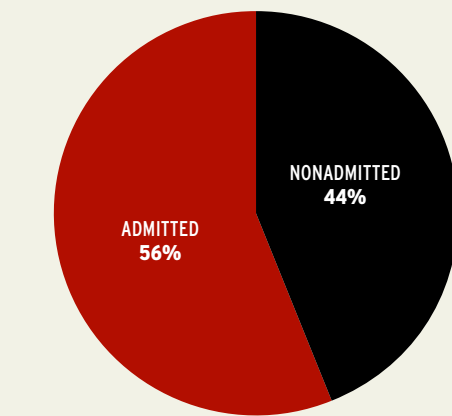
Percentage of MGA/underwriting managers providing coverage



Source: BI survey

**MIX OF BUSINESS: ADMITTED VS. NONADMITTED**

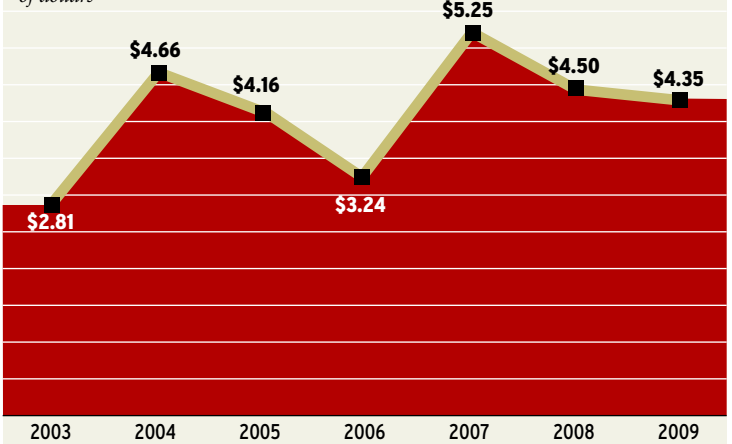
Business performed by MGA/underwriting managers



Source: BI survey

**PREMIUM GROWTH**

Gross written premiums by the top 10 MGAs/underwriting managers, in billions of dollars



Source: BI survey

# Largest MGAs/underwriting managers

Ranked by 2009 wholesale premium volume from property/casualty placements\*

Rank	Company/Address	Phone/website	2009 premium volume	% change	2009 gross revenues	% change	Surplus lines	Underwriting Manager	Managing general agent	Wholesale broker	Lloyd's of London coverholder	Employees	Principal officers
1	Risk Placement Services Inc. 2 Pierce Place, 20th Floor, Itasca, Ill. 60143-3141	630-285-4303 www.rpsins.com	\$1,480,000,000	4.2%	\$131,800,000	3.0%	55.0%	0%	50.0%	45.0%	5.0%	860	Joel Cavaness, president
2	Schinnerer Group 2 Wisconsin Circle, Chevy Chase, Md. 20815	301-961-9800 www.schinnerer.com	\$750,000,000	-10.3%	\$70,000,000	-5.9%	5.0%	95.0%	0%	5.0%	0%	422	Jean Laurin, president/CEO- Schinnerer Group/ president-Encon Insurance Managers Inc.
3	Burns & Wilcox Ltd. 220 Kaufman Financial Center, 30833 Northwestern Highway, Farmington Hills, Mich. 48334	800-521-1918 www.burnsandwilcox.com	\$645,000,000	-2.3%	\$155,000,000	-6.6%	85.0%	0%	50.0%	33.0%	17.0%	800	Alan J. Kaufman, chairman/president/ CEO
4	Markel Midwest Inc. 10 Parkway N., Deerfield, Ill. 60015	847-572-6000 www.markelcorp.com	\$305,034,666	-12.9%	\$75,956,633	-16.9%	94.0%	100.0%	0%	0%	0%	92	Susan J. Swanson, managing director
5	Program Brokerage Corp. 1065 Avenue of the Americas, New York, N.Y. 10018	866-607-8370 www.programbrokerage.com	\$228,422,746	-9.2%	\$24,840,829	-13.4%	N/A	0%	67.5%	32.5%	0%	102	Cynthia O'Brien, president-wholesale division
6	K&K Insurance Group Inc. 1712 Magnavox Way, Fort Wayne, Ind. 46804	260-459-5000 www.kandkinsurance.com	\$228,294,909	-4.1%	\$48,479,448	6.4%	10.0%	0%	90.0%	5.0%	5.0%	223	Todd Bixler, president/CEO
7	Eastern America Insurance Agency Inc. Metro Office Park, Street One, Lot 10, P.O. Box 193900, San Juan, Puerto Rico 00919-3900	787-273-1288 www.universalpr.com	\$195,066,966	-4.9%	\$12,168,041	27.3%	2.0%	0%	100.0%	0%	0%	201	Rafael Rodriguez, president
8	WKF&C Agency Inc. 1 Huntington Quadrangle, Suite 4N20, Melville, N.Y. 11747	631-756-3000 www.wkfc.com	\$182,500,000	-5.7%	\$25,986,000 <sup>1</sup>	-6.1%	76.0%	42.0%	49.3%	1.2%	7.5%	84	Thomas J. Kennedy, president/chairman/ CEO
9	Sullivan Group- Wholesale Operations 800 W. Sixth St., Suite 1800, Los Angeles, Calif. 90017	213-626-1000 www.gjs.com	\$177,520,000	-6.2%	\$20,479,000	-38.7%	33.0%	0%	60.8%	39.0%	0.2%	152	Gerald J. Sullivan, chairman
10	W. Brown & Associates Insurance Services 19000 MacArthur Blvd., Suite 700, Irvine, Calif. 92612	949-851-2060 www.wbais.com	\$162,000,000	-13.0%	\$34,415,038	-1.4%	15.0%	0%	93.0%	7.0%	0%	66	Scott Brown, president-aviation; John W. Krebs, president-property/ casualty

\*Companies deriving more than 50% of their wholesale premium volume from acting as a managing general agent, underwriting manager or Lloyd's of London coverholder (authority to bind risks for Lloyd's syndicates, similar to an MGA). 1 BI estimate. N/A=Not available.

Source: BI survey  
Researched by Karen Tucker

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# Stamping offices' first-half premiums decline further

*Sluggish construction, no large catastrophes result in less demand*

By KRISTIN GUNDERSON HUNT

Soft insurance pricing in the admitted market and a weak economy that shows no sign of letup are further pressuring surplus lines prices, experts say.

"The ongoing soft market and the financial recession are not a good combination for the insurance industry," said Phil Ballinger, executive director of the Austin-based Surplus Lines Stamping Office of Texas.

The state of the surplus lines market was reflected in the first-half 2010 premium decline reported by most U.S. stamping offices, according to Texas Stamping Office statistics.

Stamping offices oversee surplus lines transactions in 14 states that have established such entities because the states do not directly regulate surplus lines insurers.

First-half surplus lines premiums in those 14 states dropped 11.1% overall to about \$9.16 billion compared with a 9.4% decrease for the same period in 2009.

Policy filings fell slightly, decreasing 1.5% during the first six months of this year vs. a nearly 3% decline a year earlier.

Idaho, Minnesota, Mississippi and Oregon were the only states in which stamping offices reported that premiums rose—by 4.8%, 29.7, 4.6% and 14.9%, respectively.

Mr. Ballinger said the premium increases in Idaho, Mississippi and Oregon were not that significant because they are smaller states.

He said in Minnesota, which opened a stamping office in January 2009, the substantial percentage increase in premium volume was likely the result of the system becoming more established and improving reporting compliance.

New York and California experienced the most meaningful declines in premium volume. New York reported a 25.1% drop, or \$454.4 million, and California reported a 15.4% premium decline, or \$347.7 million.

Both states have been hit especially hard by the sluggish construction industry, experts said. In New York, construction employment decreased about 1% between August of last year and this year, or 3,700 jobs, according to a report from the Associated General Contractors of America. Although, in recent months, New York recently began adding construction jobs again.

With fewer construction jobs available, contractors and subcontractors subject to New York's Labor Law 240—a law that is supposed to ensure the safety of the individuals they employ and previously generated a lot of business for the state's surplus lines market—aren't facing as much risk and are buying less coverage to mitigate that risk, said Dan Maher, executive director of Excess Line Assn. of New York.

"There is a lot of money in the construction business here, but that has temporarily dried up as there has been a downturn in the overall construction market," Mr. Maher said.

California has lost 49,700 construction jobs—a decline of nearly 8%—between last August and this August. It lost nearly 4,000 jobs in September compared with one month earlier.

"Construction is way down, and construction companies were huge consumers of the surplus lines in California," said Ted Pierce, executive director of the San Francisco-

## \$9.16B

14 U.S. stamping offices processed \$9.16 billion in surplus lines premiums during the first half of 2010, 11.1% less than a year earlier, according to the Surplus Lines Stamping Office of Texas. Surplus lines items handled fell 1.5% to 1.6 million during the period.

based Surplus Line Assn. of California. "They don't need as much cov-

erage now because there is not enough work."

Mr. Pierce also said the fact California has gone years without a significant earthquake has also affected the market. He said people buy more earthquake coverage, often written by the surplus lines market, after an event. Otherwise, people get complacent, he said.

"Every state has its unique set of circumstances," Mr. Pierce said. "Florida has windstorms. The big thing (in California) is earthquakes, and we haven't had one since the early '90s that would bump our

market."

Florida actually touts the largest premium volume of any of the states with stamping offices, thanks in part to all the windstorm coverage its surplus lines market is able to write, experts said. Even so, its premium volume declined 0.2% in the first half of 2010 from the first half of 2009.

Experts were uncertain when surplus lines pricing would firm.

"The economy is down, the market is soft and there is not a lot of new business being created," Mr. Maher said. "It's a perfect storm."



