



# Los Angeles Chapter of RIMS Quarterly Newsletter

Fall 2009

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## Contact Us

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## President's Message

Tanya Karn, ARM

It is hard to believe that summer is almost over, but it will not be long before fall is here and schools are back in session. This seems like a good time to take a look at what education means to RIMS and its members and future members.

The Los Angeles Chapter has a history of supporting both the Spencer Educational Foundation and local Southern California schools. Your participation in the LA RIMS Golf Tournament and other RIMS events allows the Chapter to make financial donations that are used as student scholarships.

I recently received a letter from Stephanie King, a Student of Insurance Studies at California State University, Fullerton, who was the recipient of the "Outstanding Student Award." Stephanie wrote:

"I just wanted to let you know what a difference your award has made to me and my education. With the cost of tuition rising a second time since the spring 2009 semester, this award is needed more than ever. I currently work two part-time jobs in order to afford school and the cost of living. With the scholarship that I have received from you... I will be able to cut back on hours at work and put more focus on my studies, which is invaluable to me.

Thank you for your generosity and your willingness to help the future generation. I am honored that you chose me to donate this scholarship to and I guarantee you that I will continue my hard work."

California State University, Fullerton has just announced that they now offer an Insurance concentration at the Mihaylo College of Business & Economics. This would be the same as a major at other colleges. Now, more than ever, they need our support.

This year The Spencer Educational Foundation is celebrating its 30<sup>th</sup> anniversary. LA RIMS will be holding a "Day at the Races" on October 18<sup>th</sup> with the proceeds going to Spencer. We hope to see you and your family, friends and co-workers at Santa Anita Race Track for the event. If you are interested in being a sponsor for this event, or working on the planning committee please contact board member Kurt Leisure who is the event Chairman.

And finally, let's not forget to "grow" our staffs by encouraging them to pursue their ARM and other insurance designations and by becoming active participants in Los Angeles RIMS. The future of RIMS and our Chapter depends on the actions taken today.

## Upcoming Events

September 16, 2009 – September Luncheon, Grand Kyoto Hotel  
Fred Pachon, VP Risk Management and Insurance, Select Family of Staffing Companies,  
and Business Insurance magazine's Risk Manager of the Year – 2009

October 18, 2009 – Spencer Day at the Races – Santa Anita Race Track-Proceeds to  
Sponsor the Spencer Educational Foundation

November 18, 2009 – November Luncheon, Grand Kyoto Hotel

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## Education



*Scott Ritto, Director of Education  
Chair, LA RIMS Board Member  
presenting Cal State Fullerton  
student, Friederike Benndorf a  
scholarship. (see thank you letter  
below)*

July 10, 2009

Mr. Scott Ritto  
VP Risk Management  
Westfield Corporation, Inc.  
11601 Wilshire Blvd, 11<sup>th</sup> Floor  
Los Angeles, CA 90025-1748

Dear Mr. Ritto,

I just wanted to take a quick moment of your time and thank you for the scholarship that was provided to me through you.

I am currently a full-time business student at California State University Fullerton and also work full-time in order to pay for my education. My daily schedule is usually packed with plenty of things to do for me; school, work, and studying are the main occupants of my time.

Even though I am lucky enough to get the help of my parents, it is still stressful attempting to round up enough money every semester to pay for tuition, books, and all the other costs associated with school. I realize how important my education is, and therefore I am willing to put as much time and effort into my education as it is possible for me. With the help of amazing people and companies such as yourself, a little burden has been taken off of me and many other students. No matter how much or little money is provided, or any other help towards funding an education for that matter, it is still very important and helpful for recipients such as myself.

I am very thankful for your support and wish the best to you and all of your associates.

With regards,



Friederike Benndorf

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## Lawyer's Corner

### **Musings of a Defense Attorney in Investigating Incidents Over Two Years After the Fact**

#### **The Problem**

I expect that another ramification of the recent economic downturn will be an increase in the filing of frivolous lawsuits against deep pocket corporate defendants. Companies with exposure to the public are often the targets of these frivolous lawsuits. Failing to investigate a reported incident on behalf of the company immediately and thoroughly has often resulted in the loss of vital evidence in support of the defense. The end result is an increased settlement value to the injured party who has been given the opportunity to exaggerate the injuries (often including pre-existing injuries) and misrepresent the conditions on the premises giving rise to the alleged incident.

