

# W/P

**Without Prejudice**

Official Journal of the Ontario Insurance Adjusters Association

Vol. 81 • No. 1 • **September 2016**

*Incoming President  
Ian Gallagher*



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### FOR THE MAGAZINE



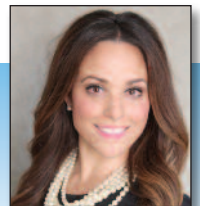
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**Ian Gallagher**  
President, OIAA

## ***President's Message***

I recall attending my first OIAA meeting in Niagara like it was yesterday. That was back in 1990.

I didn't know a soul in the room, with the exception of my new boss, Marie Van Moorsel and who I had only just met two to three weeks prior. My boss, had just opened the first branch office of Ponton Coleshill & Edwards (PCE) and for those of you who know her, an unsuccessful branch

office was not an option. I had just been transferred from the Toronto office of PCE to St Catharines and according to my new boss, she was adamant that if the office was going to succeed, and it did, then we needed to attend these monthly meetings hosted by the OIAA Niagara Chapter.

Being somewhat on the shy side, an undisputed contrast to my boss, I'll never forget how uncomfortable I felt walking into a room of 50 people and not knowing a soul. Ironically, I quickly learned that most people in the room knew exactly who we were. Marie was the new IA in town and I was her side kick.

That was 26 years ago and if someone told me back then that one day I'd be the 86th President of the OIAA, I'd have told them they're crazy. The journey from my first OIAA meeting in Niagara, to becoming President has been an amazing ride. It was 2002 when I became the Niagara OIAA Chapter Delegate, a position I held for 10 years. Over those years, I not only learned a lot about myself, but also about our dynamic organization.

When my tenure as Chapter Delegate expired, I had two options. ...fade into the sunset, knowing that I'd dedicated 10 years to our association, or take it to another level and run for the position of Provincial Secretary. By doing so, I was also committing to another six years of volunteering to our association. Well, that was four years ago and I'm forever grateful to my peers who elected me and gave me the opportunity to help lead this amazing organization.

Professional Development, which is partially achieved by way of educational seminars and training initiatives, is just one of the strengths behind our

association. We're also very proud of our Career Fair, held in conjunction with our Provincial Claims Conference. Each year students from the five colleges offering the Insurance program are invited to a daylong conference where they learn about our profession and explore the numerous career opportunities our profession has to offer.

The importance of networking is also recognized within our association. Since its inception 86 years ago, the OIAA has worked diligently in providing a valuable networking platform for both adjusters and vendors alike.

Our profession and association should not be underestimated. Every independent and company adjuster should be able to take advantage of the benefits offered by the OIAA. As is the case with engineers, architects and the like, I think it's customary and maybe even essential, for every profession to have their own professional organization or association. The OIAA being no exception. Companies, both IA's and Insurers alike, should be encouraging their employees to become OIAA members and instilling the importance of belonging to their respective professional associations. There is value in membership.

I'm very excited about the year ahead. We've made significant and what we're certain will be positive changes to our Claims Conference in January. We've revamped the conference format and more importantly, have a great line up of timely, educational seminars for our members to take advantage of. Be sure to go online regularly to view the events for the year ahead. [www.oiaa.com](http://www.oiaa.com)

In closing, I want to take a moment to thank all of our OIAA volunteer members. Our association, which consists of eleven chapters throughout the province, as well as the provincial executive, is comprised of hardworking and determined volunteers. These are people with busy lives of their own, who sacrifice time from both their employment and families, all for the benefit of our members, our sponsors and our vendors. We are a successful, volunteer based organization and I can assure you we all do our very best throughout the year to help to make each organized event a success.

I would also like to personally thank Catherine Groot and Jackie Johnston. Your assistance has been invaluable. During her tenure, Catherine brought her admiration and passion for this association to every meeting. Her successful year as president exuded this. Congratulations C.

Oh... and by the way, for those of you who don't remember Marie Van Moorsel, she is now my wife, Marie Gallagher and is still the branch manager....but I'm the boss at home.

**Ian Gallagher, CIP**  
President, Ontario Insurance Adjusters Association  
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### ***NEXT MEETING***

***Wednesday, September 21, 2016***

**September Kick-off Event**

Location: Ripley's Aquarium, Toronto

For more information please visit our website [www.oiaa.com](http://www.oiaa.com).

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# OIAA - Executive Council Committees 2016 – 2017

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<b>COMMUNICATIONS</b>		
Without Prejudice Editorial.....	Shawna Gillen	Ray Proctor
Without Prejudice Articles .....	Terry Doherty	Kyle Case
WP Advertising-Sales .....	Johanna Rienzo	Terry Doherty
Media Relations.....	Carrie Evans	Johanna Rienzo
Website.....	Ray Proctor	Kyle Case
Social Media.....	Kyle Case	Johanna Rienzo, Shawna Gillen
GTA Membership Liaison.....	Carrie Evans	Shawna Gillen, Johanna Rienzo, Matt Rienzo
<b>EDUCATION</b>		
Speakers & Meetings.....	Ian Gallagher	Jennifer Graham
Seminars and Education .....	Carrie Evans	Stephen Tucker, Mike Hoffman
Adjuster Training- Development .....	Rhu Sherrard	Stephen Tucker
Strategic Planning Committee.....	Michael McLeod	Cindy Bridge, Matt Rienzo, Geoff Sullivan, Kyle Case
Bursary .....	Cindy Bridge	
<b>CONFERENCES</b>		
2017 Claims Conference .....	Rhu Sherrard	Cindy Bridge, Craig Ozog
Career Fair .....	Jennifer Graham	Michael McLeod
2017 Provincial Claims Conference..	Stephen Tucker	(Kitchener/Waterloo)
2019 Provincial Claims Conference..	Cindy Bridge	(Ottawa/Thousand Islands)

