



Los Angeles Chapter of RIMS Quarterly Newsletter

Winter 2010

In This Issue

- President's Message
- 2009 Annual Officer Installation and Holiday Dinner Event
- Lawyer's Corner
- Legislative Updates
- Adjuster's Corner

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President's Message

It is hard to believe that another decade lies ahead of us, although I am excited to see an end to the turbulent past 10 years that were marked with some of the worst disasters imaginable. I am excited to start the 2010 decade as the new Los Angeles RIMS Chapter President supported by board members that are known to be the best risk managers in Southern California.

In 2009, the LA RIMS chapter, under the Presidency of Tanya Karn, embarked on a focus toward improving the value of the RIMS Chapter to our members and support partners. Our website went through a complete makeover, the golf tournament was a success despite the economic pressures, our talented luncheon speakers were carefully selected and spoke on issues that were on the forefront of issues pertinent to the risk management community, and we ended the year with a holiday party that exceeded everyone's expectations.

As we quickly move into 2010, the board will be focused on several key initiatives, including:

- Enhancing the annual golf tournament to make it more interactive between sponsors and risk managers. We are looking to change the venue back to Brookside Country Club and hole sponsors will be encouraged to take ownership of their hole with games and incentives for every player that will be passing through their "event".
- We are actually going to have a Day At The Races this year to raise funds for the Spencer Foundation. It will be held in the Spring and we will have opportunities for the sponsorship of races, etc. This is a family event, and also a great networking opportunity in a more relaxed atmosphere.
- The educational programs will continue but, as you saw at our last luncheon meeting, we will be looking for venues and speakers that will continue to draw a larger group.
- We are also planning events that focus on networking. For example, a wine and cheese social at a venue that is appealing and logistically attractive, such as the Getty Museum.
- Finally, it is always our goal to give back to the Risk Management community and we will focus on raising funds for scholarships, educational programs, and other groups that support the pursuit of Risk Management as a career.

Most of the 2009 board will continue into 2010 and I would like to thank Sarah Allen for her contributions and wish her the best. I would like to introduce our three new members Fred Pachon, Chad Smith and Noriel Sandoval, and welcome back those that have previously dedicated their time and energy into making this chapter one of the best in the nation: Kirsten Dial, Dennis Healy, Tanya Karn, Wendy Macy, Ross Pebley, Scott Ritto, Rebecca Smith and Diane Wren.

I would also like to thank Amber Brown from the Executive Management Associates organization. Without her support, guidance and contributions, 2009 would not have been as successful as it was for our RIMS Chapter.

Feedback from you is also critical to the success of our Chapter. If you have any ideas that you think will add value to the Risk Management Community in our geographic area, please forward your comments to me or any other board member. We will only achieve our goals if we support you in your goals and objectives. Please stay informed of our latest events by visiting us at www.larims.org, and Happy New Year.

Kurt Leisure
President, L.A. RIMS

Holiday Party

The Los Angeles Chapter of RIMS held the 2009 Annual Officer Installation and Holiday Dinner event aboard the Marina Hornblower for a three-hour dinner cruise on Friday December 11, 2009 at Marina Del Rey. Our sponsors really made this a great event this year. This was a fun and exciting event that everyone enjoyed. If you did not attend this event, we hope to see you next December for the 2010 event





Holiday Party Sponsors

L.A. RIMS would like to extend our gratitude to our current Holiday Party Sponsors:

ACE
Altman & Lunche
AON RISK SERVICES Los Angeles
Arthur J. Gallagher
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Liberty Mutual
MARSH USA, Los Angeles
The Greenspan Company
Stockwell Harris
Wilson Elser Moskowitz Edelman & Dicker, LLP

Lawyer's Corner

Workers Compensation Subrogation: Another road to recovery of benefits

Too often risk professionals fail to understand the advantages of the employer's involvement in a subrogation action. If you pay benefits that should have been paid by a third party you are entitled, under Labor Code Sections 3850 to 3865, to get that money back.

Recognizing cases with subrogation potential

The initial inquiry will focus on whether the injury was caused by a third party. Obvious examples are employee drivers in car accidents, bus drivers, truckers, route salesman. Non-obvious examples include failed machinery, outside contractors repairing agencies, equipment manufacturers, design firms, intermediate distributors.

When someone gets injured there are several sources of legal liability. You should not assume that just because an injury happens on the premises of the employer that it is only a workers compensation case. An investigation should be conducted to see if there was an outside contractor involved, such as a repair

company, a subcontractor, maybe an outsourced employee of some kind that may give rise to a third party situation.