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# Surplus lines premiums and taxes by state

State	Gross surplus lines premiums written			Percent change		Surplus lines taxes collected			Tax rate
	2009	2008	2007	2008-2009	2007-2009	2009	2008	2007	
Alabama	\$464,420,733	\$477,447,000 <sup>1</sup>	\$541,090,633 <sup>1</sup>	-2.7%	-14.2%	\$27,865,244	\$28,466,820	\$32,465,438	6.0%
Alaska	\$110,884,619	\$98,659,502	\$104,981,227	12.4%	5.6%	\$2,546,863	\$2,331,452	\$2,459,065	2.7%
Arizona	\$400,593,958	\$446,776,571	\$539,927,191	-10.3%	-25.8%	\$11,808,051	\$13,403,297	\$16,368,603	3.0%
Arkansas	\$194,700,000 <sup>1</sup>	\$194,737,480	\$194,588,630	0.0%	0.1%	\$7,788,000	\$7,784,005	\$7,960,372	4.0%
California	\$5,198,014,923	\$5,671,679,594	\$6,813,968,858	-8.4%	-23.7%	\$136,898,007	\$148,141,122	\$173,255,236	3.0%
Colorado	\$456,674,150	\$500,674,190	\$617,844,992	-8.8%	-26.1%	\$13,698,240 <sup>2</sup>	\$15,020,000	\$18,535,350	3.0%
Connecticut	\$296,120,786	\$314,938,794	\$336,167,910	-6.0%	-11.9%	\$11,389,261	\$12,113,031	\$12,929,535	4.0%
Delaware	\$55,545,006	\$62,488,872	\$65,355,858	-11.1%	-15.0%	\$1,111,239	\$1,251,659	\$1,307,117	2.0%
District of Columbia	\$158,670,350	\$142,197,650	\$145,722,400	11.6%	8.9%	\$3,173,407	\$1,292,564	\$2,914,448	2.0%
Florida	\$4,102,587,946	\$4,350,075,914	\$4,799,006,734	-5.7%	-14.5%	\$183,425,643	\$196,827,134	\$214,923,177	5.0%
Georgia	\$762,868,350	\$773,019,300	\$860,021,750	-1.3%	-11.3%	\$30,514,734	\$32,182,373	\$34,400,869	4.0%
Hawaii	\$224,592,613 <sup>3</sup>	\$266,610,549 <sup>3</sup>	\$311,707,140 <sup>3</sup>	-15.8%	27.9%	\$10,510,842	\$12,444,083	\$14,574,528	4.7%
Idaho	\$62,699,122	\$74,153,561	\$84,500,000	-15.4%	-25.8%	\$983,819	\$1,169,627	\$1,621,000	1.5%
Illinois	\$987,413,683	\$1,062,017,764	\$1,089,883,883	-7.0	-9.4%	\$34,549,239	\$37,168,493	\$38,146,151	3.5%
Indiana	\$294,126,084	\$362,329,438	\$582,089,831	-18.8%	-49.5%	\$7,353,152	\$9,058,236	\$14,552,246	2.5%
Iowa	\$157,838,864	\$153,794,438	\$128,535,346	2.6%	22.8%	\$1,578,389	\$1,537,944	\$1,285,353	1.0%
Kansas	\$154,010,710	\$166,316,271	\$167,854,408	-7.4%	-8.2%	\$11,164,172	\$10,164,618	\$10,047,070	6.0%
Kentucky	\$150,844,360	\$147,504,433	\$162,893,307 <sup>4</sup>	2.3%	-7.4%	\$4,597,705	\$4,457,812	\$4,927,638 <sup>4</sup>	3.0%
Louisiana	\$1,305,625,926	\$1,303,277,762	\$1,363,817,132	0.2%	-4.3%	\$65,281,296	\$65,167,670	\$68,190,857	5.0%
Maine	\$25,690,356	\$64,157,138 <sup>4</sup>	\$71,178,109 <sup>4</sup>	-60.0%	-63.9%	\$702,090	\$1,764,889 <sup>4</sup>	\$1,970,595 <sup>4</sup>	3.0%
Maryland	\$358,206,400	\$363,277,699	\$418,796,318	-1.4%	-14.5%	\$10,746,192	\$10,898,331	\$12,563,890	3.0%
Massachusetts	\$649,870,811	\$693,187,811	\$699,058,618	-6.2%	-7.0%	\$24,259,256	\$25,284,212	\$25,875,639	4.0%
Michigan	\$579,336,124	\$592,746,594	\$728,702,360 <sup>2</sup>	-2.3%	-20.5%	\$14,326,910	\$14,639,765	\$18,217,559 <sup>2</sup>	2.5%
Minnesota	\$251,274,966	\$319,266,650	\$378,078,257	-21.3%	-33.5%	\$8,066,345	\$9,576,641	\$11,334,759	3.0% <sup>5</sup>
Mississippi	\$372,365,663	\$352,327,618	\$389,525,164	5.7%	-4.4%	\$14,895,119	\$14,095,433	\$15,580,799	4.0%
Missouri	\$452,010,350	\$439,207,492	\$474,154,860	2.9%	-4.7%	\$21,827,870	\$21,254,184	\$23,446,860 <sup>4</sup>	5.0%
Montana	\$62,510,454	\$56,615,624	\$66,539,049	10.4%	-6.1%	\$2,072,951	\$1,816,711	\$1,839,015	2.8%
Nebraska	\$123,099,439	\$115,553,923	\$104,741,901	6.5%	17.5%	\$3,867,482	\$3,570,812	\$3,614,688	3.0%
Nevada	\$231,790,188	\$293,080,460	\$360,154,862	-20.9%	-35.6%	\$8,112,690	\$10,257,850	\$12,605,458	3.5%
New Hampshire	\$62,675,761	\$73,626,311	\$73,763,404	-14.9%	-15.0%	\$1,253,512	\$1,472,526	\$1,475,268	2.0%
New Jersey	\$991,343,970 <sup>2</sup>	\$1,062,208,793	\$1,170,386,670 <sup>4</sup>	-6.7%	-15.3%	\$29,713,511 <sup>2</sup>	\$31,847,279	\$34,975,991	3.0% <sup>2</sup>
New Mexico	\$58,882,744	\$43,707,144 <sup>4</sup>	\$88,354,817 <sup>4</sup>	34.7%	-33.4%	\$3,105,432	\$2,955,499 <sup>2</sup>	\$2,985,352	3.0% <sup>6</sup>
New York	\$2,957,943,587	\$3,282,162,085	\$3,691,581,963	-9.9%	-19.9%	\$61,627,634	\$79,837,049	\$94,769,655	3.6%
North Carolina	\$504,454,717	\$492,940,414	\$523,549,178	2.3%	-3.6%	\$25,185,970	\$24,921,563	\$26,511,260	5.0%
North Dakota	\$53,827,716	\$44,288,922	\$53,410,087	21.5%	0.8%	\$942,131	\$775,061	\$934,796	1.8%
Ohio	\$566,447,354	\$555,916,120	\$552,430,581	1.9%	2.5%	\$27,861,495	\$30,232,899	\$27,521,460	5.0%
Oklahoma	\$206,042,969	\$320,523,031	\$304,837,700	-35.7%	-32.4%	\$18,177,368	\$19,231,382	\$18,290,262	6.0%
Oregon	\$241,237,987	\$294,549,143	\$250,210,825	-18.1%	-3.6%	\$4,915,821	\$5,992,252	\$5,004,217	2.0% <sup>7</sup>
Pennsylvania	\$862,298,836 <sup>8</sup>	\$919,848,150 <sup>8</sup>	\$1,000,878,746 <sup>2,8</sup>	-6.3%	-13.8%	\$25,664,000	\$24,071,000	\$25,664,000 <sup>2</sup>	3.0%
Rhode Island	\$37,612,607 <sup>2</sup>	\$45,559,778	\$65,825,259 <sup>4</sup>	-17.4%	-42.9%	\$1,128,971 <sup>2</sup>	\$1,366,793	\$1,974,758 <sup>4</sup>	3.0%
South Carolina	\$496,402,643	\$506,265,522	\$597,412,273	-1.9%	-16.9%	\$19,856,106	\$20,250,615	\$23,896,475	4.0%
South Dakota	\$31,551,096	\$28,659,850	\$31,501,555	10.1%	0.2%	\$788,777	\$716,496	\$787,537	2.5%
Tennessee	\$476,896,329	\$518,488,047	\$457,094,816	-8.0%	4.3%	\$12,921,616	\$12,962,201	\$12,649,418	2.5% <sup>9</sup>
Texas	\$4,286,247,835	\$3,912,420,734	\$4,848,000,425	9.6%	-11.6%	\$166,276,711	\$170,785,658	\$175,902,204	4.9%
Utah	\$156,967,481	\$178,472,478	\$176,256,102	-12.0%	-10.9%	\$6,410,531	\$7,301,542	\$7,216,938	4.3%
Vermont	\$31,259,420	\$34,482,609	\$31,877,954	-9.3%	-1.9%	\$937,783	\$1,034,478 <sup>1</sup>	\$956,339	3.0%
Virginia	\$528,949,157 <sup>3</sup>	\$541,193,044	\$575,748,627	-2.3%	-8.1%	\$11,997,486	\$12,614,995	\$13,596,317	2.3%
Washington	\$586,897,849	\$595,114,357	\$719,302,643 <sup>2</sup>	-1.4%	-18.4%	\$11,716,391	\$11,902,287	\$14,386,053 <sup>2</sup>	2.0%
West Virginia	\$129,486,286	\$133,845,763	\$143,748,797	-3.3%	-9.9%	\$4,921,115	\$5,118,842	\$5,359,326	4.0%
Wisconsin	\$271,081,787	\$257,202,439	\$224,726,172	5.4%	20.6%	\$8,132,454	\$7,716,096	\$6,741,785	3.0% <sup>10</sup>
Wyoming	\$72,568,208	\$63,837,631	\$57,336,020	13.7%	26.6%	\$2,034,115	\$1,801,764	\$1,641,208	3.0%
<b>Totals</b>	<b>\$32,255,463,272</b>	<b>\$33,763,432,457</b>	<b>\$38,239,121,342</b>	<b>-4.5%</b>	<b>-15.6%</b>	<b>\$1,120,683,137</b>	<b>\$1,188,049,047</b>	<b>\$1,301,153,933</b>	

1 Estimated. 2 BI estimate. 3 Net surplus lines premiums written. 4 Restated. 5 2% for companies not recognized by the commerce department. 6 3.003% effective as of July 1, 2003. 7 Plus 1% on premium subject to fire marshal tax. 8 Includes premium for independently procured insurance. 9 3.25% on fire and 4.4% on excess workers compensation. 10 0.5% on ocean marine.

Source: BI survey

Researched by Karen Tucker

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# Wholesalers look for creative ways to generate growth

## Soft market leads to innovation, diversification

By MICHAEL BRADFORD

Wholesale brokers are looking for growth through innovation, diversification and, perhaps, acquisitions to counter the rate-dampening effects of a lingering soft market.

Rates are likely to stay depressed for quite some time, sources say, as insurance buyers pinched by the

still-sluggish economy are unable to afford higher limits or additional products and services.

Experts are not prepared to say when economic conditions may improve enough to change the outlook for wholesalers and insurance buyers.

"We're going to be in it for a while," said Marshall P. Kath, president of the Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd. The ailing economy has left policyholders with declining insured values, sales and payrolls, which are elements

that determine pricing of many types of insurance, he said.

"And that's before we get to any rate competition," Mr. Kath said.

