



Los Angeles Chapter of RIMS Quarterly Newsletter

Spring 2011

In This Issue

- President's Message
- Upcoming Events
- New Members
- Lawyer's Corner

Contact Us

<http://www.larims.org>

(818) 843-2245



President's Message

2011 is off to a powerful beginning with one of the largest earthquakes ever measured triggering tsunamis along Japan's Pacific Coast and impacting at least 20 countries. We now struggle to understand how to respond to leaking nuclear plants and the radiation levels that are affecting the local, regional and worldwide populations. Domestically, the weather continues to impact businesses in an already struggling economy.

As risk managers, we must stay on the leading edge of these disasters and learn from these past and current incidents so we are better prepared for the future. Your Los Angeles RIMS Board is focused on providing opportunities for you to network and learn from experts with the goal of making you a stronger resource to your company.

Our March luncheon speaker, Lee Goldstein, spoke on the topic of personal and corporate earthquake preparedness and business interruption. Not only was this a timely topic, but Mr. Goldstein left our attendees with "take away" items that could be implemented in the short and long term within a company.

If you have not been to an educational luncheon recently, I encourage you to visit our website (www.larims.org) where our future topics are calendared. We have changed the format and location of these educational luncheons to better meet your goals. If you have ideas for future topics, please forward this information to Ross Pebley.

Many of our board members will be attending the National RIMS conference in Vancouver; please look for these representatives at the reserved table designated for our chapter during the opening session. We also look forward to seeing you at our annual golf tournament scheduled for June 1, 2011. Again, please visit our website for further information on our golf tournament which will be sold out soon.

As a risk management leader for your organization, I want to encourage you to increase your knowledge, relationships and value. The Los Angeles Chapter of RIMS is focused on providing you with opportunities to achieve all of these through our events. I hope to see you soon.

Kurt Leisure

Upcoming Events

April 20 – April Luncheon – Liars Exposed! Phillip Maltin, JD

May 1-5 – RIMS National in Vancouver. We reserved tables at the breakfast and Awards Luncheon on Monday May 2nd

No luncheon in May because of RIMS National

June 1 – Golf Tournament at Brookside

June 15 – Steve Wilder of Disney will speak at our luncheon

April 20, 2011 Luncheon

Speaker: Phillip Maltin, JD
Attorney, Speaker, Author
Topic: Liars Exposed!

Imagine knowing that someone is lying, whether an employee at work, a business rival during negotiations or someone in your personal life. The techniques Mr. Martin reveals in his seminar, Liars Exposed!, make those insights possible.

Using unstaged video, and a technique he summarizes as the READ System, his seminar answers questions such as:

- Is one conduct always associated with dishonesty?
- Are honest people more likely to make eye-contact?
- How do you question different types of people to uncover the truth?
- What did Bill Clinton do while testifying that virtually destroyed his credibility?
- Is a man, claiming to be the second gunman, telling the truth when he says he fired on the Presidential motorcade in Dallas in 1963?

Mr. Maltin is an employment lawyer and trial attorney who has traveled North America for more than two decades to work with countless lawyers, employers, executives, human resource professionals and the media on how to identify when someone is lying, the behavior for which to look and the sorts of questions to ask. His legal work and seminar on identifying liars have been featured on NBC News, Good Morning America, NSNBC, Keith Olbermann Show and on the cover of the Los Angeles Lawyer magazine.

[Register here](#)

RIMS National Conference Vancouver BC May 1-5

The Los Angeles chapter of RIMS is pleased to announce that we have reserved two (2) tables for the chapter membership for both the General Session Breakfast from 7:30 a.m. – 8:30 a.m. and the RIMS Award Luncheon from 12:15 p.m. – 1:30 p.m. Both events will be held on Monday May 2, 2011 at the Vancouver Convention Centre West, Ballroom, Level 1. Please join your fellow risk managers from the RIMS LA Chapter for these events. We look forward to seeing you there!

LA Chapter Golf Tournament

June 1, 2011



LA RIMS ANNUAL GOLF TOURNAMENT

Wednesday June 01, 2011

Brookside Golf Course

SAVE THE DATE

With the RIMS national conference in Vancouver being held during the first few days of May this year, the Los Angeles chapter has decided to push the annual golf tournament back to the month of June. That being said, we are pleased to confirm we have entered into agreement with Brookside Golf Club in Pasadena to again serve as our host course on Wednesday, June 01, 2011.



