

WIP

Without Prejudice

Official Journal of the Ontario Insurance Adjusters Association

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Thousand Islands, Kingston, Ontario

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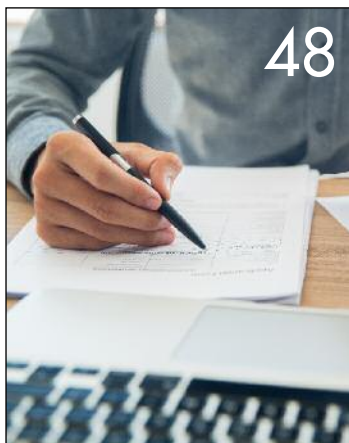
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Simone Cybulski
President, OIAA



President's Message

As I sit down to write this message; I am amazed at how fast time flies. I cannot believe this is my second last message that I will be writing as President!

It has been a challenge to write a President's Message each month for the past 8 months, as there has been nothing much to write about, given the OIAA provincial wide hasn't had an opportunity to hold events.

Typically, I should have been able to write about how excited I was to see everyone during our September Kick-Off, talk about what an honor it was to host all past presidents during our Past President's Night Social (something that pains me the most that I had to cancel), rave about our Christmas Party and how beautiful everyone looked, and how much we collected for our charity during this event and of course my favorite event of the year – talk about the huge success of our annual Claims Conference and how thankful I am to everyone that volunteered, paid, sponsored and attended to make it such a huge success – but COVID hasn't allowed us the privilege of having and attending such events; something that I am sure none of us will take for granted again, once this pandemic lifts.

This month, however, is a bit different (thank goodness). I can write about an event that I am so happy I attended, it was amazing and a huge success.

I want to thank the London Chapter for putting on an event that was fantastic. Their Virtual Murder Mystery Night was fabulous. 2.5 hours of pure fun and entertainment. Thank you to all the sponsors that enabled the London Chapter to provide us with this form of entertainment and provided us the opportunity to see so many familiar faces and engage throughout the 2.5 hours with many of them. It was the next best thing to getting together in person.

I had high hopes, that the OIAA would be able to move forward with our annual golf tournament this June, unfortunately however, we have once again made the difficult, but best decision to cancel the event. What is more important than having an event and getting together face to face, is that we all stay safe and healthy. As such, we postpone our in person get together for some time in the future.

The OIAA's last event for this year, is our final Virtual Trivia Night May 13, 2021 with sponsorship opportunities and half of the proceeds donated to JDRF. For more details and registration please visit our website www.oiaa.com

I want to end my President's Message this month with a congratulations to Zohair Nassur and Bryan Levisauskas the successful candidates from last month's Toronto Delegate Election – thank you for your commitment and I look forward to working with you next year.

Simone Cybulski

President, Ontario Insurance Adjusters Association



Monthly Webinar Series May Edition

Condo Claims 101 – A Panel Discussion

Date: May 20th at 10am

Member Cost: Free **Non-Member Cost:** \$50.00

The Panelists are:

Aidan McCardle, B.Sc., CIP, Crawford & Company

Bryan Levisauskas, CIP, Sedgwick Canada Inc.

Lou Natale, Sutherland Law

Sarah Campbell, Senior Director, MenRes Property Management Inc.



Aidan McCardle



Bryan Levisauskas



Lou Natale



Sarah Campbell

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OIAA - Executive Council 2020 – 2021



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Seminars/Education &	Kyle Case	All Committee Members	Constitution/Incorporation	Kyle Case	Terry Doherty, Shawna Gillen
Adjuster Training			Handbook	Claire Richardson	All New Executive
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Bursary	Mike Bottan	Laura O'Hearn, Claire Richardson	Nominating	Leanne Hardman	
CONFERENCES			Vendor Relations/Sponsorship...	Kyle Case	Terry Doherty, Shawna Gillen
2021 Claims Conference	Joe Cumming	All Committee Members	ENTERTAINMENT		
2021 Career Fair (TBD)	Rhu Sherrard	Kyle Case, Terry Doherty	Past-Presidents' Night	Laura O'Hearn	Cindy Bridge, Claire Richardson
			Holiday Party	Jennifer Brown	All Chapter Delegates, Senior Executive
			- OIAA Hands of Hope		
			Golf Tournament	Carrie Evans	Zohair Nassur, John Slattery
			September Kick Off	Zohair Nassur	Carrie Evans, John Slattery, Emily Feindel



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Condominiums Revisited Again (page 8)

Phil Huntley is a senior adjuster at Crawford & Company having been in the industry for over 40 years. He holds both a CIP and CRM and has taught CIP courses for the Insurance Institute. Although Phil has had vast experience with all lines adjusting he specializes in Condominium Claims throughout the Peninsula.



Dr. Essam Dabbour

Your Decision to Invest in a Modern Vehicle may Save Your Life (page 18)

Dr. Essam Dabbour, Ph.D., P. Eng., is the Vice-President of Advantage Forensics Inc., specialized in roadway design and traffic safety. Dr. Dabbour has lectured worldwide at numerous international conferences and has published many scientific papers in the field of roadway design and traffic safety.



Harshvir Singh

Your Decision to Invest in a Modern Vehicle may Save Your Life (page 18)

Harshvir Singh, EIT, has a Master's degree in Electrical Engineering from Queen's University, and works as a junior investigator at Advantage Forensics, specializing in fire investigation, product failure, and collision reconstruction.



Richard Tam

Forensic Insight: Business Interruption Losses for Professional Services Firms (page 36)

Richard Tam, CPA, CA, CFE is a Supervisor in the Kingston office of Matson, Driscoll and Damico Ltd. His practice focuses on the quantification of economic damages including business interruptions, extra expenses/increased costs, fidelity, accident benefits and personal injury & wrongful death matters.



Shashu Clacken

Insurance Regulator's Draft Unfair Practices Rule and Innovation (page 40)

Shashu Clacken, of Carpe Novo Consulting Inc., is a business transformation strategist with expertise in the insurance industry and a background in business law.



Micheka Kostyniuk

Engineering Cost Controls and Peer Reviews (page 48)

Micheka Kostyniuk is a Forensic Engineer at Caskanette Udall Consulting Engineers. She graduated as a Civil Engineer from the University of Waterloo. She specialized in structures and obtained her Structural Certificate at graduation. She has over 15 years of work experience.

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Condominiums Revisited Again





This article is written with regards to the condominium act as it stands which dates back for the most part to the changes that were enacted back over 20 years ago and I believe that the changes made then, as far as insurers are concerned, were fair and thorough.

*By Phil Huntley, CIP, CRM,
Senior Adjuster,
Crawford & Company*

Condominiums Revisited Again

The condominium act states for the standard condominium corporation that the corporation will insure the unit in what is defined as a standard unit by law or standard unit definition.

One must understand why the condominium corporation insures any of the unit at all. After all there is an old adage you own it - you insure it and in the standard condominium corporation they define what part of the building the unit owner owns in the declarations as well as where the boundaries of the unit are defined. Why then do they have the condominium corporation insure any of this?



I think we can agree that the condominium corporation, although they don't own the unit, they do have a financial interest in the unit. As an example let us say that one unit in a complex has a fire, it only affects one unit but it is severe damage. We all know that if there is one house in our neighbourhood that is not well taken care of it can bring down the value of our own. It is actually even worse in a condominium situation so the condominium corporation right from the beginning was insuring the unit.

Before the current act, the units were insured, but it was defined that the unit was to be put back to its' original form when first purchased.

Why change this

The old way was fair however, in 1998 the act changed by requiring that the condominium corporation to define what portion of the unit is to be insured by the condominium corporation. This would be done either as a by-law added to the declarations if the corporation was already in existence, or to define it in a standard unit definition forming part of the declarations. This would eliminate the problem in that as the corporations got older no one knew what was in the unit originally thus changing this should eliminate the problem.