Alan Kaufman, chairman, president and CEO of Farmington Hills, Mich.-based Burns & Wilcox Ltd., said he believes "2011 will be a repeat of 2010. I don't see any reason to believe there will be a change, either positive or negative."

Mired in market conditions that won't allow rate hikes, wholesalers are forced to look for other ways to generate growth, including acquisitions.

The wholesale community has been marked by consolidation in recent years, in which experts say brokers have expanded their reach by taking on new partners.

Private equity firms were involved in a flurry of deals in 2007, including the combining of BISYS Group Inc.'s insurance services and retirement operations with Crump Insurance Services to form Crump Group Inc.

Private equity firms were attracted to the marketplace in hopes of positioning themselves for a market hardening that, so far, has not tak-

en hold, sources said.

More recent deals have included this year's merger of Colemont Insurance Brokers and AmWINS Group Inc., and the merger of Cooper Gay (Holdings) Ltd. and Swett & Crawford Group Inc.

"There has been a significant amount of change in the sector," said Matthew Power, president of Risk Specialists Cos. Inc. and executive vp of Lexington Insurance Co. in Boston.

Surplus lines brokers, particularly large ones, have found opportunities to diversify and operate globally by merging in recent years, he said.

However, mergers have had only a minor effect on the way wholesalers operate, experts said.

"I don't think there's a huge sea change in how people are doing business," said Neal Abernathy, president and CEO of Swett & Crawford Group in Atlanta. But mergers can expand a broker's capabilities, as has been the case at his company, he said.

Swett & Crawford's July merger with Cooper Gay established a new holding company, Cooper Gay

**'2011 will be a repeat of 2010. I don't see any reason to believe there will be a change.'**

Alan Kaufman, Burns & Wilcox Ltd.

Swett & Crawford Ltd., with about \$3.5 billion in premiums and 1,500 staff members in more than 60 offices.

"We had no reinsurance or international capability" before the merger, said Mr. Abernathy. "Now we have both."

Some brokers acquired by private equity investors may feel pressure to keep down costs as they repay debt used to fund acquisitions, sources said.

"I would assume that is a challenge" that leads to an aggressive approach in finding economies of scale, and managing costs such as those related to staffing, compensation and automation, said John Latham, president of the wholesale division at Markel Corp. in Richmond, Va.

As wholesalers look to grow, some are entering personal lines, workers compensation and other markets not generally thought of as components of the wholesale sector, Mr. Latham said.

When it comes to developing new products, wholesalers find they must weigh the risk during the current economy that the need for something new will have vanished by the time they devise a coverage to fill it.

"This time last year we were keen on a couple of construction products," Mr. Abernathy said. "We could have better spent our time



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# Outlook: Wholesalers look for creative ways to generate growth

CONTINUED FROM PAGE 24

fishing because the construction market has gone away.”

Wholesalers historically have grown alongside other businesses by developing products that new or expanding businesses need, NAPSILO's Mr. Kath said.

“We are not in normal times, and there are not as many new business formations as there are in normal times. There is less of an opportunity for wholesalers to work on new coverages” as clients’ businesses were growing, Mr. Kath said.

“New products sound great,” Mr.

**‘We are not in normal times, and there are not as many new business formations as there are in normal times. There is less of an opportunity for wholesalers to work on new coverages’ as clients’ businesses were growing.’**

Marshall P. Kath, National Assn. of Professional Surplus Lines Offices Ltd.

Abernathy said. “But where we are today, you can spend three months putting something together” only to find that the intended client sector no longer supports it.

Opinions are mixed on whether

there will be more wholesale sector consolidation.

“The appetite, or nonappetite as the case may be, for mergers and acquisitions depends on who owns you,” said Mr. Kath. Publicly owned

companies will make merger decisions based on shareholder expectations, he said. Privately owned brokers do not have that same concern.

The type of business a wholesaler’s parent is in also may have some bearing on their interest in merging or acquiring other brokers, Mr. Kath said. Of five of the largest wholesalers (see chart, page 18), one is owned by a bank, another by a retail broker and three others by private equity investors, he said, all of which will have different ideas about whether they want to expand their operations.

“It goes to the management team

and business plan,” said Risk Specialists’ and Lexington’s Mr. Power. “We’ve seen a couple of wholesale brokers that have done acquisitions, gotten to the point of income stream diversification and gone global. That’s always attractive to capital providers.”

Publicly owned brokers and private equity investors sometimes see consolidation as their only route to growth, and some “were forced to make acquisitions to show inflated results,” Mr. Kaufman said.

There likely will be more consolidation, but it likely will not involve private equity companies or banks, Mr. Kaufman said. “In strong times, you have money from Wall Street and private equity jumping in. There will be some startups and other acquisitions, but it will be among entities in the insurance world as opposed to outside it. I don’t think we will see private equity firms and banks involved.”

Acquisitions in the current economy and soft insurance market would be risky, Mr. Abernathy said.


“I’m not real big on mergers and buying people just for scale,” he said. “You can get into financial trouble pretty quickly doing that. Anybody that goes on an acquisition spree right now will have to be very careful, and lucky not to catch a falling sword on the way down.”

Experts, however, remain bullish on wholesalers’ role in the surplus lines market.

“I’m a strong proponent of the wholesale distribution system and I think the future is very bright,” Mr. Latham said. It’s where an “awful lot” of product innovation is generated and a lot of problems are solved.

Wholesalers bring value to the insurance transaction by sifting through abundant surplus lines risks and finding those that fit with insurers’ appetites, Mr. Latham said. Another valuable service is the aggregation they provide to insurers, he said.

“I can’t imagine the number of retail relationships we would have to have” to achieve the same level of submission flow provided by a wholesale broker for the types of risks that normally are handled by the E&S market, Mr. Latham said.



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# Surplus lines market hopeful about financial reform

By MICHAEL BRADFORD

The surplus lines market is hopeful that U.S. financial services reform will ease the placement of insurance and simplify the way the business is taxed, but remains wary about how states will implement the legislation.

The Dodd-Frank Wall Street Reform and Consumer Protection Act signed into law this year includes a provision that prohibits any state other than the home state of a policyholder from requiring a premium tax for nonadmitted insurance.

States also are authorized to establish procedures to allocate among themselves taxes that are paid to a policyholder's home state.

The law also spells out conditions under which brokers can approach the surplus lines market on behalf of some buyers without first being declined in the admitted market.

Market sources praised passage of the law, but were careful not to be overconfident about its effects.

"Dodd-Frank in and of itself is probably a good thing for us from a regulatory standpoint," said Neal Abernathy, president and CEO of Swett & Crawford Group

**'Dodd-Frank in and of itself is probably a good thing for us from a regulatory standpoint. But what Congress says doesn't mean anything. It's what the states do once the regulatory infrastructure is in place.'**

Neal Abernathy,  
Swett & Crawford Group Inc.

Inc. in Atlanta. "But what Congress says doesn't mean anything. It's what the states do once the regulatory infrastructure is in place. There is the potential for it to be a positive, but, as with everything else, there is also the potential for things to get worse than they already are."

Surplus lines insurers, brokers and policyholders long have complained that burdensome regulations requiring them to pay taxes to multiple states and restrictions on

how business is placed in the nonadmitted market have hampered their operations.

Under the reforms, which are effective next July, states are required to cease collecting taxes on nonadmitted insurance written for out-of-state policyholders. In the meantime, states are expected to establish procedures that will allow them to allocate those taxes among themselves.

States could establish an interstate compact among themselves to meet the law's requirements, an approach urged by the National Conference of Insurance Legislators and supported by the National Assn. of Professional Surplus Lines Offices Ltd.

Sources say it is unclear whether that could be done by the deadline established in the legislation.

"There is some concern whether they can achieve an interstate compact before the law is implemented," said Joel Wood, a senior vp with the Council of Insurance Agents & Brokers in Washington. Expectations are, though, that "as of July of next year, the surplus lines marketplace will be more attractive" because of the new law that makes it easier to conduct nonadmitted business, he said.

The CIAB lobbied hard for the changes,

which it feels finally will end duplication and conflicts in compliance efforts with various states where brokers place business.

Consistent state tax and compliance laws make a lot of sense, but it remains to be seen how states actually respond to the requirements of the Dodd-Frank law, Mr. Abernathy said.

States are not going to be eager to share tax revenue, Mr. Abernathy said, asking, "How willing are they going to be to give something up just to spread dollars throughout the system?"

Matthew Power, president of Risk Specialists Cos. Inc. and executive vp of Lexington Insurance Co. in Boston, said the Dodd-Frank law is a "very pro-consumer bill. It eases access for the consumer to the E&S market."

Others say it will take time to know whether the federal law ultimately helps the nonadmitted market.

"In a nutshell, the devil is in the details," said Marshall Kath, president of the National Assn. of Professional Surplus Lines Offices Ltd. "How significantly will that legislation change the landscape? Stay tuned. We have to see how the implementation comes together."

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## Questions Answers

Letha Heaton, vp-marketing of Admiral Insurance Co. in Cherry Hill, N.J., and incoming president of the National Assn. of Professional Surplus Lines Offices Ltd., recently discussed the excess/surplus lines insurance market and legislative issues confronting nonadmitted insurers with *Business Insurance* Senior Editor Mark A. Hofmann.



## Eye on NAPSLO future

**Q: What is the greatest challenge facing the nonadmitted insurance market?**

Clearly, the economic environment is not robust for almost any sector of any industry. But I think for the insurance industry, we have this unusual conundrum of very low rates of return on investments, slow economic growth, excessive capacity and recent articles touting the profitability of the members of our industry, which just brings in more capacity and more competition.

**Q: How does that affect the nonadmitted market in particular?**

I think in the bailiwick of opportunities, what happens is—which I don't think is radically new information—in that (in a) soft market cycle, the lines start to blur between the admitted markets and the nonadmitted markets. Carriers who historically have not had an appetite for the kinds of things we consider to be tough risks or tough to write jump into that marketplace.

The E&S sector historically—at least the 13 years I've been in the industry—outpaced the overall insurance industry in terms of growth...and profit margins, and so it looks like it's an attractive place to jump in and play for new companies and new entrants. I've got to believe capital's looking for a place to go in this economy.

**Q: Where do you see nonadmitted market growth opportunities?**

It has remarkably been resilient around the areas of new technology, be it medical technology, information technology, securitization, both from a terrorism and attack perspective and from protecting...private individuals' information. There's a whole new world of risk out there and those are areas where even savvy admitted companies are probably going to be reluctant to jump in because they're so new. There's no historical actuarial information that gives them the ability to jump in and start writing.

The neat thing about E&S is there's always something new and different happening.