Subsequent non-industrial injuries can be a source for subrogation recoveries

You can bring a subrogation proceeding against a third party in a subsequent non-industrial accident that has caused you to pay increased benefits. The purpose of subrogation is to avoid double recovery by an injured worker. If the claimant gets money from you, you are entitled to repayment from the party who caused the need for benefits in this second, non-industrial injury. You are entitled to become a part of the action and can get paid back, but only the amount attributable to the aggravation of the claimant's condition.

Is all third party misconduct leading to injury to an injured worker recoverable?

No. Some third parties have special protection. For example, doctors have special statutory protections which run in their favor, which effectively precludes you from seeking subrogation against them even when the doctor's actions may have caused an increase in disability.

How long do you have before you have to file a civil lawsuit?

In California there is a two year statute of limitations.

You can have only a six month statute in some cases

If you have a governmental entity as a defendant, you are required to file a Government Tort Claim with the proper governmental entity within six months of the date of injury. It is deemed denied 45 days after filing and then you have only six months after that to file your action. The claim is technical and probably should be handled by an attorney. If late, there may be ways of fixing it, so don't give up. Move quickly.

Exceptions to the statute of limitations do exist in the civil law as they do in workers' compensation, but they are much more limited.

In subrogation both the injured worker and the employer side, the carrier, may simultaneously bring a civil action. The filing of a civil action by one satisfies the filing requirement for both. If you find yourself having missed the two year statute, don't give up. Very often plaintiff's counsel has filed without telling you as a means of potentially settling around you. File anyway. Your statute may not have run.

There are several procedural vehicles available to you to enforce your rights

An independent civil action can be brought whether or not the plaintiff has filed a case. If you are in it alone you do not have to interact with a plaintiff or plaintiff's counsel. However, with your own case you have to do everything; line up all of the proof; obtain the experts, if they are called for; make arrangements to have the injured worker available to testify as to causation issues. This forces the defendant to have to deal with you directly and not plot side steps with plaintiff's counsel to defeat your rights, but it means complete preparation on your part.

You may also intervene in an existing civil case brought by the plaintiff. This is preferable with some caveats. The first is that plaintiff's counsel needs to be someone who is generally competent and honorable. Don't be naive. You need a co-counsel who is trustworthy, but you shouldn't simply trust them. A quality plaintiff's counsel will help move the case along and will help save on expense.

You don't necessarily have to bring an action yourself or intervene. You can simply act to assert your lien right without direct participation. This may save expense because you do not have to participate in all phases of the litigation. However, if you do not participate, the court can assess plaintiff's fees against your recovery proportionally.

Employer negligence and the threshold calculation

If the employer is chargeable with negligence in causation of the injury, this can substantially reduce or preclude the chance of a subrogation recovery. If the employer is guilty of negligence its percentage of negligence can be used to reduce its right to a third party recovery. In this way the burden of fault for causation is allocated to the responsible parties in proportion to their fault. If the employer has played a role in causing the injury, this is a complex pathway to recovery and needs careful fact gathering and analysis.

There's lots more, but this takes you over some of the most important subrogation features. Subrogation managed well can be a very valuable asset and its nice to get a check in the mail.

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Legislative Updates

The Los Angeles Chapter of RIMS, along with the other California chapters, is sponsoring an exciting opportunity in Sacramento. The California Legislative Delegation (CLD) is a coalition of the California Chapters of RIMS representing thousands of risk management professionals with the purpose of promoting education, communication and positions on current legislation to our membership and acting as an industry resource for our public officials. The CLD invites you to participate in the 2nd Annual RIMS on the Mall event, bringing lessons learned in Washington, DC right here to Sacramento on March 9 & 10, 2010. We hope to see you in March for this informative event so you can have your voice heard!

[Click here](#) for more information.

Adjuster's Corner

Planning For A Catastrophe Now Can Avoid Headaches Later

by
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The Greenspan Co /Adjusters International
Claims Consultant For The Policyholder

What you know and how you prepare yourself for a claim can make the difference between an unsatisfactory answer from your insurance company or getting a settlement that allows you to rebuild with no out-of-pocket cost and little inconvenience. Many insureds end up out-of-pocket because they did not pay attention to details and relied on the insurance company to *do their work for them!*

When the call comes in from the fire department that your property has suffered a catastrophe such as a fire, flood or water damage, your work has just begun. The claims process can go smoothly or become a nightmare. By preparing your records ahead of time and having an emergency plan in place, you can reduce the chances of problems. The claims process is a burdensome task at best, which is further complicated by personalities. By this I mean you are going to deal with an insurance adjuster and his or her personal quirks. Although there are guidelines to follow in claims and the insurance company may offer to “ help” you in the claims process, you still have to deal with an adjuster (or two) who may help or hurt you. The wise risk manager or owner recognizes this. The first impression you make and how you deal with that adjuster initially, sets the tone for the whole adjustment process.