So now you have as a guideline to the standard unit. I admit that even with that there are some challenges.

Common Problems Now

Most often I see, especially for flooring, where the standard unit calls for Builders Grade Standard carpeting and underpad. If the flooring has been upgraded to hardwood, the adjuster must source pricing for the Builder Standard carpeting etc. and calculate the allotment that the corporation owes.



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This should be done regardless of whether there is hardwood or it is carpeting, regardless of whether the flooring is original to the unit. The standard unit definition/by-law is the bible for determining the value otherwise we are defeating the purpose of defining the standard unit.

Another problem I have encountered is there is usually a clause stating that any upgrades put in by any unit owner are not covered under the corporation's policy. Notice it says any unit owner. This is usually not as problematic as when we were using the old system as they are normally less expensive and easy to negotiate out. Where I have found this the most is with finished basements in condominium townhomes. Normally if a property management company is involved they

will know if the unit owner does or does not have a finished basement and sometimes it is obvious by the different styles of finishes. However having said that, it would be up to the condominium corporation (who writes the standard unit) to establish whether it is considered an upgrade. If they cannot (in my opinion), just like in a policy, the principle of *contra proferentem* applies and the benefit goes to the unit owner and their insurer so the corporation's insurer should pay for the matter in question.

What happens when there is no standard unit definition?

I have read previous articles which differ on their opinions on this. From previous articles we are likely aware of the small claims court



judgement out of the Ottawa region which has indicated that if there is no standard unit definition then there are no upgrades in the unit. My opinion is that, being a small claims court judgement, it should be taken as good precedence. Basically the act is saying that when you have standard unit definition, it is up to the corporation to define the upgrades. If they have not, then there are no upgrades.

In another article I see that the corporation can use something like an original feature sheet to define the standard unit. I would agree with that only if this has been recognized in the corporation's declarations. If not I feel that it resorts back to the judgement previously mentioned.

Warning about standard unit definition

I am lucky to work with several management companies in my area that are knowledgeable, however in working with some others, when asked for the standard unit definition, they have sent me the section of the declarations that deal with the unit boundaries. This is not the standard unit definition so be sure of what you are being supplied as far as the standard unit definition.


Dealing with differences between insurers on What is a Standard Unit

For this I would direct you to the standard unit definition, the good ones usually have put in the document that any disputes in the value of standard builder's grade in determining what the corporation owes shall be calculated by the adjuster representing the condominium corporation's insurer. So does this mean a unit owner's insurer cannot disagree with the opposing adjuster's

findings. No, but in my opinion it means that in order to move forward on this issue the unit owners insurer must prove that the corporation's adjuster is being totally unreasonable. For if the corporation's adjuster numbers could be defined as reasonable the opposing adjuster is wasting time for all.


This however does not cover every dispute that can arise and in fact this is where the act and/or insurers are lacking. There is no way of quickly arbitrating other items and this can cause needless delays. Something should be established so that these matters can be dealt with quickly so all involved are not subject to delays. My suggestion for both parties on this issue is to calculate the differences and divide them evenly (provided both are being reasonable) as until

Basically the act is saying that when you have standard unit definition, it is up to the corporation to define the upgrades. If they have not, then there are no upgrades.



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we find a way to arbitrate such matters quickly, we only look bad in the eyes of consumers and our own supplier/ contractors for delaying settlement.

Subrogation and Deductible Charge Back

One wonders why there is no subrogation between the corporation's insurer and the unit owner. On the policy we deal with, the underwriters add the unit owners as a named insured on the property portion of the policy. Also normally (although not always) the deductible is charged back to the unit where the damage occurred. If not spelled out otherwise, that is the way it should be done. The reason for this is that the deductible is charged for damage for property that the unit owner owns. The charge back coverage on the unit owner's policy should be treated

as a first party claim. The unit owner's insurer then has the power to subrogate against a responsible party not just for the upgrades and contents but also for what they pay under the deductible charge back endorsement on the policy.

Deductible charge back

Once again I have seen problems with this as some corporations do not have one or what they have is not adequate. Normally a charge back clause should not rely on liability and the ones that I have seen that are the most affected are the ones that indicate that the unit owner will owe the corporations deductible regardless of the cause of loss, excluding losses where the corporation is responsible for the loss in which case the corporation would pay the deductible. Unit owner's insurers should watch the wordings

The unit owner's insurer then has the power to subrogate against a responsible party not just for the upgrades and contents but also for what they pay under the deductible charge back endorsement on the policy.





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of the deductible charge back as some are truly lacking.

Here is an examples of a good deductible charge back wording:

Insurance Deductibles

1. *If any damage should occur to a unit or part of it and the damage was not caused by the corporation or any agent or employee of it, and such damage was of a type that is insured against by the corporation, the unit owner shall be responsible for reimbursing the Corporation for the lesser of the cost of repairing the damage and the applicable deductible limit of the Corporation's Insurance policy and in accordance with the Act,...*

Operation of the Deductible Charge Back

Please note that the unit owner is responsible to maintain all of the unit as defined therefore to say that the corporation has to pay their deductible by reason of it failing to maintain the unit is not correct.

Further and this I put out to you only as a means of handling a claim more efficiently. Some unit owner's insurers will insist that the deductible be charged to the corporation, then the corporation charges the deductible back to the unit owner. This does follow the letter of the law however my suggestion here in order to keep the corporation and unit owner happy, is if the unit owner's insurers are satisfied with the wording of the deductible charge back, that they have the contractor invoice them directly for this portion of the claim as it will expedite the matter and you won't have to deal with upset individuals be they from the corporation or unit owners when they think this portion of the claim is owed by them or that it was not dealt with.

Conclusion

This article outlines just a few of the possible problems you can run into and how the writer feels they should be dealt with. We point out that this article deals with just standard condominium corporations in Ontario. There are of course other types that you will come into contact with such as Vacant Land Condominium Corporations and Common Element Condominium corporations and one must be aware that these rules don't necessarily apply to the other types of condominiums.

Further as far as moving forward with condominium corporations and attempting to eliminate the problems, the writer is of the opinion that insurers should have a way of very quickly dealing with and disagreements on the separation of damages between insurers. Further to eliminate problems where there is no standard unit definition, Underwriters should be insisting on same or have an industry wide standard to use for the standard unit definition depending on whether the corporation is high rise apartment style of townhomes. These 2 items we feel will vastly help the industry with regards to standard condominium claims which in turn gives the public confidence in the industry in the handling of such claims.



Phil Huntley is a senior adjuster at Crawford & Company having been in the industry for over 40 years. He holds both a CIP and CRM and has taught CIP courses for the Insurance Institute. Although Phil has had vast experience with all lines adjusting he specializes in Condominium Claims throughout the Peninsula. Phil enjoys cycling mostly road cycling but some off road and travelling with his wife. Also loves to entertain grandchildren and soon to include another come February.