**Q: What are NAPSLO's legislative aims next year?**

There's high hope that we will successfully get the states to collaborate on an interstate compact that will make sense for them and will support the spirit of the Nonadmitted and Reinsurance Reform Act—which is that our wholesale brokers now need (to) only file taxes in one state, which is the primary state of domicile for the account. With that in place, we're hoping the states figure out a way to fairly allocate taxes.

**Q: What has the reaction been to the promotion of the Surplus Lines Insurance Multistate Compliance Compact—or SLIMPACT—concept?**

I think there's a mixed reaction. I'd like to refer back to some comments from our executive director, because there are discussions from different entities that could potentially disrupt the spirit of the NIRA. (NAPSLO Executive Director) Dick Bouhan, along with our legislative committee, has a pretty broad-based initiative to make sure this is a well-understood law and that the states agree with the spirit of it.

**Q: What other activities will you promote during your term as NAPSLO's president?**

I think part of the focus of the organization is delivering member value. In these times when people are very careful about how they spend their dollars, we want to be the association of choice. We want to be the association that advocates for our members on legislative issues; we want to be the association that supports and celebrates the unique value that the E&S market brings to the table, and we're looking at how we can do a better job of that in terms of creating a public relations function for our members and for our association. Finally, continuing to use the A.M. Best report that we do annually to underline the financial validity and stability of our member companies which has, since we've been doing this reporting, overall outperformed the industry.

# Insurance execs making a splash

Young industry professionals move up corporate ladder in Michigan

By JAY GREENE, DUSTIN WALSH  
and SHAWN WRIGHT

A trio of young executives working for insurance brokerage firms is making an impact in Michigan, earning them spots on the 40 Under 40 list published this month by *Crain's Detroit Business*, a sister publication of *Business Insurance*.

## WILLIAM MCCARTHY, 39

President and CEO  
Willis of Michigan  
Farmington Hills

**BIGGEST ACHIEVEMENT:** Completing the merger that brought national broker Hilb Rogal & Hobbs Co. into the operations of Willis of Michigan. Since October 2008, Mr. McCarthy has begun to expand market share in Michigan and increase revenue.

**CURRENT GOAL:** Expand clientele in Grand Rapids and double the revenue of the company's employee benefit consulting line, which now accounts for about \$5 million of its \$25 million annual revenue.

The easy part for CEO William McCarthy last year—when he faced the task of integrating newly acquired Hilb Rogal & Hobbs into Willis of Michigan—was to identify client locations and where offices needed to be for optimal service delivery.

The hard part was coming up with a plan to retain top staff, trim a combined 131 employees into a 90-staff workforce and create a unified corporate culture.

"Hilb Rogal & Hobbs was a very large, \$1 billion national broker that had three offices in Michigan," said Mr. McCarthy, who joined Willis in 2002 after heading up Aon Corp.'s sales operation in Michigan.

"My job was to integrate those three offices into our existing operations here, but also into Willis' platform (information technology, finance, customer service and sales)," he said.

All during 2009, Mr. McCarthy and other managers met with employees to discuss their concerns about changes and to talk about how selling insurance products at Willis is different from HRRH.

"The financial piece of the acquisition is one thing. You can look at the numbers and say...a lot of cutting needs to be done," said Mr. McCarthy, an infantry officer with the 82nd Airborne from 1993 to 1997.

"But you must understand you are dealing with people, their lives and their families," he said. "The sole reason mergers fail is that people are not on board. You need to spend an extraordinary amount of time dealing with people, talking with them."

In Michigan, Willis' major business line is in the automotive manufacturing sector, accounting for 42 percent of its business. It also specializes in construction, financial institutions and retail. Its three offices are in Farmington Hills, Port Huron and Grand Rapids.

Willis of Michigan is a subsidiary of global brokerage Willis Group Holdings P.L.C.

## KIRK ROSIN, 34

Vp of health and benefits  
Aon Hewitt Inc.  
Southfield

**BIGGEST ACHIEVEMENT:** Leading the contract negotiations with health care providers during the establishment of the UAW's VEBA trust, the largest in the world.

**CURRENT GOAL:** To grow Aon Hewitt Inc.'s health and benefits program nationally, capitalizing on the need to streamline benefits programs and help companies in the region grow wellness programs.

Kirk Rosin has coordinated large health care programs for clients in the past, but none larger than the voluntary employees' beneficiary association program for the UAW Retiree Medical Benefits Trust in 2008.

Mr. Rosin served as Aon Consulting's lead consultant to the largest private purchaser of health care in the United States—a \$45 billion VEBA trust for the United Auto Workers union at Ford Motor Co., General Motors Co. and Chrysler Group L.L.C. Late last

month, Aon Consulting and Hewitt Associates Inc. merged, creating Aon Hewitt.

"When they hired us, we understood how big of an undertaking it would be," he said. "We knew it meant so much to the retirees and the region and the entire middle class of America."

Mr. Rosin led the organization's contracting efforts, seeking the most favorable contracts with insurance providers, HMOs and prescription providers.

Thanks to Mr. Rosin and Aon's efforts, about 900,000 retired autoworkers had health coverage on Jan. 1 this year, said Francine Parker, the trust's executive director.

"Through his (Mr. Rosin's) efforts, we had a seamless launch and none of the retirees' benefits were disrupted," she said. "When you think of the next generation of top consultants, you think of Kirk."

Mr. Rosin is taking on a national role within the ranks of Aon and is leading an effort to homogenize the benefits for Downers Grove, Ill.-based Dover Corp., an international manufacturer, and its more than 40 subsidiaries.

Aon's health and benefits practice has secured four times the amount of contracts since Mr. Rosin joined in 2006.

"It's an interesting time to be in health care," he said. "Companies are looking to interpret the new legislation and cut costs, and we're positioned in the right place at the right time."

Aon Hewitt is a division of global brokerage Aon Corp.

## DAVID KRAMER, 37

Vp, lawyers professional liability practice leader  
Oswald Cos.  
Birmingham

**BIGGEST ACHIEVEMENT:** Helped grow in three years a practice at Oswald Cos., a Cleveland-based risk-management and property/casualty insurance agency, from 10 law firms to more than 250 firms—200 of which are in Michigan. The move brought in an extra \$1.5 million to Oswald last year.

**CURRENT GOAL:** Triple Oswald's revenue and number of law firm clients within the next five years, with significant law firm business nationwide.

Working in the legal profession was part of David Kramer's family history; he followed in the footsteps of his father and grandfather.

After Mr. Kramer earned his law degree from George Washington University Law School in 1999, he spent the next six and a half years as a lawyer with Washington-based Squire, Sanders & Dempsey L.L.P.; Detroit-based Bodman L.L.P.; and Maddin, Hauser, Wartell, Roth & Heller in Southfield.

But something about legal work didn't satisfy him. He started working in insurance, joining Oswald Cos. so he could interact with people, do something more sales-oriented, and have fewer routine days.

"When I was practicing law...every day was sort of the same, sort of a grind, coming in and sitting at a desk and drafting documents," Mr. Kramer said. "But this is a different challenge every day; it's much more interpersonal. It's fun to be able to go out and solve people's problems...there are more diverse challenges in it."

Thanks to his decision to switch careers and his previous experience and relationships, Oswald now represents nearly two-thirds of Michigan's largest law firms that acquire insurance, many of which have more than 100 attorneys.

His previous career as a lawyer gives him instant credibility.

"I can look them in the eye and say, 'I've been in your shoes, so I understand what the challenges are,'" Mr. Kramer said.

His credentials also have enabled him to write about professional liability insurance and risk management for Michigan Lawyers Weekly and other publications.

Jay Greene, Dustin Walsh and Shawn Wright are reporters for *Crain's Detroit Business*, a sister publication of *Business Insurance*.

# Strategies that avoid workplace violence, a rising threat

By **JULIETTE FAIRLEY**

When Chris Havrilla recruits employees for Hitachi Consulting Corp. in Atlanta, she asks questions about interpersonal relationships to help eliminate candidates who may be prone to violence.

"I don't ask about workplace violence; I ask about how they work in teams or how they resolve conflict," she says. "It's a red flag if they get agitated when describing a conflict-resolution situation." Ms. Havrilla remembers a job applicant who used foul language during such questioning. "I made a note of it," she said. "An angry tone or attitude is a good indicator of someone who could become violent on the job or with clients."

Human resources professionals received several wake-up calls this summer about the potential for workplace disputes and violence. An employee allegedly killed two fellow workers at a Kraft Foods Inc. plant in Philadelphia, and a truck driver shot and killed eight co-workers, then himself, at a beer distributor in Connecticut. Then there was the disgruntled JetBlue Airways flight attendant who exited a plane via the emergency slide after a dis-

**'An angry tone or attitude is a good indicator of someone who could become violent on the job or with clients.'**

Chris Havrilla, Hitachi Consulting Corp.

pute with a passenger.

The U.S. Bureau of Labor Statistics estimates that last year about 16% of fatal occupational injuries resulted from workplace violence. Of those, 10% were homicides.

Experts said they believe the recession has put more employees on edge because of heavier workloads and worries about job security as colleagues are pushed out the door. "It makes sense that the credit crunch, bad economy, layoffs and mortgage crisis are contributing to severe stress and causing people to act out violently, but there are early warning signs that, if addressed, can prevent violence in the workplace," said W. Barry Nixon, executive director of the National Institute for the Prevention of Workplace Violence, a Lake Forest, Calif., company that helps organizations implement violence-prevention programs.

Warning signs that an employee may be near the breaking point include: veiled threats; vindictiveness; a resentful attitude; foul language; anger issues; depression; co-worker complaints; substance abuse; obsessive-compulsive controlling behavior; and an inability to get along with co-workers.

Mr. Nixon said that a respectful workplace is the best defense against violence on the job. "Create a culture in which violence is less likely to occur by treating adults in a respectful manner and building

respect into the company's policies and training," he said. "It's also important to train staffers for interpersonal skills and conflict resolution so that they can solve problems in an appropriate way."

Companies could head off behavior problems if they simply screened applicants more carefully before hiring them. "One of the mistakes companies make is not searching criminal records, civil records and driving records to check for substance-abuse issues or domestic violence at home," said Gordon Basichis, co-founder of Corra

Group, an international corporate security firm in Los Angeles. "At first blush, a person's background check for misdemeanors may not look so bad, but it can get worse because sexual and violent crimes, especially domestic ones, can get plea-bargained down or dropped by family members."