There are three key reasons why I believe companies have not conducted such investigations. First, the risk manager is not notified of the incident immediately in order to conduct the investigation. Second, the employee who witnessed the incident was not properly trained in reporting or investigating incidents. Third, the risk manager believed

that the patron was not injured and would therefore not make a claim. A fourth, and hopefully less relied upon reason, is that the risk manager was concerned that any investigation would only serve to preserve evidence later to be used against the Company. Consequently, the case is not investigated until the lawsuit is served and defense counsel begins delving into the facts of the case to prepare a defense for the Company.

In these instances, the two year statute of limitations for personal injury actions compounds the problem because cases are getting assigned to defense counsel much later than they used to be. As a result, by the time the lawsuit is filed and served, counsel appointed to defend the action over two years later may have difficulty securing evidence that would reduce or eliminate liability on behalf of the Company. One of the primary problems I have encountered in these situations is that the key employees that may have witnessed the incident or, as more often the case, could have definitively established that the accident did not occur at all, are no longer with the company, having left the company on less than favorable terms or moved out of the area leaving no forwarding contact information. Without a witness to testify on behalf of the Company, there is no one to contradict the plaintiff's version of events, which, by the time the case gets to trial, has likely grown beyond any risk manager's wild imagination!

### **The Cure**

Be proactive. In order to address all of the above concerns and problems, Company Risk Managers must direct a thorough investigation into the incident immediately. Assuming that every incident no matter how small will result in a lawsuit will allow the Company to defend against those frivolous lawsuits when they do arise – and they will. Proper training of the Company's employees and supervisors in conducting an investigation is essential. The employees that are on the front line in dealing with the public and therefore likely to encounter the incident when it happens must be aware of and able to conduct the essential elements of an investigation. That is: to identify the witnesses, to interview the witnesses and obtain complete, signed statements of the witnesses where appropriate (including accurate contact information), to document the conditions that led to the incident and document all injuries of the patron. If at all possible a supervisor should be notified to conduct the investigation. However, if the supervisor is off site, many witnesses may have left the premises before the supervisor has a chance to arrive. Often times, the preliminary investigation will lead to other issues that need to be investigated such as locating sweep sheets, maintenance records, lease agreements that govern which entities are responsible for maintenance of the premises or equipment involved in the incident and any other indemnity agreements.

A risk assessment seminar conducted by an attorney specializing in defending premises liability and/or personal injury actions before an incident occurs can work with your Company to develop the proper procedures to prevent injury, minimize the Company's liability exposure and conduct a thorough investigation to document the incident afterwards.

Another option is to retain defense counsel immediately upon learning of an incident rather than waiting until the lawsuit is filed. This option is not reserved only for the catastrophic injury case. Although this would increase the cost of the initial investigations, it almost certainly would save the Company money in the long run in defense costs and settlements, especially where the Company maintains a self-insured retention under its general liability insurance policy of \$100,000 or more per incident.

Retaining counsel early to conduct the investigation has several other benefits as well:

- The witness interviews will be conducted when the facts are fresh by someone with a full understanding of the relevant liability issues who can then ask the important follow up question to resolve any liability issues
- The attorney can determine which witnesses should provide full and complete written and signed statements to preserve their testimony and keep them from changing their stories once the case enters litigation
- The attorney can properly evaluate liability from the outset and communicate that to the risk manager so that reserves are adequately set and, where appropriate, an early resolution may be obtained before commencement of litigation
- All witness interviews conducted by the attorney are protected by the attorney work product doctrine and cannot later be discovered by opposing counsel unless the witness becomes unavailable preventing opposing counsel for conducting his own interview

Although I have spoken in terms of premises liability claims, these same principles apply to handling any potential claim against the Company, including recreational sports claims, employment liability claims, and product liability claims.

Kathleen Bragg-Pebley, Esquire is a Sr. Associate at WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 555 S. Flower Street, Suite 2900, Los Angeles, CA; 213-330-8908; Kathleen.bragg-pebley@wilsonelser.com.

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## LA RIMS Golf Tournament Sponsors

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The Los Angeles Chapter of RIMS would like to thank all participants, sponsors, and volunteers for their generosity and support of the annual Golf Event!

Hole Sponsors: American Technologies, Inc./American Restoration, Aon Risk Services, Arch Insurance Group, Arthur J. Gallagher, Beecher Carlson, Chubb, Crawford & Co., Fireman's Fund Insurance Co., FM Global, Gallagher Bassett, Houston Casualty Company, Lockton, Marsh Risk & Insurance

Service, Sedgwick CMS, and Zurich.