Keeping with recent tradition, the tournament will be a noon shotgun start, and we are planning to keep registration & sponsor pricing the same as in 2010. The deadline to register is Monday, May 30th – no exceptions! However, we are certainly expecting another sell out this year and encourage you to register your foursome early. Please look for email blasts containing the registration link beginning in February. If you're interested in volunteering &/or have any questions, please direct your correspondence to larimschapter@larims.org or call (818-843-2245). **To register click here**

Holiday Party

Save the date

Our holiday party will be held Thursday, December 8th at the Woodland Hills Country Club

New Members

The Los Angeles RIMS Chapter welcomes the following new members:

Patricia Flaagan – Oakwood Worldwide
Wei Chi – Los Angeles World Airports
Jon Lara – DIRECTV, Inc.
Michael Bradbury – Securitas Security Services
Karen Stankevitz – Adelson, Testan & Brundo
Hsin-yi Lin – The Walt Disney Company
Calvin Joe – City of Los Angeles
Xavier Ortiz – AECOM
Mary Dianah Jimenez – Core Mark International
Jan Berger – Live Nation Entertainment
Matthew Shaff – Safety National
Jessica Cook – Home Box Office
Donna Denton CVS Caremark Corporation
Ronald Suckle – CKE Restaurants, Inc.
Marian Im – The Walt Disney Company
Robert Tulk – Peterson, Colantoni, Collins & Davis, LLP
Pamela Dahlberg- Northrop Grumman Corporation
Bill Inman – Emergent
Sandi Mollman – Meggitt – USA, Inc.
Steven Meisberger – American Youth Soccer Organization
Francisco Valdivia – Herbalife International
Robert Patterson – Omega Health Systems
Mark Smith – Farmers Group, Inc.
Linda Olic – Northrop Grumman Corporation
Yolanda Pena – Retirement Housing Foundation
Robert Bryant – Roll International Corporation
Archie Meairs – Roll International Corporation
Wendy Michaels – Liberty Mutual

Lawyer's Corner

Coverage Following a Global Disaster

A major earthquake, like the recent disaster in Japan, always hits close to home for those of us in southern California, and our hearts are with those in Japan who are suffering from the tragedy. While seemingly less important, such an event also triggers numerous commercial insurance claims. It is important to understand the variety of insurance issues that may arise, in order for you to ensure your company is adequately covered and prepared in the event of a catastrophic loss.

Property Damage

Initially, it is important to check that you have coverage for property damage due to an earthquake. There are two types of forms commonly used for property insurance, an "all risk" form, which covers "all risks of direct physical loss" other than those specifically excluded, or a "named perils" form, which covers property damage from certain named

perils, such as fire or windstorm. In California, earthquakes must be covered specifically as a “named peril,” either under a separate policy or by endorsement to a standard property insurance policy. Earthquakes are not covered under an “all risk” form, and in fact are often subject to exclusion for losses due to “earth movement.”

Another important issue in the case of large-scale events is that there may be damage from multiple causes, some covered and some not. In Japan, for example, there was an earthquake, a tsunami, and a nuclear meltdown, but most policies exclude nuclear radiation and radioactive contamination. The introductory language to the exclusions in the policy should address these “concurrent causes.” The fight for the policyholder will be to show that the damage was caused by the covered event. Even then, there may be coverage issues with concurrent causes if you do not have specific earthquake insurance.

Assuming there is a covered cause of loss, a property insurance policy will typically provide coverage “for direct physical loss or damage” to the insured property. Property damage may be paid on the basis of cost to repair, actual cash value (the fair market value at the time it was destroyed, or replacement cost minus depreciation), replacement cost (the cost of replacing the property), or agreed value (an amount specified in the policy as the agreed value of the property).

If the policy calls for replacement cost, then the measure should be the amount it would cost to repair, rebuild, or replace the damaged property, without any deduction for physical depreciation. Negotiation with the insurance company may be required as to the standard to which damaged property should be repaired (typically the quality that existed before it was damaged), or the quality of replacement property (typically new, as opposed to used, property). Further, you should check your policy to determine whether it covers the extra costs to comply with current building or other codes affecting reconstruction.