WP

**FOR YOUR AD
IN THIS MAGAZINE**

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Your Decision to Invest in a Modern Vehicle may Save Your Life

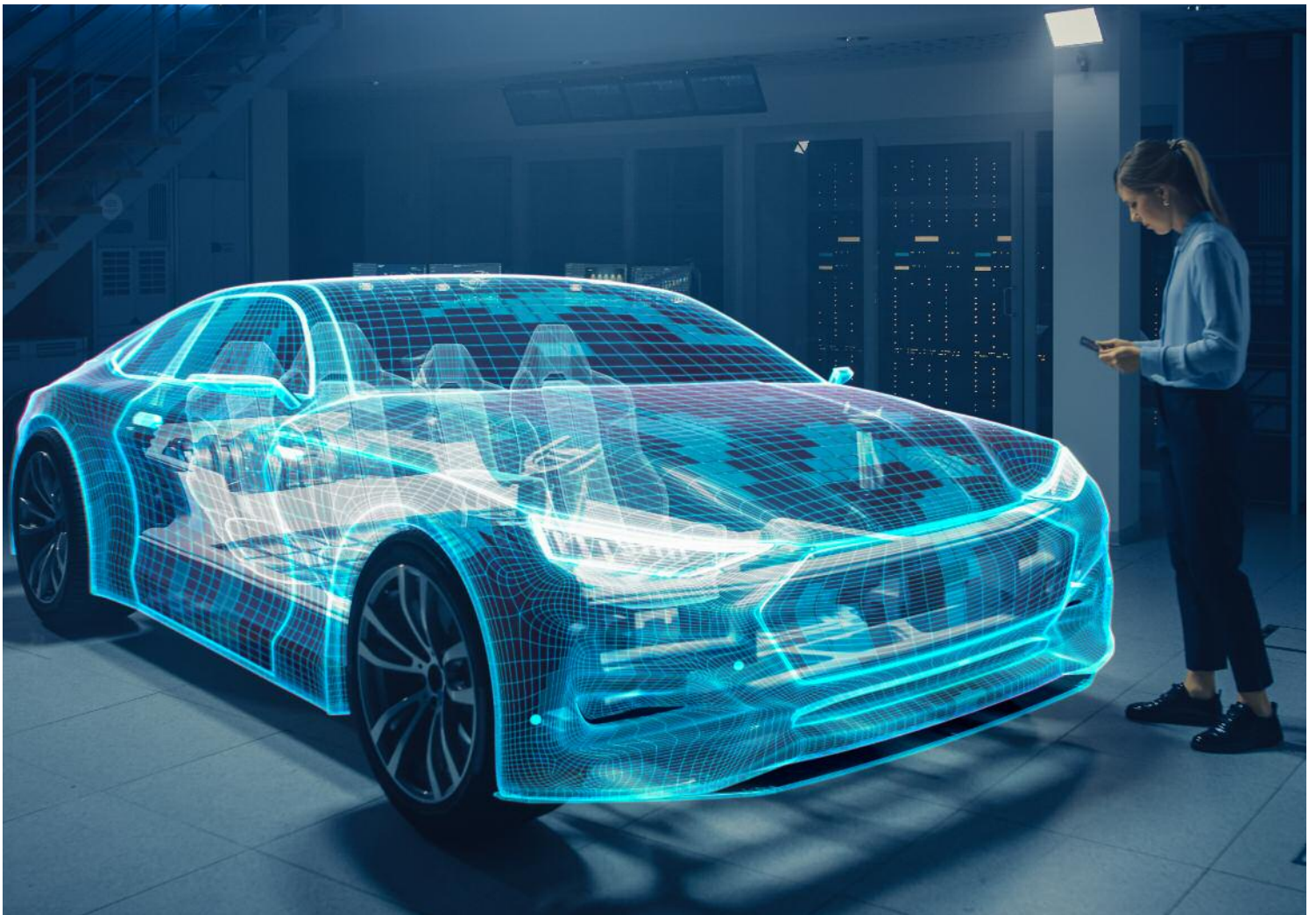
Many people think that because older vehicles are heavier than newer ones, they must also be safer. Statistics demonstrate that this widely held belief is a misconception. Statistically, modern vehicles are far safer than older vehicles. The probability for vehicle occupants to sustain injuries in the case of a traffic accident increases by approximately 1.1% for every year of the vehicle's age. This means that for a vehicle that is twenty years old, the probability for its occupants to be injured in the case of an accident is approximately 24.5% more than that if the occupants were in a recent-year vehicle.

*By Dr. Essam Dabbour, Ph.D., P. Eng.,
Vice-President and Harshvir Singh, EIT,
Advantage Forensics Inc.*

Why are modern vehicles safer than older vehicles?

Although the bodies of modern vehicles are made out of materials that are thinner and lighter than those used in older vehicles, those materials allow the vehicle's body to act as a cushion to absorb the impact in the case of a traffic accident. This decreases the chances of severe and life-threatening injuries for the vehicle's occupants.

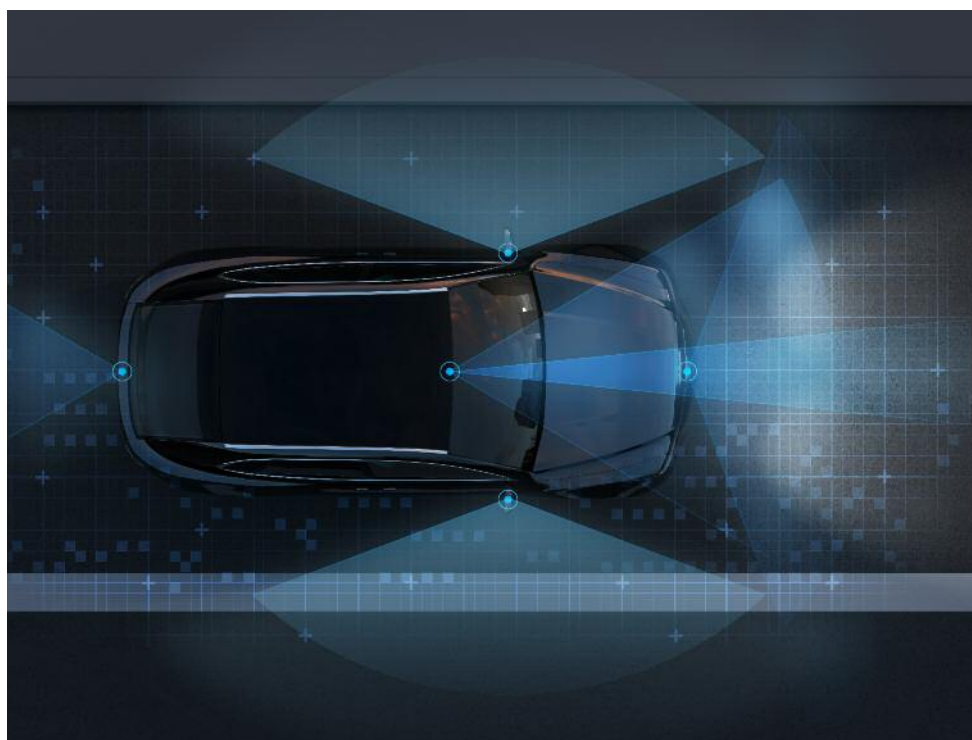
In addition to modern safety features that are now standard and law-mandated, such as seatbelts and airbags, there are several other features that make today's vehicles safer for their occupants when compared to older vehicles.



Modern steering wheels are now wrapped in thick rubber and designed to collapse in the case of an accident. This protects the driver's chest from being crushed, which was one of the most common injuries in traffic accidents involving older vehicles. Seats in modern vehicles are equipped with head restraints that are designed to reduce the probability of a whiplash injury, which was another common injury in traffic accidents involving older vehicles. These safety features found in modern vehicles reduce the severity of injuries in the case of a traffic accident and are referred to as 'passive' safety features since they are only necessitated when an accident does occur.