Donations/Raffle Sponsors: American Appraisal, American Technologies, Inc./American

Restoration, Arch Insurance Group, Arthur J. Gallagher, Dempsey Partners, Century Pacific, Cheesecake Factory, Comp Partners, Dole Food Company, FOX Entertainment Group, Marsh Risk & Insurance Services, Marshall & Swift, and Westfield.



## Broker's Corner

### H1N1 Preparation Challenges and Opportunities

Gary S. Lynch

Managing Director, Marsh Inc.

Leader of Marsh Pandemic Response Center

The world is in the midst of the first global influenza pandemic since 1968 with over 182,000 reported cases and 1,700 reported deaths. In California alone, as of mid-August, there have been 1,353 reported cases and 115 deaths. With tens of thousands confirmed cases worldwide, H1N1, a new strain of influenza virus, was declared a Phase 6 global pandemic by the World Health Organization (WHO) on June 11.

Unlike with SARS and Avian Flu, which had minimal human impact but caused significant economic loss, there is a real opportunity to prepare for potential social, economic, jurisdictional and health consequences with H1N1. In the first instance, public and private organizations should seek to prioritize value and analyze flows throughout their products and services. And they should finalize, validate, and test their business continuity, supply chain resiliency, and crisis communications plans, so they will be able to cope more effectively.

As there is a possibility that H1N1 could mutate and its severity increase, businesses should continue to monitor the possibility of government intervention, ranging from mandated shutdowns of factories and offices to increased scrutiny of goods and people at border crossings, random quarantines, and social isolation. In addition, a pandemic can have ramifications for a company's ability to source goods and maintain its operations and service levels around the world. However, it is important to keep this in perspective as actions and impacts will vary depending on the severity of an outbreak in a particular location.

In light of such interdependencies, businesses updating their continuity plans should ensure that their trading partners and others they rely on do the same. Planning should include:

- Prioritization and analysis of which products and services are of greatest value.
- Pre-defined business priorities and decision modeling that accounts for interdependencies.
- A process for orderly shut-down or reduction in service based on a decline in demand, unavailability of labor force, absence of raw materials, or failure of critical infrastructure services, such as public health and safety, energy, sanitation, communications, and transportation.
- Recovery, restoration, and resumption plans that address all key processes and resources and define desired recovery times. At a minimum, these plans should include alternative methods for sourcing materials and products, alternative workforce, and work-at-home policy.

Organizations should use the current pandemic as a basis for reviewing and updating the following:

- A crisis and continuity management pandemic plan, including policies for business travel, locating staff, social-distancing, isolation procedures, and an alternative workforce.
- A pandemic communication plan that ensures that all appropriate stakeholders are kept informed and know what is expected of them.
- A physical and behavioral health policy for managing infected personnel and premises as well as hygiene and medical screening policies, anti-viral medications, health care support (e.g. anti-bacterial sanitizer, masks), and procedures for dealing with emotional impacts.

In addition, organizations need to review their insurance coverage and understand how it relates to a Phase 6 pandemic event. It is critical to have available specific policies (e.g. supply chain pandemic coverage, general liability, etc.) under which a claim might be made as many variables might affect potential recovery. This includes period of restoration, waiting periods, distance limitations, sub-limits, modification of language from the basic form, definitions, deductibles, and other policy conditions, including contamination and other exclusions.

In recent months, many organizations updated their pandemic plans with regard to social, health, economic, and security impacts including:

- Requesting that employees returning from infected countries remain at home for three to seven days.
- Restricting employee business travel.
- Activating accountability systems for employees and members of their household.
- Initiating orders of succession and delegation.
- Reviewing work-at-home procedures.
- Monitoring and surveillance of events, and regular communication of all relevant information.
- Validating trading partners' degree of preparedness.

From SARS and Avian Flu and the initial response to the H1N1 pandemic, there is much to be learned in terms of coordinated international and local activity, communications, and the need to prioritize key activities and maintain operations and a healthy workforce. There is urgency in finding and applying these lessons. Based on the world's past experience with pandemics, businesses need to prepare for the possibility of a recurrence of H1N1, a more severe variation of it, and future outbreaks.