To help deal with personal issues, companies are offering more employee assistance program services. Managed Health Network Inc., the behavioral health subsidiary of Health Net Inc., has seen the number of its employer training

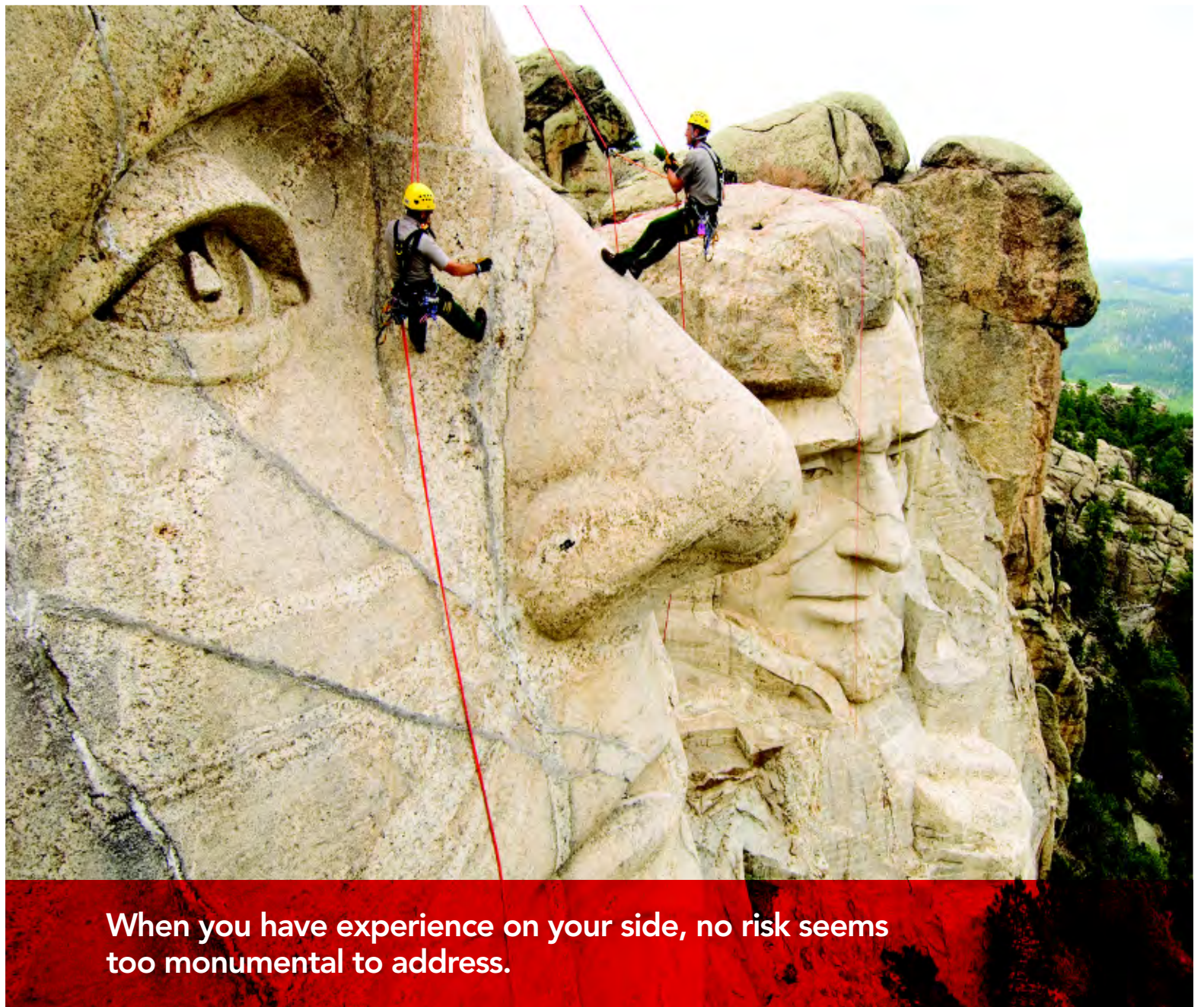
programs to help workers cope with job changes and stress grow 45% between 2007 and 2009.

San Rafael, Calif.-based Managed Health Network also doubled the number of financial consultations it provides employees under company plans as the economy worsened. And according to the 2009 Towers Watson & Co. "Staying@Work Report," nearly half of employers reported an increase in their workers' use of EAPs.

EAP experts advise addressing aggression that could lead to violence immediately. "We evaluate an

employee for potential violence and whatever the employee says is reported back to the employer" right away, said Ewa Antonowicz, clinical director of ComPsych Corp., a Chicago-based company that provides EAP services to 13,000 organizations. The company "can then make a decision whether to terminate, put on medical disability or prescribe counseling before returning the employee to their position."

*Juliette Fairley is a reporter for Workforce Management, a sister publication of Business Insurance.*



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# Government agencies think green

## NASA, Postal Service among agencies using 'sustainability' plans

By AMANDA SMITH-TEUTSCH

After taking office, President Barack Obama set strong environmental goals and policies affecting much of the nation, from air emissions to fuel economy to mining practices. His administration is no different; in October 2009, the president issued an executive order to all federal agencies to improve their environmental compatibility as well.

A year later, government agencies are releasing their plans to comply with the president's "GreenGov" sustainability goals, which mandated, among other things, a 30% reduction in vehicle fleet petroleum use by 2020, a 26% improvement in water efficiency by 2020, and 50% recycling and waste diversion by 2015.

All of the plans must be approved by the Office of the Federal Environmental Executive and the Office of Management and Budget and submitted to the Council on Environmental Quality.

Federal agencies have begun publishing their sustainability plans, which the Obama administration said will save money in fuel and disposal costs. Plans have already been submitted, for example, by NASA and the U.S. Postal Service.

"NASA is committed to a policy of sustainability that will be part of the work practices and mindset of the entire agency," said Olga Dominguez, assistant administrator for the Office of Strategic Infrastructure at NASA in Washington.

The plan submitted by NASA highlights energy efficiency, recycling and green building initiatives.

The agency plans to build on efforts currently in place. For example, at the White Sands Testing Facility, NASA already recycles office paper and cardboard. The center also has a reuse policy for cardboard boxes, packing peanuts, bubble wrap, foam, polystyrene, pallets and crates.



In addition to office products, the testing facility recycles batteries, used oil and antifreeze, tires, fluorescent bulbs, metal, drums, lead, and clean concrete and wood.

Agencywide, NASA already diverts 35% of its waste stream and plans to increase recycling of organics and nonhazardous recyclables to meet the 50% goal.

The U.S. Postal Service, in addition to adding shipping products with increased recyclable content, implemented zero-waste plans at 19

facilities across the country in 2009. Nine vehicle maintenance facilities and nine processing and distribution centers successfully increased their average recycling rates to 92% for the maintenance facilities and 87% for the processing centers, according to the Postal Service report.

"The Postal Service voluntarily worked with 55 other federal agencies to publicly release our plans to achieve a sustainable future," said Sam Pulcrano, vp of sustainability. "The Postal Service is committed to building on our history of green innovation and social responsibility. This plan is another example of our sustainability leadership role."

In the current report, the Postal Service reported reducing generated waste by 7% in 2009, with 423,988 tons generated, of which 214,682 tons—50.6%—was recycled. Some 2,330 tons of electronics were reused or recycled, a 73% increase from the previous year, and the number of post office lobbies hosting recycling locations for customers increased 40% from 3,984 to 5,579.

"We have a big job delivering the mail to more than 150 million addresses in every community in America," wrote Postmaster General John Potter in the introduction to the report. "As part of that job, we want to contribute to creating and maintaining a better, more sustainable environment in every one of those communities. We've set some demanding goals to help us get there."

For more information on the federal government sustainability initiatives, go online to <http://www.whitehouse.gov/greengov>.

Amanda Smith-Teutsch is a reporter for Waste & Recycling News, a sister publication of Business Insurance.

## UP Comings & Goings CLOSE



### SCOTT KIRSCHNER

**NEW JOB TITLE:** Boston-based vp for William Gallagher Associates Insurance Brokers Inc.

**PREVIOUS POSITION:** Boston-based director of the employee benefits practice at Bostonian Group, a Marsh & McLennan Agency company

**GOALS FOR NEW POSITION:** (My first goal is to) identify new clients for (William Gallagher Associates) and bring them in. (Second,) deliver to midmarket-size employers the concepts, approaches and strategies that have been effective at larger employers. Many companies with 200 to 1,000 employees have national, if not international, labor forces, have many of the same challenges that large employers do, but are addressing these challenges with small (human resources) staffs. They need proven ideas that large employers have tried, but the typical broker has no experience accomplishing.

**INDUSTRY CHALLENGES:** Three key challenges face the industry. One, what will the impact of the Patient Protection and Affordable

Care Act be on employers? Two, what will the impact be on the broker and consultant industry? And three, how can midmarket employers truly rein in health care costs when all other expenses are under control?

**ADVICE:** Have passion in what you do; your clients and colleagues want to see that, and it can be contagious. Never stop learning; you will never know everything.

### OUTSIDE THE INDUSTRY, A DREAM JOB:

Owning and running a bicycle shop. I am a competitive cyclist, own eight bikes (as of today) and virtually have a bike shop in my basement. I'm friends with enough bike shop owners to keep it a dream.

### A FUNNY THING HAPPENED ON THE WAY TO WORK:

When I have no client meetings and the weather cooperates, I will bike into work. About half of my commute is on a bike path that runs along some congested streets. It always amazes me how cars will speed up to the next blockage, but I always pass those same cars. I wonder if the drivers ever notice that guy on the bike that keeps passing them and if it drives them crazy.

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## Comings & Goings

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### POSTING THIS WEEK

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#### BROKERS:

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- Willis Mexico

#### INSURERS:

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AP PHOTO

Experts advise business travelers to avoid major tourist attractions, such as Munich's Oktoberfest, due to a State Department alert about travel to Europe.

## Travel: Caution urged in doing business in Europe

CONTINUED FROM PAGE 1

The State Department also encouraged U.S. citizens traveling overseas to register their itineraries at its travel registration website, <https://travelregistration.state.gov/ibrs/ui/>, so they could be contacted by the agency should there be an incident in places they are visiting.

The State Department issued the alert last week after receiving intelligence reports about an alleged plot to seize and kill hostages in the United Kingdom, France and Germany, divulged by a German-Afghan militant in U.S. custody in Afghanistan.

Unlike State Department travel warnings, which are issued when travel to certain countries is discouraged because of civil unrest, dangerous conditions or terrorist activity, travel alerts are issued to disseminate information quickly about terrorist threats and other relatively short-term or transitional conditions that could pose significant risks to U.S. travelers, a State Department spokeswoman said.

"We're not saying that Americans should not travel to Europe," she said. "We issued the alert to let Americans know there is a possibility they could encounter a situation that may endanger their security."