Active safety features

With the aid of modern technologies, most modern vehicles are now equipped with Advanced Driver-Assistance Systems (ADAS) that help drivers avoid traffic accidents altogether. Some of those active safety features are now standard in most countries, such as antilock braking systems (ABS), which avoid uncontrolled skidding of the vehicles by preventing the wheels from locking if brakes were activated at high speeds or if the road surface was slippery. Rear-view cameras are another standard safety feature required in all new vehicles sold in Canada since 2018. Other active safety features widely vary among

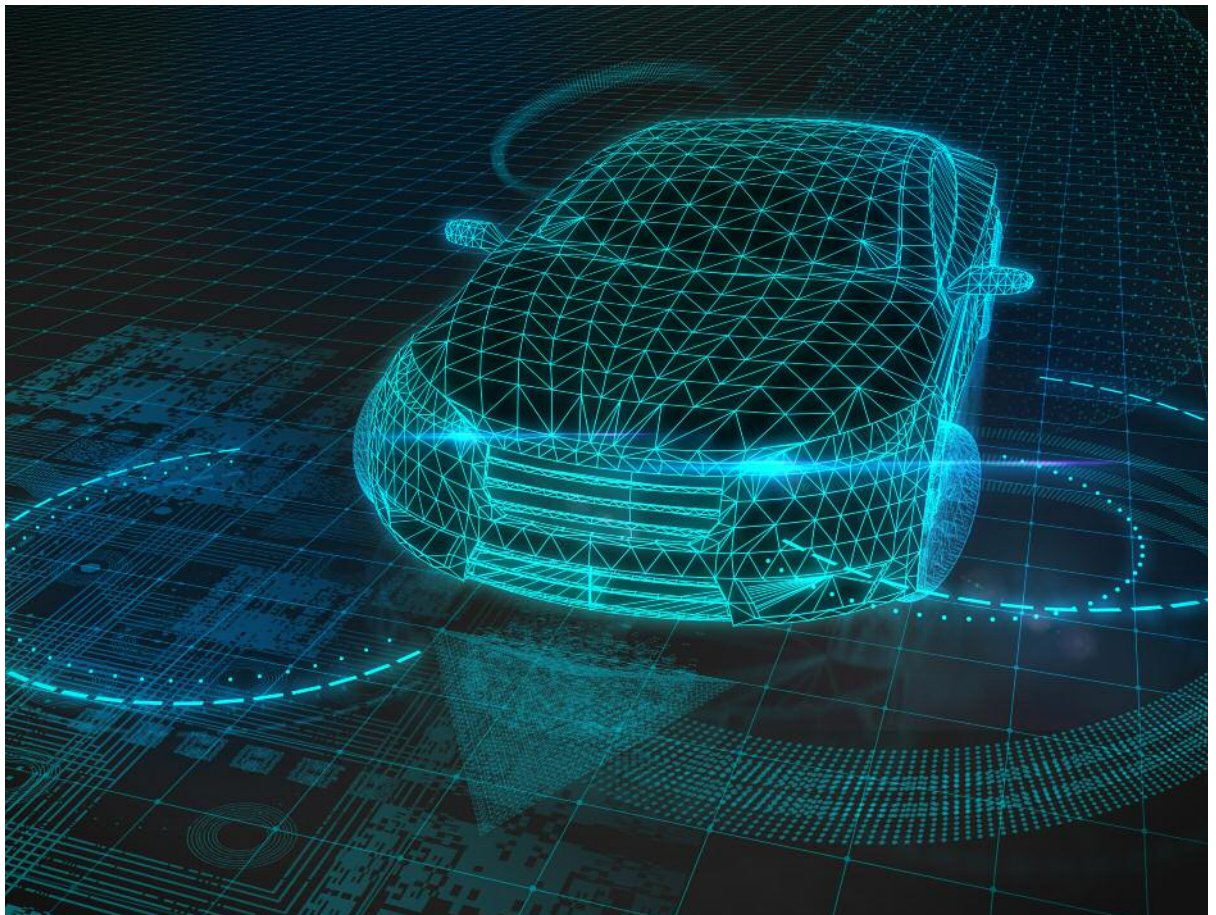


different automakers, but the most common features include electronic stability control systems that automatically detect skidding and apply brakes on individual wheels to regain vehicle's stability. Adaptive cruise control is another active safety feature, which automatically adjusts the speed of the vehicle to maintain a safe distance from the vehicle ahead. Lane departure warning systems provide another example of an active safety feature, where the vehicle continuously scans the lane markings ahead of the vehicle and warns the driver if the vehicle is unintentionally drifting into another lane due to the driver's inattention. Modern active safety features also include tire pressure monitoring systems that alert the driver in case of loss of pressure in any tire.

Are active safety features truly making vehicles safer?

According to research by MarketsandMarkets, the global market for ADAS is projected to rise from \$27 billion in 2020 to an astounding \$83 billion by 2030. ADAS can revolutionize the driving experience. A study conducted by LexisNexis Risk Solutions showed that vehicles equipped with ADAS resulted in a 27% reduction in bodily injury claims and a 19% reduction in property damage claims. A research study conducted by the Insurance Institute for Highway Safety (IIHS) found that vehicles equipped with blind-spot detection resulted in 14% fewer crashes as compared to vehicles without the feature. The same study suggested that if every vehicle sold in the United States in 2015 was equipped with blind-spot monitoring, 50,000 crashes and 16,000 crash injuries might have been prevented. Corey Harper, a researcher at Carnegie Mellon University, found that ADAS reduce the probability of traffic accidents by approximately 3.5%. He also noted that if ADAS were deployed throughout the light-duty vehicle fleet, we could see crash prevention cost savings of up to \$264 billion, assuming all relevant crashes are prevented.

Although ADAS are designed to avoid traffic accidents, they also provide last-second corrective measures that can reduce the severity of



injuries in the case of a traffic accident. In a research study that was led by one of the authors of this article (Dr. Essam Dabbour), it was found that modern vehicles not only reduce the severity of injuries for their own occupants, but they also reduce the severity of injuries for the occupants of other vehicles involved in a traffic accident with a modern vehicle equipped with ADAS. This is due to the reduction in speed provided by ADAS, which can reduce the impact in case of a traffic accident.

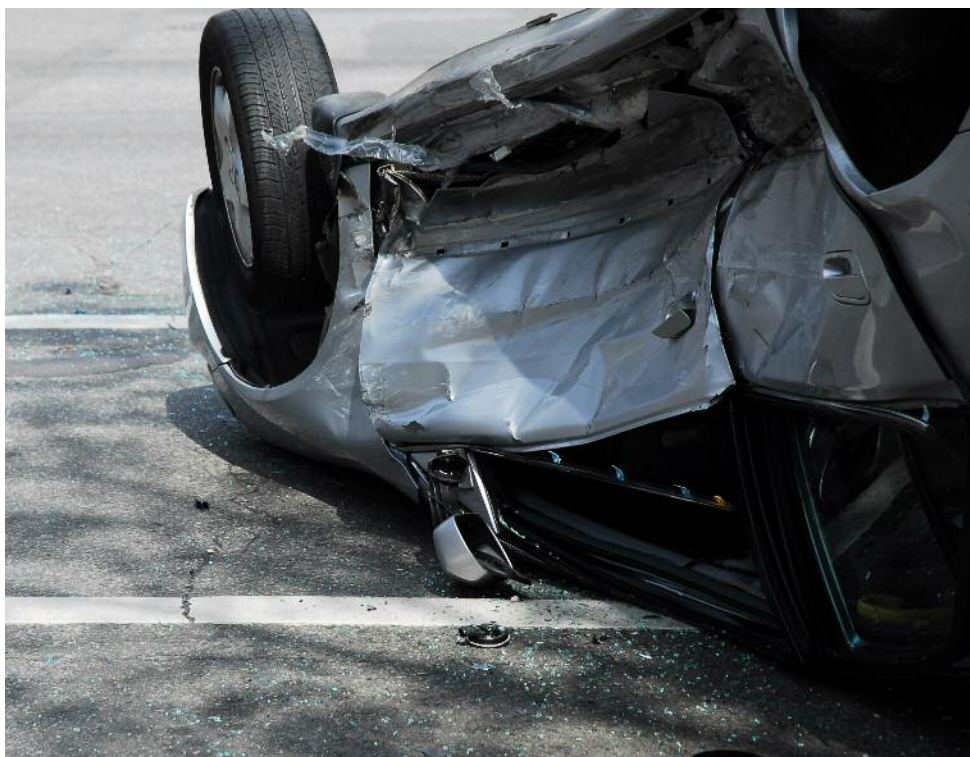
Since modern vehicles reduce the risk of accidents and the severity of injuries in the case of an accident, many would assume that this would reduce the cost of car insurance.