Business Income

Business Income covers lost profits and unavoidable expenses incurred during the time it takes to rebuild/repair damaged property, i.e., the Period of Restoration. The Period of Restoration is usually calculated as the shorter of: 1) the hypothetical time in which the destroyed property could be repaired, rebuilt or replaced, or 2) the actual time it takes to repair, rebuild or replace the property. When calculating the Period of Restoration based on a hypothetical time period, any delays stemming from events outside the policyholder’s control should serve to extend the Period of Restoration.

Determining the amount of Business Income lost during the Period of Restoration can be challenging, as policies generally provide little guidance as to how the loss should be calculated. Business Income is usually defined as “Net income (Net Profit or loss before income taxes) that would have been earned or incurred.” The calculation usually looks to historical figures, but there can be conflicts about how far back the data needs to go, or whether it looks to the business as a whole or a small sector of the business. The burden is on the policyholder to prove the amount of loss, and it is important to have strong documentation to support your claims. Hiring a forensic accountant early in the process may be beneficial to help prove the amount of loss.

New businesses, without much historical data, should still be able to recover Business Income, but may be held to a higher standard of proof in establishing the profits that would have been earned. Unprofitable businesses may also be able to recover Business Income for continuing expenses, if, prior to the loss, its profits were sufficient to cover

such expenses.

Following large-scale events, some insurance companies have argued Business Income should be reduced because of the wider economic effects of the catastrophe, such as a generalized lack of consumer demand. There is typically no policy provision permitting this. On the flip side, some policyholders have attempted to increase the amount of lost income by including consideration of the widespread effect of the physical loss or damage. This is now often controlled by policy language, but in the absence of such language, policyholders should be free to argue for whatever result maximizes its recovery (for example, a destroyed plywood seller should be able to argue post-hurricane sales would have gone up, and a business in New Orleans should be able to base its claim on pre-Katrina projections).

Contingent Business Income

Coverage for “Contingent Business Income” may be important for those of you with close commercial relationships with Japanese companies affected by the earthquake. Contingent Business Income is designed to cover a policyholder for loss of income caused by damage to or destruction of property owned by others (often called “dependent property”), usually identified as “contributing,” “recipient,” or “manufacturing” locations (i.e., suppliers, customers or manufacturers). An example would be coverage purchased by a car maker to protect it if its sole supplier of a key component suffers destruction of its factory, and the car maker suffers a Business Income loss from its inability to complete manufacture of cars.

The Period of Restoration for a Contingent Business Income claim is typically calculated the same as it is for Business Income, based on the time needed to repair the third-party’s property. Insurance companies may try to terminate the Period of Restoration if the policyholder finds an alternate supplier or customer. Policyholders should reject these attempts if the alternate supplier or customer is not equivalent to the original. In that case, the policyholder is entitled to its profits during the entire Period of Restoration for the third-party property, minus whatever profits it earns from the alternate supplier or customer.

Insurance companies may also argue that Contingent Business Income is not owed where the loss occurred outside the policy coverage area (e.g., where a U.S. policyholder with a policy limiting the Coverage Territory to the U.S. makes a claim for Contingent Business Income from a loss in Japan). This argument should fail because a contingent loss occurs where the policyholder is, regardless of where the damage occurred.

Conclusion

These are just a few of the issues that can arise in the wake of a devastating earthquake. As risk managers, it is important to look at your policy or talk to your broker and determine whether your company has sufficient coverage. The important thing with all of these claims is to carefully document your full losses from the disaster, and be ready with sufficient documentation to support your business interruption claims. Focusing on the insurance coverage promptly after the event will help ensure that you receive all the benefits you are due under your policies.

Melissa A. Meth and Douglas C. Rawles
Reed Smith LLP
355 South Grand Avenue
Suite 2900
Los Angeles, CA 90071
Phone: (213) 457-8000
Fax: (213) 457-8080

Douglas C. Rawles is a partner in the Insurance Recovery Group, part of a nationwide practice dedicated to advising and representing policyholders in complex insurance matters including D&O, Fiduciary, Media Liability, EPL, CGL and Crime Coverage.

Melissa A. Meth is an associate in the Insurance Recovery Group.

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 "coursecasts" 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 RIM Store, PD courses, and registration fees to Annual/Regional Conference

Professional Certifications

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