Because the agency issued an alert rather than a warning, security professionals did not discourage European business travel, but they did encourage employers to prepare their international travelers in case there is an attack.

"My view is you don't stop every-

**'I've been saying to our clients to be aware of the threat and to blend in. Don't wear Dallas Cowboys and Washington Redskins jackets. It's also safer to take a cab rather than a bus or the subway under these circumstances.'**

Neil C. Livingstone,  
ExecutiveAction L.L.C.

thing. Business travelers should continue to travel," said Neil C. Livingstone, chairman and CEO of ExecutiveAction L.L.C., a business consulting firm in Washington.

"I've been saying to our clients to be aware of the threat and to blend in. Don't wear Dallas Cowboys and Washington Redskins jackets," he said.

"It's also safer to take a cab rather than a bus or the subway under these circumstances," Mr. Livingstone said. "And stay away from glass windows. If a bomb goes off, it's going to turn that glass into missiles."

"If you see someone or something that doesn't seem right, walk over to the nearest security person and tell them. You may be wrong, but, on the other hand, you might

save a lot of lives, including your own," Mr. Livingstone said.

Donald Henne, associate managing director at Kroll Inc. in New York, advised that U.S. business travelers "know your surroundings" and "be cautious. Don't draw attention to yourself. If you're at a con-

vention, don't walk around with your name tag on announcing you're from out of town."

In assisting employers in developing policies and procedures to address terrorist attacks, Mr. Henne advised that employers conduct travel briefings and devise a plan to

respond should there be a crisis in one or more of the countries in which employees are staying.

"Make sure you have the ability to communicate with employees, such as through (toll-free) numbers or a general call-in number, so they can receive instructions and relay information," he said.

Mr. Henne also agreed with the State Department recommendation that business travelers register before going overseas.

"Some people are reluctant to do that," he said. "But if you register, you might get more information" than has been reported publicly.

Francisco Quinones, director of operations at Clayton Consultants in Herndon, Va., said his security firm has received several queries from clients seeking advice about European travel in light of the State Department's alert.

"We have advised them to continue with business as usual, but to monitor any updates from the State Department," he said. "This is a fairly light warning, but as more intelligence comes in from the field, they may issue a much harsher warning."

In fact, the State Department has issued travel warnings for other countries outside of Europe where conditions are much more dangerous, the State Department spokeswoman said.

Prior to the European travel alert, the State Department issued warnings to dissuade U.S. residents from traveling to the Sudan and Eritrea in Northern Africa, and to Mexico, where a U.S. couple ran into a group of bandits late last month on the Mexican side of a lake that straddles the border with Texas. While the woman escaped, the man was shot and believed killed.

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### ***Eyes on the Road: Using Telematics to Improve Fleet Safety***

**Live Online: Oct. 13, 2010 | 2 p.m. Eastern | Free Of Charge**

Reckless behavior or a miscalculation by a driver can be costly—not just to your employee and others on the road, but also to the company's safety record and reputation. Advances in fleet technology, including GPS and sophisticated vehicle monitoring systems, give risk and fleet managers valuable new tools in their efforts to keep a close eye on driver behavior and to boost fleet safety and performance.

To help understand how the use of such telematics tools can help protect your company—its drivers, vehicles and other assets—and the public, please join **Herbert Mayo**, vp, senior loss control consultant-specialist in transportation and general industry safety with Lockton Cos. L.L.C., and **Jim Anderson**, vp of safety with Florida Rock & Tank Lines Inc., for this live online webcast. *Business Insurance* Associate Editor Jeff Casale will moderate.

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AP PHOTO

3M Co., citing the federal health care reform law, said it will make changes affecting the benefits of approximately 23,000 current and future 3M retirees, regardless of their retirement date.

## 3M: New law triggers changes for retirees

CONTINUED FROM PAGE 4

marketplace brought about by the health care reform law—and the opportunities the changes create for retirees—have given us reason to re-examine how we provide retiree medical benefits to our current and future retirees.”

Beginning on Jan. 1, 2013, 3M will provide Medicare-eligible retirees and their eligible Medicare dependents with a 3M retiree health reimbursement arrangement instead of the 3M retiree medical plan. Beginning Jan. 1, 2015, 3M will provide non-Medicare eligible retirees and their dependents financial support via a 3M retiree HRA instead of a 3M retiree medical plan.

In addition, 3M is providing information and education on the various alternative plans available to retirees, as well as personalized appointments with specialists to help them evaluate the plan choices. The company also has set up a website for retirees to review and

# 28%

Under current law, the government provides tax-free reimbursement of 28% of employers' retiree prescription drug expenses that fall within a certain range.

compare plans with call center support.

The changes affect approximately 23,000 current and future 3M retirees, regardless of their retirement date, according to a company spokeswoman.

In March, 3M announced that it would take a noncash charge against earnings of up to \$90 million because of a provision in the Patient Protection and Affordable Care Act that eliminated the tax deduction for employers receiving a subsidy for providing retiree drug coverage.

Under current law, the government provides tax-free reimbursement of 28% of employers' retiree prescription drug expenses that fall within a certain range. But PPACA will alter that tax treatment beginning in 2013. While the tax-free subsidies will continue, employers receiving them no longer will be allowed to take a tax deduction for prescription drug expenses equal to the amount of the subsidy.

Because U.S. accounting rules require employers to immediately recognize the impact of such a change on their financial statements, 3M announced its charge, along with a host of other publicly traded companies that had been receiving the subsidy, shortly after health reform was signed into law by President Barack Obama on March 23.

Because of the change 3M is making to its retiree health benefits programs, the company no longer will be eligible to receive the Part D subsidy after January 2013, the 3M spokeswoman acknowledged.

## Accept WTC Captive settlement, judge urges injured workers

By MARK A. HOFMANN

**NEW YORK**—The judge overseeing the settlement between the WTC Captive Insurance Co. and thousands of rescue and recovery workers who claim they were injured by contamination at the World Trade Center site has urged plaintiffs to accept the settlement rather than seek compensation through litigation.

U.S. District Court Judge Alvin K. Hellerstein cited the benefits of accepting the settlement last week during status conference on the settlement between attorneys for 10,800 plaintiffs and New York and

**'To go to trial, the efforts will be huge and the risks high. This is a fair deal; I think this is a fair deal.'**

U.S. District Court Judge Alvin K. Hellerstein

its contractors.

During the New York conference, law firms representing nearly 9,700 clients said that more than 75% of the claimants have accepted the settlement, with another 15% to 20% percent voicing a commitment to accept the settlement. Another law firm representing claimants said

more than 90% of its clients had accepted the settlement to date.

“Between the prospect of immediate, certain recovery and the uncertainty and risk of litigation, it seems to me the balance is clear,” said Judge Hellerstein, according to a statement released by WTC Captive. “People should come in.”

## AIG fights workers comp class action

*Competitors should bring individual suits, insurer tells judge*

By ROBERTO CENICEROS

**CHICAGO**—American International Group Inc. filed a court brief Friday asking a judge to deny competitors' request for class action status in an ongoing legal battle involving alleged underreporting of workers compensation premiums.

U.S. District Court Judge Robert Gettleman has been presiding over the legal fight that began in 2007 when the National Workers Compensation Reinsurance Pool operated by Boca Raton, Fla.-based NCCI Holdings Inc. first sued New York-based AIG.

The pool argued it was excluded from a 2006 settlement with then-New York Attorney General Eliot Spitzer in which AIG agreed to pay states more than \$343 million to settle allegations that it underreported workers comp premiums over several decades to avoid paying its full share of residual market assessments to the states.

Since then, the Chicago federal judge dismissed the pool as plaintiff, but several AIG competitors continue to press the legal action while AIG also has sued competitors arguing that they also underreported workers compensation premiums.

In its Friday filing, among other arguments, AIG said class action status is designed for cases involving many plaintiffs, each seeking small recoveries. It is not meant for sophisticated insurance companies that are seeking \$1 billion in total, and each has the means to bring an independent action, AIG argued.

AIG's 55-page filing also stated that competitors such as ACE INA Holdings Inc., Liberty Mutual Group and Travelers Insurance Group also underreported workers comp premiums.

“There are potent defenses, high risks at trial; it will be hard to make recoveries,” the judge said. “To go to trial, the efforts will be huge and the risks high. This is a fair deal; I think this is a fair deal.”

Rescue and recovery workers who sued the city over their exposure to contaminants at the site attacked by terrorists on Sept. 11, 2001, have until Nov. 8 to accept the settlement.

Ninety-five percent of those eligible must opt-in to the settlement to make it effective.

WTC Captive said in June that the settlement could be worth up to \$712.5 million.

## Dail: Aon Hewitt's path

CONTINUED FROM PAGE 3

continuing to serve our clients. We expect, inevitably, there will be some workforce reductions, but we are very early in the process, so it is hard to put a specific number on it.

**Q: How long do you think it will be until the integration is completed?**

If I used Benfield as a benchmark, we declared it took about a year to bring the two firms together. We see no reason why we should not strive here for a similar time frame. These things take time. We are focused from a client perspective that there are no hiccups.

**Q: When do you expect a decision on the headquarters for Aon Hewitt?**

That will probably take a few months for us to figure out. Both companies are in based in Illinois, so we are very committed to Illinois.

**Q: Have you identified a service that won't work for a combined Aon Hewitt, something you will not do going ahead?**

So far, we have seen nothing in which we would say, "We will stop doing this." Still, we are very early in the process.

**Q: Is there a special impact that the transaction will have outside the U.S.?**

Aon has had a much more global footprint. We can take so many Hewitt capabilities and provide them throughout our global client base and that will be tremendous for our clients. I see a real upside in terms of new services that we can deliver to clients.

**Q: Is there a renewed opportunity for Aon Corp., that is, Aon, the insurance broker, to get penetration among employers that it previously didn't serve?**

Absolutely. The real strategic rationale for this deal is all-around growth, growth across Aon, not just Aon Hewitt. We see this as an opportunity to grow because we will be cross-selling services to clients that traditionally we haven't been able to do. There is a Hewitt client base to which we can take a broader range of Aon services. We see this whole merger really about growth, growing this firm overall, not just Aon Hewitt.

We view this as a huge opportunity to bring new services to our clients and to create opportunities for our colleagues. A firm that is growing will create new opportunities. That is really the key for us, and obviously shareholder value will be created as well.

## FERMA: Multinational compliance plan

CONTINUED FROM PAGE 3

30% of respondents in a similar survey two years ago.

A further 21% said their broker's pay was "mostly" transparent, while 9% said they had "partial" transparency, 4% "barely" had transparency and 3% had no transparency.

A further 2% of respondents said they did not know if their broker was transparent about remuneration received. Six percent said they do not use a broker.