Do all modern vehicles have the same level of safety?

Although modern vehicles are generally safer than older ones, there are still variations among them in terms of safety. Vehicle safety is usually assessed under three different scenarios – front impact, side impact, and rollover. Based on the level of potential injury to the vehicle occupants in the three scenarios, that vehicle is given an overall safety rating. The largest two agencies in the world that test vehicles and assign those safety ratings are the United States National Highway Traffic Safety Administration (NHTSA) and the European New Car Assessment Programme (Euro NCAP). Fortunately, the safety ratings by both agencies are publicly available on the agencies' websites so that people can educate themselves about the safety performance of the vehicle they intend to purchase. It is worth noting that these safety ratings are all related to "passive" safety features since they are based on assessing the level of safety for occupants if a traffic accident has already occurred. It is also interesting to know that vehicle safety is now irrelevant to the price of the vehicle. Some lower-priced vehicles have excellent safety ratings that exceed those found in more expensive luxury vehicles.

Impact on car insurance

Since modern vehicles reduce the risk of accidents and the severity of injuries in the case of an accident, many would assume that this would reduce the cost of car insurance. On the contrary, modern safety features found in modern vehicles can in fact push the insurance premiums higher. This can be explained by the higher repair costs in the event the vehicle is involved in an accident. The technology components found in



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modern safety systems are costly. A normal side mirror is cheaper to replace as compared to a mirror that is equipped with a blind-spot monitoring sensor or a lane-departure camera. Similarly, a bumper with proximity sensors would be significantly more expensive when compared to a regular bumper. The list goes on with windshields, heads up displays, tire pressure sensors, and many other parts. "At least thus far, the improvements in safety and accident avoidance hasn't been significant enough to overtake the increase in cost to repair vehicles," says Michael Klein, the president of personal insurance at Travelers. However, this should not discourage buyers. If there is an opportunity to purchase a vehicle with advanced systems that reduce the risk of accidents, or the severity of injuries in the case of an accident, it should be taken.

On the bright side, there are insurance companies that offer incentives for vehicles equipped with ADAS. In 2016, for instance, Aviva started offering a 15% discount to drivers who had installed automatic emergency braking in their vehicles. While it is currently unlikely to receive a significant discount in insurance premiums for modern vehicles, this could change in the future. Vehicle technologies, like any other new technologies, will get cheaper over time, thereby reducing the repair costs. Additionally, with the widespread availability of ADAS, the overall number of traffic accidents could be significantly reduced to the point of warranting a significant reduction in insurance premiums.

Driver behavior is the most important factor

A final word – please remember that despite all the active and passive safety features in modern vehicles, driver behavior will always be the most important factor in traffic safety. Sadly, despite all those advancements, there are still more than 1.3 million people who lose their lives every year in traffic accidents worldwide. Driver behavior is still the most common factor attributed to traffic accidents.



Dr. Essam Dabbour, Ph.D., P. Eng., is the Vice-President of Advantage Forensics Inc., specialized in roadway design and traffic safety. Dr. Dabbour has lectured worldwide at numerous international conferences and has published many scientific papers in the field of roadway design and traffic safety.



Harshvir Singh, EIT, has a Master's degree in Electrical Engineering from Queen's University, and works as a junior investigator at Advantage Forensics, specializing in fire investigation, product failure, and collision reconstruction.





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With 2020 being an extremely different year for the world, it's never been more apparent that things can change for us in the blink of an eye. I'm certain everybody is on the same page of wanting to get back to normal as soon as we can, but when that happens is far beyond any of our control.

In the meantime, we're always looking for ways to expand the reach of the association, connect with people and create great experiences for our members. WP Radio has been something that over the past three years, has really evolved into something that is consistently seeing year-over-year growth and even the pandemic did not stifle that.

In 2020 alone, WP Radio reached over 3,000 listeners from Apple Podcasts, SoundCloud and YouTube and an entirely new roster of podcasts and episodes will be released in the coming year.

On the distribution end, we're very excited to announce that all episodes of WP Radio are now available on Spotify. Our first podcast release of 2021 is brought to you by Arcon Forensic Engineers, called "Guess What I Learned Today", which will be releasing every month throughout the year.

More projects will be announced for the OIAA and WP Radio in the coming year, and we look forward to connecting with you all as 2021 progresses.

If you or your company are interested in sponsoring a podcast and being part of the 2021 roster, please contact terry.doherty@aviva.com for more information.

We want to thank all of our listeners and sponsors for their continued support, and we look forward to a great 2021 year

- The WP Radio Team

OIAA Toronto Delegate Election 2021

On Tuesday April 13th, we held our second virtual election for the Toronto Delegates. The Ontario Insurance Adjusters Association has four Toronto Delegates and every two years, two of those positions come up for election. Historically, the election occurs in person at a GTA venue during an OIAA event where we meet the candidates, they deliver their speeches, OIAA members vote and the results are known immediately. We look forward to the time when we can come together again.

We had three wonderful candidates put their names forward for these two Toronto Delegate positions. David Montgomery of Crawford & Company, Bryan Levisauskas of Sedgewick, Canada and Zohair Nassur of The Co-operators. Toronto Delegates as part of the OIAA Executive are required to attend monthly meetings, serve as Chairs and Committee members on a number of Portfolios and participate in events on their own time. We are grateful for the dedication and time away from work and family that being on the OIAA Executive requires of all our volunteers.

We had great voting turnout for the election and the final results have Bryan Levisauskas and Zohair Nassur in the roles of Toronto Delegate commencing August 1, 2021 to July 31, 2023. On behalf of the OIAA, I'd like to thank all three candidates for their interest in the OIAA. I'd like to welcome Bryan to his first term, and Zohair back for a second term as a Toronto Delegate. Thank you to all OIAA members who took the time to respond and cast your votes in support of the candidates.



Leanne B. Hardman, BSc. Hons., CIP
Past President and Nomination Chair



Bryan Levisauskas

I would like to take this opportunity to thank everyone who took the time and consideration to vote for me and congratulate Zohair on his re-election. It is an honour and humbling that there are many

people within the insurance industry that have confidence in me being a Toronto Delegate.

I am extremely eager for this new and exciting journey and to have this opportunity for which I am very grateful. I am excited to share my perspective and ideas with other members and working together towards new creation and innovation within the insurance industry. I look forward to the opportunity to be an ear to listen and speak on behalf of other members of the OIAA.

I am looking forward to the new challenges which will arise and meeting many of you.

Once again, I thank you all very much and I am excited to begin my role as one of your Toronto Delegates.



Zohair Nassur

It is my privilege to have been voted in again for the second time and on this occasion for a two-year term. Thank you to the Executive Committee and members of the OIAA who voted for

me. I must admit, this election did leave me apprehensive of the outcome given the potential of the two other candidates. Both Bryan and David come with great experience in the industry. I would however take this opportunity to welcome Bryan to the Executive Committee and would wish David the best of luck and hopefully see him express his interest to run again next year.

A time where on-line is the new normal, we will continue to secure and promote the interest of the business of insurance and that of Insurance Adjusters. Looking forward to an interesting time ahead with the OIAA!