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# The Los Angeles RIMS Chapter Welcomes New Members

Daneshia Flowers  
Risk Manager  
Parsons Corporation

Jeff Jones, CSP, ARM, SPHR  
Safety/Risk Analyst  
City of Lynwood

Gregory Kildare  
Executive Officer  
LA County MTA

Stanley Liu  
Enterprise Risk Officer  
Panda Restaurant Group

Vinny Monastersky  
Manager, Risk Management  
Fox Entertainment Group, Inc.

Deidre Samuels

Mike Wolivar  
Manager  
Global Options

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## The Value of RIMS Membership



RIMS membership costs your company less than \$1.35 per day for full membership for up to two of your corporate risk professionals and provides benefits and services valued at more than \$3,000 per year. Please see below for an outline of these benefits and services.

- **RIMS Career Center** offers free searches and substantial discounts on postings for the industry's most targeted, cost-effective recruiting website.
- Our **Risk Management Benchmarking Survey** is the single source of comprehensive insurance premiums and ERM data generated from over 1300 independent policies from the small business to the Fortune 500 Company. The intelligence saves both contributors and buyers a huge amount of money each year. If you aren't a contributor, you can still save 33% over the non-member book price and 20% on the online version.

- Our **2008 Compensation Survey** allows your company to assess its risk management compensation program by comparing itself to companies in the same industry, geographic area and of comparable size. Over 2,000 RIMS members provided input to formulate and validate the RIMS 2008 Compensation Survey. Data contributors receive the publication for free while non-contributor members save 60%.
- **RiskWire** delivers an executive summary of the most important risk management stories to your computer's inbox each morning. Over 8,000 members have consistently registered to receive daily industry news updated from our RiskWire service which saves them a tremendous amount of research time.
- **\$315 discount** on full-conference registration to the world's largest and best attended risk management conference—RIMS 2010 Annual Conference & Exhibition in Boston, MA.
- More than **60 professional development workshops annually** that provide in-depth instruction on how to apply new skills back on the job. RIMS facilitates 90 minute "course casts" to provide requested training on relevant topics our members need to be proficient in a particular discipline.
- Subscriptions to **Risk Management magazine** included with membership. On average, Risk Management Magazine reaches 87% of risk management executives in Fortune 500 companies.
- **Financial Services** – RIMS members now have their own credit union. RIMS has partnered with OASFCU to provide RIMS members with financial services ranging from employee and executive benefits to individual retirement and investing services.
- **Completely Revamped RIMS Buyer's Guide** – We have revamped and upgraded our Risk Management Buyer's Guide, a unique online resource that enables users to search for the products they need from suppliers like you – which is why your basic information will automatically be included in the directory database **at no cost as a benefit of your RIMS membership.**
- **Selecting and Working with a Broker** – a completely updated edition for 2009 with forms in downloadable, revisable formats.
- **RIMS ERM Center of Excellence** – your constantly updated source for state-of-the-industry news, tools and networking on all topics related to enterprise risk management!
- **Risk Insights** – RIMS and Ernst & Young present a series of white papers titled Risk Insights. Risk Insights deals with current issues that impact the risk management profession and are available exclusively to RIMS members at no cost through 2010.

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## Top 10 Reasons to Join RIMS

### Career Services

- For job seekers, employers and recruiters
- Newly-introduced Student Resource Center

### Professional Development Courses

- These "hands-on" workshops and courses will benefit those who want to update their knowledge on current thinking in risk management.

### Local Chapter Meetings

- Chapters offer educational and informational opportunities, special events, community involvement projects and local networking with fellow risk manager and service providers.

### RiskWire

- An exclusive news service for RIMS members, provides an executive summary of the most important risk management stories of the day.

### E-Groups

- An online networking forum, a great way to share solutions and network with the experts; over 10,000 of your peers are accessible.

### Risk Professionals Directory

- Provides members with great networking opportunities, blogging capabilities, etc.

### Risk Management Magazine

- Membership includes a free subscription to Risk Management Magazine

### RIMS Annual Conference & Exhibition

- From presentations by top industry leaders to community service events, lively entertainment to face-to-face networking opportunities, RIMS Annual Conference will inspire you to energize your RM Strategy.

### Discounts on RIMS Products & Services

- Receive discounts on all items in the RIMStore, PD courses, and registration fees to Annual/Regional Conference

### Professional Certifications

- Includes RIMS Fellow (RF) designation, ARM, and CRM
-