The FERMA study surveyed 782 risk managers across Europe.

Also during the seminar, Mr. den

Dekker said FERMA was close to reaching an accord with the International Federation of Insurance Intermediaries, a Brussels-based European broker association, on conflicts of interest and transparency. This agreement should result in a protocol for brokers to observe, he said.

Denis Waerseggar, deputy director of the insurance department of Paris-based energy company GDF Suez S.A. and a panelist at the seminar, said all risk managers should have complete transparency concerning the pay their broker receives. But he also said insurance buyers cannot lay all the blame for a lack of

transparency at brokers' door.

"We have the power to make them transparent," Mr. Waerseggar said, noting that all insurance buyers should require full broker transparency in written service agreements with brokers.

"For me, transparency is essential," said Chris McGloin, vp of risk management and insurance at London-based software manufacturer Invensys P.L.C. and another member of the FERMA panel.

Once it is clear what each participant in the insurance transaction is being paid, it then is vital to examine potential conflicts of interest, Mr. McGloin said.



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# Bermuda: Insurers eye Switzerland

CONTINUED FROM PAGE 1

Montpelier Re Holdings Ltd. and Arch Reinsurance Ltd.

Catlin Group Ltd. and Aspen Insurance Holdings Ltd. are awaiting final regulatory approval to begin underwriting at new Swiss operations.

The trend has sparked debate on whether Bermuda might be losing its appeal as an insurance and reinsurance hub as Switzerland fattens its corporate register with new players looking to expand in Europe.

Sources say insurers and reinsurers are attracted to Switzerland because of its status as a growing, well-regulated insurance center that has access to a large pool of qualified employees. In addition, its central European location makes it easy to do business in other parts of Europe, they note.

Experts say that the relocations are simply smart business strategies, rather than efforts to abandon Bermuda. The damage to Bermuda from the relocations will be insignificant, they say, because the redomestications largely leave the companies' Bermuda operations intact.

"I don't think we've seen a complete migration from Bermuda. It's more of a business extension," said Jane Portas, regulatory director at KPMG L.L.P. in London.

"They are not just picking up and leaving; it's just a domicile change," said Ms. Carvalho of S&P.

Redomestications do not mean that companies are abandoning the island, she said, because "the operating companies in Bermuda may remain very large" even if the headquarters has moved. "Some companies enjoy being in Bermuda. They feel the regulators there are doing a great job and as a business center it is well-respected."



Bermuda has come under scrutiny in the United States, where President Barack Obama has called for a crackdown on "tax havens."

Ms. Carvalho pointed out that Bermuda continues to offer advantages to insurers and reinsurers that locate there. In an S&P report she authored last month, she noted that the island's location means the companies have easy access to the U.S. market. Companies are able to form quickly there and can have the ability to "rapidly change their policies and prices, which means they can respond quickly to changing market conditions," she wrote.

## Uncertainty on taxes

Such features have positioned Bermuda as "one of the most important centers for global reinsurance over the past decade," according to the report.

Ms. Carvalho conceded, though, that strong regulatory regimes in Europe and the uncertainty around Bermuda's tax status with the United States have caused some companies to consider moving from the island to Switzerland or other European jurisdictions.

Bermuda has come under scruti-

ny in the United States as being among so-called "tax havens" on which President Obama has called for a crackdown.

Creating further uncertainty around taxes is H.R. 3424, a bill introduced by Rep. Richard E. Neal, D-Mass., that seeks to limit deductions for reinsurers that cede large portions of their U.S. premiums to offshore affiliates. The proposed legislation says current law allows U.S. affiliates of foreign-based companies to avoid paying some U.S. taxes by reinsuring their business offshore.

Heinz Eggenberger, general manager of Aspen's new Zurich-based general insurance unit that will operate as a branch of Aspen Insurance U.K. Ltd., agreed that Switzerland's well-regulated market is an attractive feature.

"We have a very committed regulator" and a thorough licensing process that helps ensure the quality of companies locating in the country, he said. "It takes time to get a license here."

That's not to say that Bermuda's regulation is not thorough, Mr. Eggenberger and others said.

Sources said that both jurisdictions are well-positioned with solvency regulations that are expected to be recognized as equivalent to the risk-based Solvency II framework scheduled for implementation in the European Union in 2012.

Still, some Bermuda reinsurers are "starting to look at Europe as potentially offering a more sophisticated regulatory environment based on planned changes" in Solvency II, Ms. Carvalho said in the report.

Switzerland, which is not a member of the E.U., has in place a solvency test widely regarded as among the most stringent in Europe.

Some companies have cited the need for certainty in tax matters as reasons for moving from Bermuda to Switzerland. Flagstone and ACE said tax treaties with the United States in their new domiciles were the primary reason they left Bermuda, which has no such treaty.

But insurers and reinsurers should not expect any tax savings by redomesticating, sources said (see related story).

## New markets

Allied World's stated reason for moving to Switzerland was the same as that given by many companies that set up shop there: global expansion.

Scott Carmilani, president and CEO of Allied World, said, "the time has come to increase our focus on global distribution as well as global product capabilities. This redomestication will allow us to better manage our position in local markets around the world, as well as maintain a strong presence in the Bermuda market," he said in a statement.

The decision on whether to move corporate headquarters from Bermuda or to open a branch or subsidiary in Switzerland is determined by a company's intentions, sources said.

"If groups want to enhance their European books of business, that's one driver for establishing a stronger presence in Switzerland," said Ms. Portas.

There are other "softer" reasons that companies consider when deciding whether to leave Bermuda for Switzerland, Ms. Portas and others said.

Employment issues, such as whether enough qualified employees are available, are among those considerations, Ms. Portas said. "It's a relevant factor, but not necessarily the driver."

Companies in Switzerland, with access to talent throughout the European Union, would appear to have the upper hand over tiny Bermuda when it comes to recruiting qualified personnel. That is particularly true since restrictions on hiring E.U. residents were eased in recent years for members of the European Free Trade Assn., to which Switzerland does belong.

"That's a definite advantage for us," said Aspen's Mr. Eggenberger. "We have access to top-notch employees who are often multilingual. If you are going to be successful in Europe, you need staff that is highly qualified and can speak one, two or more languages."

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Martin J. Ross III, Publisher  
9-29-10

# Taxes only one reason to switch domiciles

Although some companies are redomesticating from Bermuda to Switzerland for certainty in tax issues, insurers and reinsurers should not expect any tax savings from such moves, sources said.

Business written in Bermuda is not taxed there, while Switzerland does impose taxes at varying rates depending on the canton where the company is based and other factors.

Moving to Switzerland "is not about saving taxes," said Laline Carvalho, a director with Standard & Poor's Corp. in New York.

Stuart Secker, tax partner with KPMG L.L.P. in London, said Switzerland does provide some tax benefits to insurers and reinsurers, but they are not as significant as those in Bermuda.

"One of our clients was thinking of moving," Mr. Secker said, but decided against leaving Bermuda for Switzerland when it was determined that the increase in the company's taxes would offset the benefits of being in central Europe.

Leaving one jurisdiction for another based sole-

**'The problem with making decisions based on tax issues is that these things can change.'**

Geoffrey Etherington,  
Edwards Angell Palmer & Dodge L.L.P.

ly on tax reasons would not be prudent planning, said Geoffrey Etherington, partner with the insurance and reinsurance department at Edwards Angell Palmer & Dodge L.L.P. in New York.

"The problem with making decisions based on tax issues is that these things can change," he said. "It may be a perfectly valid reason to consider when relocating your headquarters, but I think you will find that rarely is it the only reason."

—By Michael Bradford

## News In Brief

CONTINUED FROM PAGE 1

accused of making false or materially misleading disclosures about its risk management and exposure to mortgage-backed securities. According to the Oct. 4 decision by the federal district court in New York in *Plumbers' Union Local No. 12 Pension Fund vs. Swiss Reinsurance Co.*, in charging Swiss Re with securities fraud, plaintiffs cited the reinsurer's assertions that it took a "cautious stance" regarding various risks, among similar statements. However, Judge John Koeltl, quoting another case, said such statements are "too general to cause a reasonable investor to rely upon them."

### Aspen names co-CEO of insurance operations

Aspen Insurance Holdings Ltd. said John Cavoore has been named co-CEO of its insurance operations, Aspen Insurance. Mr. Cavoore, who has nearly 30 years of experience in the insurance industry, will share executive oversight of Aspen Insurance with co-CEO Rupert Villers, effective immediately, the insurer said in a statement. Mr. Villers already was serving as CEO of Aspen Insurance. Mr. Cavoore has been a member of Aspen's board of directors since 2006 and will focus on Aspen's casualty and professional lines businesses in his new role. Mr. Villers will focus on transportation-related lines of business as well as financial lines, with a joint responsibility for the insurer's property business, Aspen said.

### U.S. P/C rates fall 4%: MarketScout

U.S. commercial property/casualty insurance rates fell an average 4% in September, MarketScout said. The Dallas-based electronic insurance exchange found that the larger the account, the greater the decline. Accounts generating more than \$1 million in premium had the largest rate decreases. General liability was the most competitive line of coverage, with an average rate reduction of 5%.

### Zurich settles suit on Farmers Group fees

Zurich Financial Services Ltd. and its Farmers Group Inc. subsidiary are paying \$455 million to settle a class-action lawsuit challenging management service fees paid to Farmers, Zurich said. The lawsuit, *Benjamin J. Fogel et al. vs. Farmers Group Inc. et al.* that was filed in 2003 in Superior Court in Los Angeles, alleged that the fees that three policyholder-owned California insurance exchanges paid to Farmers Group as far back as 1999 were improper. The three

insurers, called the Farmers Exchanges, write personal and commercial lines insurance and Farmers Group provides management services. Despite the name, the exchanges are neither owned by Farmers Group nor do they hold ownership in Farmers Group, Zurich said in a statement. As many as 13 million policyholders will receive payments of about \$35, Zurich said in the statement. In addition, Zurich will pay up to \$90 million in attorney fees to plaintiff lawyers. As part of the settlement, all claims by the plaintiffs are being dropped against Zurich and Farmers.

### Workers comp premiums drop again: Analysis

The weak economy has taken its toll on the workers compensation insurance industry and a speedy recovery is unlikely, A.M. Best Co. Inc. said in a special report. The insurance rating organization said the workers compensation insurance industry's net premiums written plunged 14.5% to \$12.3 billion in 2009, the lowest level since 1999. In fact, net premiums written for workers comp fell five years in a row, decreasing approximately 41% since peaking at \$21 billion in 2004, according to A.M. Best. At the same time, the workers compensation insurance industry's composite combined ratio deteriorated 8.8 percentage points to 120%, the highest composite combined ratio since 2002, when it reached 118.6%.