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New Members

The following were approved as active new members in March 2021

NAME	COMPANY	CITY	CHAPTER
DIMICHELE, Tiba	Co-operators Insurance	Oakville	Toronto
JERATH, RAJIV	Unica Insurance	Mississauga	Toronto
MIRANDA, Carla	SGL Canada/Coachman Insurance	Toronto	Toronto
MONTGOMERY, David	Crawford & Company (Canada) Inc.	Toronto	Toronto
SILVER, Danielle	BCM Insurance	Welland	Niagara

Get to know your Chapter

OIAA Thousand Islands Chapter

When we are released from our zones/lockdown why not explore locked up in Kingston!!

If you haven't had the opportunity already, you should plan a trip to Kingston and do a tour of the Kingston Penitentiary known as KP. This tour is made possible by Correctional Services of Canada and St. Lawrence Parks Commission.

This maximum-security prison located at 560 King Street W. in Kingston opened in 1835 and was officially closed September 30, 2013. It was re-opened to the public in November 2013 as a tourist attraction. Open for 178 years Kingston Penitentiary is one of the world's longest running correctional institutions and was designated a National Historic Site of Canada in 1990.

Kingston Penitentiary housed between 350-500 inmates and was once home to some of Canada's worst criminals with a few successful prison breakouts and at least one not so successful break-in.

Tours of KP are an hour and a half in length with extended tours available that are two and half hours long. Tickets are available on-line but book up fast.

I had the opportunity to do this tour with family. The KP tour was especially interesting for my two sons who are correctional officers as they were able to converse with a former officer who worked in the institution.

During the tour we heard about the Riot of 1971 which lasted 4 days and resulted in the death of two inmates and destruction of much of the prison with guards held hostage and we stood in the main cell dome which is surrounded by cells.

This walking tour also allowed us to view the former segregation wing, conjugal visit housing for those earning this special privilege as well as the Regional Treatment Centre's Gymnasium-mural dedicated to inmates and staff of Kingston Penitentiary which is a remarkable site.

As a reader I was especially interested to hear about Grace Marks a convicted murderess imprisoned at Kingston Penitentiary who was hired out from prison to serve as a domestic servant in the home of the Governor General. This historical fiction novel titled *Alias Grace* is written by Canadian poet/author Margaret Atwood and is a true story of Grace Marks and Kingston Pen is where much of this story unfolded. If you haven't read this book it is truly an interesting read.

After you have finished your tour, directly across the street is Canada's Penitentiary Museum which is an award-winning museum dedicated solely to the preservation and interpretation of the history of federal penitentiaries. It is located at the birthplace of Correctional Services of Canada in a building which was once housing for the wardens of Kingston Penitentiary.

The museum is free of charge and has various displays of badges, uniforms as well as a large display of various shanks constructed by inmates and confiscated by officers.

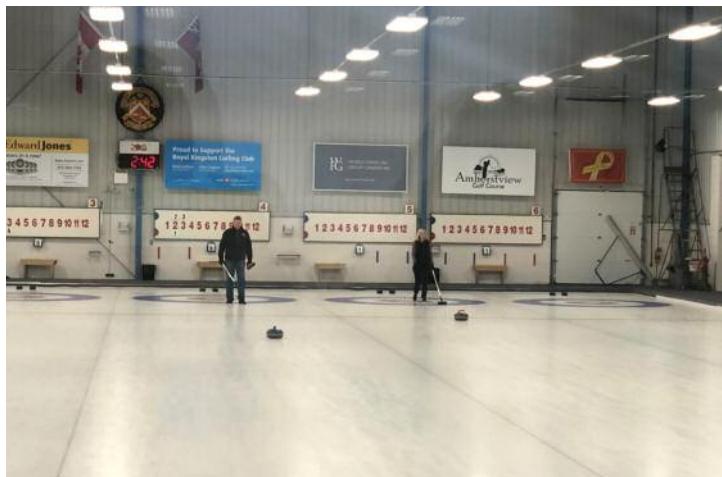
Nice weather is on the horizon and another winter almost in our rear-view mirrors. Why not come to Kingston, take a tour of KP and Canada's Penitentiary Museum and see all that Kingston has to offer.



Shari Hamilton

President, Thousand Islands Chapter

2020 Curling



2020 February Luncheon



OIAA BURSARY 2021



Do you have a child or grandchild enrolling or enrolled in Post-Secondary for 2021/2022?

The OIAA Student bursary offers financial assistance in the form of 3 awards in the amount of \$1,000.00 each. The applicant must be pursuing full time post-secondary studies at a College or University.

Selection is based on financial need, contribution to school, community life and/or other meaningful pursuits, major accomplishments and strong indication of academic promise. Eligible applicants will be a child or grandchild of an active OIAA member, who has been a member in good standing for a year and is a current member in good standing for 2021-2022.

Previously successful award recipients are welcome to apply again with a new Essay.

The deadline to apply is October 2, 2021 at 5:00 pm.

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Monthly Webinar Series June Edition

The Design of Damage Restoration

Presented by: Jeff Martin, P. Eng.

Partner, Element Forensic Engineering

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Member Cost: Free Non-Member Cost: \$50.00



Jeffrey Martin is a partner and Professional Engineer with Element Forensic Engineering. Element Forensic Engineering is a firm that provides a range of engineering services including damage assessment, structural, environmental, mechanical and electrical design, as well as investigations into the cause and origin and fires.

Jeff has over ten years of industry experience. He has personally conducted more than a thousand forensic investigations varying in nature from structural, building science, materials failure and environmental perspectives. Over the past decade, Jeff has played a leading role in the damage resolution of the majority of natural catastrophes in Ontario. He is also experienced in the appraisal process, providing the supporting expert engineering opinion on numerous occasions.

Prior to his career as a forensic engineer, Jeff worked as a contractor and as an adjuster with an industry leading insurance company. Jeff completed a degree in engineering and business, at the University of Ontario Institute of Technology (UOIT) and is a member of the Professional Engineers of Ontario (PEO).

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Forensic Insight: Business Interruption Losses



for Professional Services Firms



A fire breaks out at a strip mall, and all of the businesses sustain smoke damage. Fortunately, the firefighters arrive quickly and only minimal repairs are required; the businesses resume operations after a few days.

One of the businesses affected is a professional services firm (e.g. dental practice, interior designer, accounting firm, architecture firm, etc.). How does one go about quantifying the business interruption losses of this business? This article explores some common issues we have encountered in dealing with situations such as the one described above.

*By Richard Tam, CPA, CA, CFE,
Matson, Driscoll and Damico Ltd.*

Is there a loss?

Suppose that when we interview the business owner, they advise that, while the temporary closure of their business was upsetting and caused disruption to people's work:

- They did not lose any existing clients, miss any deliverables, or to turn away potential clients, and were eventually able to complete all projects (subject to minor delays);
- All employees are salaried and continued to be paid their regular pay; and,
- No additional costs were incurred.

Depending on the type of policy in place, there may not be any business interruption loss in this situation, as lost working hours during the closure period will be made up during future periods. There may be a delay in revenue, but overall this will not result in a revenue loss for the insured.



So when can a loss occur?

Here are some common scenarios where it might be possible for a business interruption loss to occur:

- **The insured is at or close to full capacity:** Sometimes, it simply may not be possible for the insured to make up for the time lost during the damage period. This can occur when either a) there are particular projects that have specific deadlines, or b) the business is already at full capacity, and cannot reschedule or make up the loss of revenue during the damage period without displacing other clients.

For example, assume the insured is an interior designer and is operating at full capacity. Unfortunately, they had one deliverable with a tight deadline. The firm was unable to access important project details from their server; however, they advised their client of the situation immediately and refunded the deposit.