When the loss occurs the insurance company sends out their adjuster to give advice on how to proceed with the clean up and filing of the claim. They are also there to investigate the cause of the claim and ensure that you document everything in your claim to their satisfaction. Not all insurance companies though have *your* best interest at heart. You need to take a proactive approach to your claim.

The policy has many requirements that you must comply with in case of a loss. I suggest you read your insurance policy now to get an idea of what will be required of you when a loss occurs. The policy also spells out what the insurer must do and how they will pay. Areas *not covered* are discussed at great length in the contract of insurance, so read it carefully! You can bridge the gaps in coverage, if necessary, by reviewing your policy and discussing your needs with your insurance agent or underwriter. This should be done on an annual basis. Pre-planning for problems now will help you sleep at night knowing you are prepared should a disaster occur.

Let's look at what needs to be done when a fire or water damage loss occurs:

- **Immediately contact your agent or insurance company.** You are required to report losses immediately to your insurance company. This must be done in a timely manner.

- **You are required to protect your property from further loss.** Calling a board- up service immediately after the loss is in order and will be reimbursed. This is to protect life and health, for a burned, opened building becomes a magnet for kids and others to get hurt in. It will also prevent the salvageable items from “walking away.” Deal with water /wet issues immediately(see below)
- **You must separate the damaged property from the undamaged property.** You will need to provide inventories for BOTH due to Co-insurance requirements. This is very important to do properly and quickly. Do not forget to inventory and photograph the debris pile; it has a habit of “disappearing” as soon as no one is looking. It contains proof of what is damaged, burned, or “out of sight” (destroyed beyond recognition.)
- **Photograph all of the property.** Pay attention to unique and expensive items or items whose value/damage may be questioned later by the adjuster. Photograph all angles of the inside and outside of the building or structure.
- **Hire a restoration company to remove any excess water.** Water causes as much or more damage than fire. As such, you need to control humidity and remove the water immediately especially with the risk and hazards of mold now known. Mold will start to grow in as little as 72 hours and is limited or not covered under the standard policy of insurance.
- **Emergency shoring may be necessary.** To prevent further damage or for safety this needs to be addressed and discussed with the adjuster before you begin. This may be a problem, for some insurance companies do not respond for several days after reporting the loss and you may need to make an immediate decision to incur costs that may, or may not, be reimbursed. Document the need before beginning the work.
- **Step back and analyze your options and plan.** You will have to decide what to do with tenants and what obligations the lease(s) place(s) on you the building owner. As such a review of all your leases is recommended. You will have questions as to what costs, if any, you want to consider paying to relocate your tenants. This will include issues such as moving them to unoccupied space or to another building. Do you want to keep them as tenants? Do they or you have the right to terminate the lease? If so, when? What about their personal property lost; will you reimburse them for it? Who is responsible for the TI's?

Robb Greenspan, SPPA is a senior partner of The Greenspan Company/ Adjusters International, a public adjusting firm established in 1946 in Los Angeles. Greenspan/AI is dedicated to representing the policyholder's interest in property claims only. Robb has written numerous articles and papers on insurance and has been teaching continuing education classes for agents and brokers as well as other professionals for over 20 years. Robb Greenspan is currently serving as a member of the Curriculum Board for the California Department of Insurance and was a past member of the Insurance Commissioners Consumer Complaint and Unfair Claims Practices task force. He holds the Senior Professional Public Adjusters accreditation issued by the National Association of Public Adjusters.

Visit www.greenspan.com for more information.

The Los Angeles RIMS Chapter Welcomes New Members

Mark Elliott – The Walt Disney Co.
Steven C. Testan – Adelson, Testan and Brundo
Jeffrey M. Adelson – Adelson, Testan & Brundo
Cynthia Garcia – Morley Builders
Hsin-yi Lin – The Walt Disney Co.
Andrew H. Gash – Roll International Corporation
Theresa McHamee – Roll International Corporation
Sue Lee – Arthur J. Gallagher Insurance
John Kangas – The Walt Disney Company
Eugene Choi – Mattel, Inc.
Cindi Tompkins – ESRI, Inc.
Yvonne Bar-yotam – Michael Sullivan & Associates.

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.

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