### C.V. Starr opens branch in Paris

C.V. Starr & Co. Inc. said it has opened a French branch of Starr Underwriting Agents Ltd. It also has appointed Nicolas Berg as regional manager of its European Starr casualty unit and Olivier Decombes as regional manager of its European Starr technology unit. Messrs. Berg and Decombes will be based in the new branch in Paris. In his new role with Starr Casualty, Mr. Berg will be responsible for developing Starr's casualty and financial lines portfolio in Europe. With Starr Tech, Mr. Decombes will head the insurer's oil, gas and petrochemicals, process industries, power generation, utilities, mining, chemicals, construction and property lines expansion within Europe.

### Willis forms facility in Malta

Willis Group Holdings P.L.C. has formed a protected cell captive facility in Malta to underwrite risks for organizations across the European Economic Area. The Willis-owned and -managed captive facility, Lime Street Insurance P.C.C. Ltd., will provide Willis clients in the EEA the benefits of a captive insurance vehicle with lower capital commitments and operating costs than they would face if establishing their own captive, the broker said. Lime Street is managed by Willis Management (Malta) Ltd., which is headed by Anne Finn, executive director.



AP PHOTO

The attack on New York's World Trade Center, on which reconstruction was progressing last month, prompted greater federal interest in enterprise risk management, said former Transportation Security Administration official Tom Blank.

## Homeland: U.S. agency embraces risk management

CONTINUED FROM PAGE 1

In a Sept. 28 summary issued to participants in the survey, DHS noted that organizations are increasingly seeking to understand and manage risk on a "holistic, enterprise-wide level" and that risk management is incorporated into strategic planning. DHS also noted that organizations customize risk management programs to fit their needs and culture rather than follow a one-size-fits-all approach.

DHS said it would revisit the findings periodically because the field of risk management is always evolving. It said it would build on its partnerships with outside risk management practitioners "so it may continue to benefit from their experience and insight."

"There's a pretty rich federal ERM practice," Mr. Kolasky said. He pointed to the recent federal enterprise risk management summit at George Mason University's School of Management's Arlington, Va., campus as an example of federal interest in the field. The summit drew attendees from federal agencies including the Treasury Department and NASA as well as DHS, he said.

"We do see increased awareness of ERM in the federal sector as well as some significant ERM activity," said Laurie Champion, director-ERM practice at Aon Risk Solutions in Atlanta who participated in the federal ERM summit.

Ms. Champion said federal ERM activities are being driven in part by increased attention to risk by oversight bodies and stakeholders. She said there's also a "sincere desire" at



**'Adopting an enterprise approach and integrating the risk process in DHS and other federal agencies on a cross-agency basis will drive risk-informed decisions at all levels.'**

Carol Fox, Risk & Insurance Management Society Inc.

the federal level to use ERM or related disciplines to understand short- and long-term risks.

"It's interesting at the federal level. There's very much an awareness of the complexity of risk and the

need to understand risk from a systemic perspective," she said.

"There's no question that there's more interest in risk management," said Tom Blank, a former acting deputy administrator of the Transportation Security Administration. "I think there's an understanding that this is what justifies your expenditures and your risk mitigation response," said Mr. Blank, who is vice chairman of the Washington lobbying firm Wexler & Walker Public Policy Associates.

Mr. Blank said the interest in risk management arose in the aftermath of the Sept. 11, 2001, terrorist attacks on New York and elsewhere.

"If you look back at the Aviation and Transportation Security Act, it's a law full of arbitrary deadlines to put certain security measures in place," Mr. Blank said. He said the deadlines were based on best practices but not on any analysis of what the real risk was.

The Risk & Insurance Management Society Inc. praised the enhanced federal level focus on ERM. The New York-based group "encourages efforts in the federal government to embrace enterprise risk management as a strategic discipline," Carol Fox, director of RIMS' new strategic and enterprise risk practice, said in an e-mail. "Adopting an enterprise approach and integrating the risk process in DHS and other federal agencies on a cross-agency basis will drive risk-informed decisions at all levels."

Aon's Ms. Champion said that one lesson learned from the private sector is the importance of designing and implementing ERM solutions that fit each organization's management practices and objectives.

Government also has earned to "leverage existing best practices—there's no need to recreate the wheel," she said.

## School is put through 'ringer'

The question of whether religious beliefs trump dress codes is going back to the courts.

A federal court in North Carolina is being asked to consider whether a high school girl's nose stud is a legitimate expression of her constitutionally protected religious rights.

According to a lawsuit filed last week in federal district court in Raleigh, Ariana Iacono, 14, who was a ninth-grader at Clayton High School in Clayton, N.C., got the nose stud when she joined her mother as member of the Church of Body Modification in August.

Members of the church, which was incorporated in Pennsylvania in 2008 and claims 3,500 members, consider bodily modification essential to their spirituality, according to court papers.

Ms. Iacono, who is being represented by the state ACLU chapter, says in an affidavit: "This nose stud is central to the practice of my beliefs, and I must wear it at all times. As a member of the church, I sincerely believe that this nose piercing is central to strengthening the bond between my mind, body and soul."

But school district officials do not see it that way, and say the nose stud violates its dress code policy.

The Johnson County Board of Education's suggestions that Ms. Iacono either wear a bandage on her nose daily or replace the stud with a spacer during school hours, have been rejected by Ms. Iacono and her mother, and the girl has been sent to an alternative school.

The lawsuit seeks a ruling that the school district's actions were unlawful and unconstitutional, among other things.

This is not the first time the Church of Body Modification has been the focus of a federal court case. In December 2004, in a decision involving a Costco Wholesale Corp. employee who claimed church membership, a 1st U.S. Circuit Court of Appeals panel in Boston concluded that while Title VII of the U.S. Civil Rights Act prohibits employers from discriminating against employees on the basis of religion, an employer can impose a dress code barring faith-based facial jewelry if it believes such adornments would undermine its public image.



Ariana Iacono, 14, got her nose stud when she joined her mother as member of the Church of Body Modification in August.

# Business Insurance END PAGE



British pop singer Lily Allen received apologies and an undisclosed amount from So Foot magazine for printing an interview she says she never gave.

## Mag puts foot in mouth over story

British pop singer Lily Allen has gotten paid a second time for an interview she never gave.

French soccer magazine So Foot has agreed to pay Ms. Allen an undisclosed amount for a May 2009 article that falsely alleged she had made critical remarks about soccer star David Beckham, wife and former Spice Girl Victoria Beckham, soccer player Ashley Cole and his wife and "X Factor" judge Cheryl Cole.

In London's High Court last week, the attorney for the singer denied she made the comments and the magazine admitted its mistake.

So Foot "now accepts...no interview in fact ever took place," Mark Thomson, Ms. Allen's lawyer, said in a statement read in court.

So Foot "offers its sincere apologies to the claimant for the damage, as well as the upset and embarrassment caused to her by the publication of the article," according to a statement by the magazine's attorney.

Ms. Allen, a 25-year-old whose candor has garnered media attention in the past, was awarded £10,000 (\$15,836) in damages in September 2009 from The Sun for the London-based newspaper publishing the same bogus quotes in a May 2009 article.

As part of the agreement, So Foot "has also agreed not to republish the article or the words complained of, as well as to pay the claimant damages and legal costs," according to the statement.

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

## Blushing bride mortified over skivvies photos

I see London. I see France. I see the bride's underpants?

For New York bride Sara Bostwick, shots of her in her underwear while dressing for her big day prompted her to take the photographer to court.

According to published reports, Ms. Bostwick sued Christian Oth Studio after photos of her in underwear appeared in her password-protected online portfolio.

According to the New York Post, "The blushing bride said that knowing friends and family had access to the pictures was mortifying, and caused her 'severe emotional injuries, including post-traumatic stress disorder.'"

Ms. Bostwick said she specifically forbade the photographer from taking pictures of her "in an undressed state," according to the Post.

But the pictures were taken and posted in the online gallery. At the time, only Ms. Bostwick had the password and she asked the studio to remove the photos. The studio said they were removed, but the photos still were still available in another section of the site. The studio removed those as well, blaming it on "human error," according to the Post.

Unsatisfied, Ms. Bostwick sued the studio for fraud, breach of contract and negligent infliction of emotional distress, according to the newspaper. But last week, Manhattan Supreme Court Judge Judith Gische ruled that "there is nothing that would cause her to fear that she was exposed to physical harm" and rejected her suit, according to the New York Daily News.

According to reports, Ms. Bostwick, a lawyer, intends to appeal.

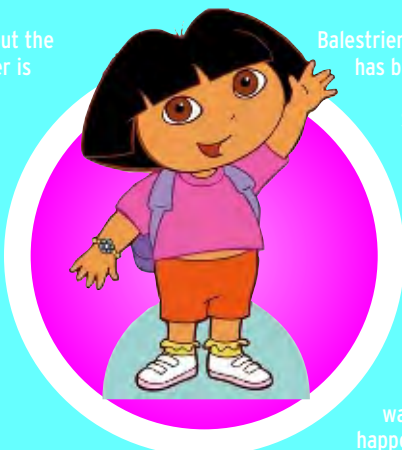
## DORA EXPLORES LEGAL OPTIONS OVER CONTRACT FIGHT

"Dora the Explorer" is a children's television show, but the teen who provides the voice for the cartoon character is engaged in a very adult fight.

Lawyers for Caitlin Sanchez (pictured at right), 14, filed a lawsuit in Manhattan Supreme Court last week, reportedly alleging that she and her parents were tricked into signing an "unconscionable contract without adequate compensation."

Ms. Sanchez signed the contract with Nickelodeon and New York-based parent company Viacom Inc. in 2007. Since then, the suit alleges, the companies "used Caitlin, unjustly enriching themselves with millions of dollars in profits from the series of branded products which Caitlin performed and promoted."

"I've never seen as convoluted and inscrutable a contract as I've seen here," Ms. Sanchez's lawyer, John



Balestriere, told the New York Daily News. He said the actress has been cheated out of "millions."

According to reports, the suit charges that Ms. Sanchez was provided with "minimal" and "noncompetitive" salary for her work on the show, as well as residuals and personal appearances. It also alleges she was forced to fly around the country to promote the show but given a stipend of only \$40 per day.

A representative of Nickelodeon told reporters that the lawsuit was "baseless" and sour grapes because Ms. Sanchez no longer can provide the voice of Dora because her voice has changed. "Unfortunately, Caitlin's voice changed and she was no longer able to portray the Dora character, as happened with the actress that originated the role," a spokesman for Nickelodeon told the New York Post.



AP PHOTO



uh oh.

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