Or consider a busy dental practice, where all of the chairs are booked solid for the next few months. If the practice is closed for a week due to a flood, they may be able to reschedule some of their appointments, but there will still be an overall cascading impact on revenue.

The duration of the loss period can make a big difference. If the business is closed for a few days, it may be possible to seamlessly make up the lost revenue; if it is closed for two months, the prospect of mitigation is much lower.

- **The insured generates business due to its physical location:** Some professional services businesses are dependent on their physical location as a source of client intake; if their location is closed, then the business may

suffer a revenue loss.

For example, assume the insured is a doctor and some of their revenue is generated from walk-in appointments. Because of a fire, these prospective clients will go to another clinic, resulting in a loss in revenue.

- **The insured may incur additional payroll costs:** If employees are paid on an hourly basis and worked additional hours to complete files that had been delayed, it is possible that the business will have a claim for losses equal the additional wages paid to make up lost chargeable hours in the period following the loss.

Closing

In dealing with business interruption claims for professional services firms, it is critical to gain an understanding of how the business was impacted

on an operational level. This understanding will allow for a reasonable assessment of whether a business interruption loss is likely to have occurred, versus a mere delay in achieving the business's revenues.



Richard Tam, CPA, CA, CFE is a Supervisor in the Kingston office of Matson, Driscoll and Damico Ltd. His practice focuses on the quantification of economic damages including business interruptions, extra expenses/increased costs, fidelity, accident benefits and personal injury & wrongful death matters.

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Insurance Regulator's Draft Unfair Practices Rule and Innovation





On December 18, 2020, Ontario's insurance regulator, the Financial Services Regulatory Authority of Ontario (FSRA), launched a process to seek feedback from the public regarding its first proposed insurance rule: a new *Unfair or Deceptive Acts or Practices* (UDAP) rule. If this draft rule is approved, it will replace the existing UDAP Regulation (O. Reg. 7/00) under the *Insurance Act*. The proposed reform is aimed at addressing a range of objectives. This article focuses on its implications for innovation as it impacts insurance customers and insurers.

*By Shashu Clacken,
Carpe Novo Consulting Inc.*

Insurance Regulator's Draft Unfair Practices Rule and Innovation

The global pandemic has underscored the critical need for businesses — and, notably, essential services like insurance providers — to remain operational and able to effectively leverage innovation and digital tools. Insurers in Ontario have been able to continue servicing customers by using some digital tools, but the old regulatory framework was widely interpreted as significantly impeding innovation that could better serve customers.

Yes, insurers in Ontario can and do phone customers and make use of videoconferencing and some remote communication tools within certain limits. However, the measures generally in place pale in comparison to those employed by leading businesses in other industries and jurisdictions that are truly digitally enabled.



Lemonade, for example, continues to make news for disrupting the insurance industry in certain U.S. and European jurisdictions with its digitally powered strategy. One example of the tech-driven way that Lemonade has achieved a clear competitive advantage is that it can digitally process or honour certain claims, from end-to-end, within just a few minutes.


Awareness of these digital developments — and other forms of speedy digital customer service in other industries in Ontario — shapes the expectations of Ontario customers. Millennial customers, leaning-edge Gen Z customers and increasingly customers from other generational cohorts, expect fast and easy service. Customers are not happy or satisfied with lengthy snail mail back-and-forthing.

Many customers do not have




printers at home. Various printing services are bogged down with more cumbersome processes given COVID-19 safety measures. And in-person contact may ultimately carry some level of exposure during the pandemic.

Understandably, customers prefer



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more convenience. This was true even before the pandemic, and is even more pressing with the need for social distancing and a growing need for ease of mind. It is even more vital in the case of injured customers, who desire and particularly deserve a frictionless claims process.

While I focus here on the claims

process — as that's at the heart of delivering on the promise of insurance — all customer-facing aspects of the insurance business in Ontario have a prime opportunity for digital enhancement.

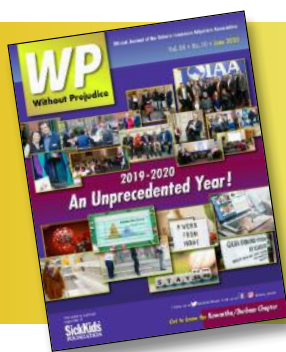
The pandemic and the related economic environment have shone a spotlight on how many businesses may fail if they are not digitally enabled to offer fast and easy customer service. Thankfully, Schedule 22 to Bill 229, *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 was recently passed in December 2020 and, among other things, it expressly authorizes certain communications and exchanges of documents by electronic means.

This article lacks scope to comment extensively on Schedule 22 to Bill 229, but it is sufficient to note

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Tena Allen, **WP** Advertising Manager at tena.allen@djig.ca

that the statutory and regulatory landscape is shifting to enable innovation by insurers in Ontario. In this author's view, this is certainly a good thing. It is good for customers in terms of choices, experience, care received and ultimately the price tags they may face in future.

The more insurers can weather this social-distancing and economic crisis, the better it is for competition and for options available to customers. If insurers can also reduce their costs of doing business through the digital improvements, those savings bode well for the cost of insurance.

Turning then to the key question of FSRA's proposed UDAP rule, as it relates to innovation. In this author's view, FSRA should be commended for pursuing such reforms. The draft rule is a notable improvement on the existing Regulation, as the draft rule aligns with a principles-based approach to regulation in customers' best interests.

A principles-based regulatory approach means that, instead of making very prescriptive and specific rules prohibiting certain actions, the regulator instead establishes the principles to be observed to achieve the objectives of consumer protection, innovation and the like. Regulated entities (such as insurers) are, in turn, allowed a reasonable measure of flexibility to facilitate innovation and competition, while being bounded by the principles. It is essentially saying that as long as you respect the principles and ensure the intended regulatory outcomes, you have leeway as a business to find innovative ways to get there.

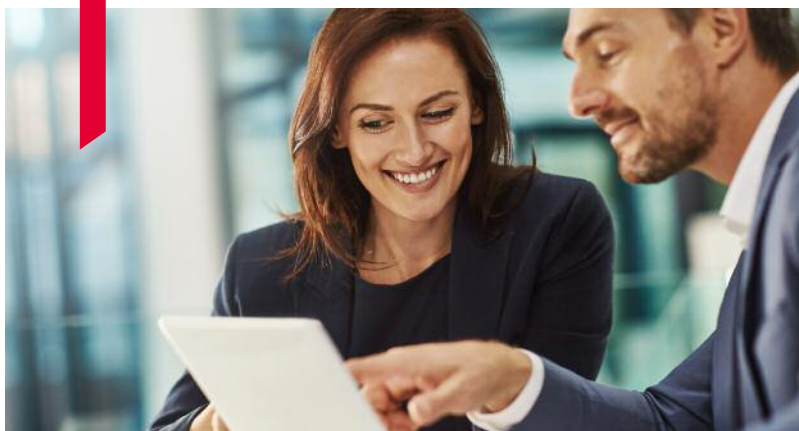
This article lacks scope to delve into the minutiae of the differences between the draft rule and the existing Regulation. Plus, my focus here is on the broader business strategy, innovation and transforma-

tion implications. In broad strokes, this author supports the approach FSRA has taken so far.

To illustrate, consider the following example (though, this example should be not relied upon, and FSRA will offer further guidance and examples). Take the auto accident scenario and recall Bill 229 (Schedule 22) reforms. It could be that insurers innovate and digitally make simpler, easier and quicker the process to complete and deliver claim forms. This is a topic worthy of special focus in itself.

Suffice it to say, one interpretation is that digital innovation in this area is permissible, following Bill 229 and the principles-based direction that FSRA is embracing, including in its draft UDAP rule. The interpretation is that such innovation is permissible as long as, say, it does not violate

The more insurers can weather this social-distancing and economic crisis, the better it is for competition and for options available to customers.



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principles of transparency; is not misleading; does not work against consumer interests; is not unfairly discriminatory; does not amount to anti-competitive practices; and does not breach other laws.

Indeed, the interpretation is supported by the fact that the principles expressly emphasize the importance of timely communications and fair, simple and accessible claims handling.

For Ontario's — and in turn Canada's — economy to thrive, and for its people to be better cared for, regulatory reform that enables fair competition and principles-compliant digital improvement is a very welcome development. Feedback on the draft UDAP rule is due to FSRA by March 18. Members of the public should lean in and, in this author's humble view, support the innovation-friendly reforms.


Author's note: This article is a general comment from a business strategy perspective only. It is not legal advice and should not be relied upon as legal advice.

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Shashu Clacken, of Carpe Novo Consulting Inc., is a business transformation strategist with expertise in the insurance industry and a background in business law.

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Engineering Cost Controls and Peer Reviews





In the insurance world, there are various appraiser firms that assist insurers with cost control when it comes to contractors. They assist with reviewing the scope and associated costs, among other things. But contractor costs aren't the only thing that can exceed expectations for insurers.

Usually, contractor costs are far more significant than engineering costs, but occasionally engineering fees can become excessive throughout a project. This may be due to a high number of billable hours and the client doesn't understand why there were so many hours or a scope that expands drastically, among other reasons.

*By Micheka Kostyniuk, P.Eng.,
Caskanette Udall Consulting Engineers*

Engineering Cost Controls and Peer Reviews

Questions arise as to how a scope and the associated fees evolved so much from what was expected to be much more simplistic and/or cheaper.

Environmental jobs can often become expensive as scope creeps as the contaminated areas are identified and delineated, which can cause additional need for sampling and laboratory analysis, consulting, and other fees. No one knows for sure what you're going to find when you begin excavating or drilling boreholes, but knowledgeable experts in these areas have a detailed understanding of what they are getting into after preliminary sampling and analysis, and then build a remediation plan and scope of work to go forward. But what if the plan changes or expands drastically throughout the course of the job?





The question arises, was the original scope proper? Was there enough early testing done to attempt to delineate the area so a proper scope could be initially determined?

The question arises, was the original scope proper? Was there enough early testing done to attempt to delineate the area so a proper scope could be initially determined? If there was enough sampling and analysis undertaken, was the data properly analyzed to come up with an appropriate scope? Or did something unforeseen happen during remediation that caused the scope to unexpectedly expand? A detailed peer review can help answer these questions and identify if costs incurred were appropriate or if errors were made.

There are other non-environmental engineering situations where something goes drastically wrong and we are asked to review what happened, either from a scope or financial point of view, or both. These often are more unique situations.

For example, a building was under renovation/restoration in the summer and the roof was removed

from the building. The building was tarped, but the new roof wasn't installed until the spring. Water infiltrated the home and there was widespread water and mould damage throughout the home and the home was no longer habitable. The contractor stated that there were





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extenuating, unforeseen engineering issues that were discovered after the roof was removed that resulted in the delays with the new roof installation. We were asked to review the file and assess the project scope and timelines, including the engineering issues that were discovered along the way, and determine whether or not the sequence of events was reasonable or what should have been done from a planning and early engineering investigation stage to ensure this project ran more smoothly once construction began. This file ultimately went to court, and we were qualified in court to give expert witness testimony on this matter.

Another recent example involved an engineer that provided a quote for a specific scope to complete a cause and origin report to determine why a building sustained damages following a methane release into their home, and to provide recommendations on remediating the house. The scope ultimately expanded due to unforeseen circumstances and the final bill at the end of the project was approximately four times the quoted amount. We were asked to review the scope of work, report, and invoices of the other engineer to determine what was reasonable and what was not reasonable, and ultimately what an appropriate engineering fee (from a time point of view) would have been for this project with the same scope. Our review found that the hours billed to the client were extremely excessive for the associated scope. This was another file that ultimately went to court, and we were qualified in court to give expert witness testimony on this matter.

We hope all your projects run smoothly and with no issues arising. If they don't, and you're not sure how to sort through what went

wrong on a project or assessing whether or not the scope or fees were excessive or inappropriate, feel free to reach out to us to assist you with sorting out what went wrong and what should have been undertaken.



Micheka Kostyniuk is a Forensic Engineer at Caskanette Udall Consulting Engineers. She graduated as a Civil Engineer from the University of Waterloo. She specialized in structures and obtained her Structural Certificate at graduation. She has over 15 years of work experience. She specializes in the areas of property loss/structural claims, personal injury assessments, and fire cause and origin investigations. She is an active member of the PEO, OSPE, NAFI, CAFI, NFPA, IAAI, and CSFS. She has been qualified in the Ontario Superior Court to provide expert witness testimony.

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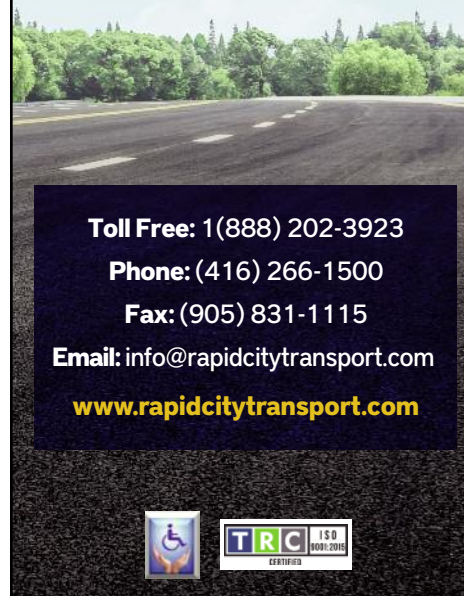
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Final Report

Sarah Graves, Thousand Islands Delegate

At the time I am writing this we are having some unseasonably warm days and I could not be any more overjoyed as it is a much needed reminder how close we are to summer!

Summer 2021 is something I think EVERYONE is grateful for at this stage of the pandemic. When I thought about what to write about for my final report, the last thing I thought anyone would want to read about was more dynamics of the ongoing pandemic. So I thought about what is something else that has completely consumed most of our lives since early 2020... video calls.

Love it or hate it, it has become the new normal of how we need to communicate for the foreseeable future both in our careers and in our personal lives. While navigating this new virtual life there are certainly a few things I have learned from experience or by watching others – 1. Wear pants, 2. Brush hair, 3. Check your background (for those pesky kids and pets who love to make an appearance usually at the worst/funniest times), 4. Try not to stare at yourself! I heard a statistic on the radio the other day that said 70% of people polled stated they looked at themselves during a video call rather than the other participants.

In my opinion I think the new virtual norm we have all adapted to will permanently alter and help many industries where communication was lacking previously long past when this ordeal is over. I have thought about how truly thankful I am that this type of technology was easily available when our lives changed so quickly one year ago. From video calls with my Nan who is in her 90s and has learned to navigate an iPad, to a trivia nights with OIAA, it has certainly brought a way to connect with people from across the Province when we are all stuck at home.

After almost a year into this Pandemic I hope mostly everyone has had the ability to navigate the different platforms brought upon us; Zoom, Teams and Skype to name a few. As everyone is now familiar with the technology, I am seeing less and less viral videos of business meetings being led by someone who has accidentally turned on a potato or cat filter. I for one, will miss those as they always made for a good laugh. How can you possibly take someone serious when they look like a potato!?

Whenever you are having a tough day, as we all have throughout this past year, I highly recommend you jump on to YouTube and check out some viral zoom fails which will surely brighten your day.

Wishing everyone a wonderful summer, stay safe and look forward to seeing everyone in the very near future.

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