COMMITTEE	CHAIRPERSON	COMMITTEE MEMBERS
<b>BENEVOLENT &amp; COMMUNITY</b>		
Benevolent and Gifts.....	Ian Gallagher	
John E. Lowes.....	Matt Rienzo	
<b>INDUSTRY</b>		
Licensing .....	Ray Proctor	Matt Rienzo
Industry Liaison .....	Ian Gallagher	Jennifer Graham
<b>ASSOCIATION OPERATIONS</b>		
Chapter Liaison .....	Ian Gallagher	Jennifer Graham
Membership.....	Simone Cybulski	Jennifer Graham, Leanne Hardman, Michael McLeod
Discipline.....	Catherine Groot	
Constitution .....	Michael McLeod	Leanne Hardman
Handbook .....	Blair Boilard	Greg Doerr
Ways & Means .....	Leanne Hardman	
Nominating .....	Catherine Groot	Ian Gallagher
Vendor Relations/Sponsorship.....	Simone Cybulski	Carrie Evans, Matt Rienzo
<b>ENTERTAINMENT</b>		
Past-Presidents' Night.....	Cindy Bridge	Geoff Sullivan
Christmas Party .....	Michael Hoffman/Johanna Rienzo	Cindy Bridge
Vendor Appreciation .....	Simone Cybulski	Carrie Evans, Matt Rienzo
Golf Tournament .....	Greg Doerr	Matt Rienzo, Craig Ozog
September Kick Off.....	Shawna Gillen	Matt Rienzo, Carrie Evans, Johanna Rienzo

# From the Editor



Shawna Gillen

**W**elcome to our 2016-2017 year! I am honoured and privileged to be the new *Without Prejudice* Editor. I want to thank our previous Editor, Simone Cybulski for all of her hard work and dedication in the past years in making the publication of *Without Prejudice* such a huge success. I certainly have big shoes to fill (well her shoes are actually much smaller than mine)!!! I also want to congratulate Simone on her election to the position of Secretary. She like the other members of the OIAA Executive truly are dedicated to the OIAA and its ongoing success.

With a new year comes an Incoming President; the President of the OIAA for the 2016-2017 term is Ian Gallagher. Ian has been involved in the OIAA for over 25 years! I would direct you to the article about our Incoming President found starting on page 8 to discover more about Ian. I would also like to thank our Past President, Catherine Groot for her hard work and dedication over the past year. Catherine was of huge assistance in my first year serving on the OIAA Executive.

I am pleased to announce the return of Ray Proctor as Associate Editor and welcome Terry Doherty as Article Manager and Johanna Rienzo as Advertising Manager to the 2016-2017 *Without Prejudice* team.

For any inquiries specific to *Without Prejudice*, including announcements, events, photographs or general information, please contact me directly at [Shawna.Gillen@aig.com](mailto:Shawna.Gillen@aig.com). If you have an idea for a topic for an article or would like to submit an article for consideration for publication in *Without Prejudice*, please contact our Article Manager, Terry Doherty at [Terry\\_Doherty@avivacanada.com](mailto:Terry_Doherty@avivacanada.com). We also offer competitive advertising prices and a variety of options that can fit any budget. I would invite you to contact our Advertising Manager, [johanna.rienzo@dgig.ca](mailto:johanna.rienzo@dgig.ca) for further information. This publication is for the members, so I would encourage you to provide your feedback and suggestions.

I would invite everyone to check out our events in the upcoming year including the September Kick-Off being held on September 21, 2016 at Ripley's Aquarium. As always, we will also be offering numerous seminars and networking events through the year including the Claims Conference, Provincial Conference and Christmas party. I hope to see you at one or more of our events

**Shawna Gillen, CIP**  
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# Introducing the Toronto Delegates



My name is Carrie Evans and I'm excited to be returning to the OIAA Executive as the longest standing OIAA Toronto Delegate for another 2 year term. I am excited for the upcoming year and being the chair of Seminars and Education and GTA Membership. If you have any suggestions on topics or speakers that you feel would be beneficial I would love to hear from you. I have had the pleasure of being the voice of the Toronto area as well as meeting and working alongside some truly amazing people. Some of the portfolios I have been involved in are Claims Conference, John E Lowes, Media Relations, *WP*, Past Presidents night, as well as the golf tournament. A special thank you to my employer, ClaimsPro for their continued support. I look forward in seeing you at some of the events over the next year.

---



My name is Shawna Gillen and I am pleased to return for my second year as one of the Toronto Delegates for the OIAA Executive. I am excited to be commencing my role as Editor of the *WP*. I would invite any of you to contact me should you have an article that you would like to submit for consideration for publishing in the *WP* or any ideas to me. I would like to extend a big thank you to my employer, AIG Insurance Company of Canada for their continued support of my involvement in the OIAA. I look forward to acting as one of your delegates over the next year.

---



My name is Matthew Rienzo and I am happy to be returning to the OIAA for my second term in the role of Toronto Delegate. I have been fortunate to work with several committees in the last two years as a part of the OIAA and I look forward to the year ahead where I will be working on the John E. Lowes, September Kick Off and Golf Tournament committees. A special thank you to my employer, Crawford & Company for their support of my involvement in the OIAA. I am excited to be a part of this accomplished organization for the next two years and look forward to serving as your Toronto Delegate.

---



My name is Johanna Rienzo and I am thrilled to be starting the second of my two year term with OIAA as a Toronto Delegate. As I have family and friends in the insurance industry I was always aware of the OIAA organization and attended the events and seminars since I started my career in insurance 10 years ago. When I was elected Toronto Delegate last year I never would have imagined the wonderful memories I made being part of this incredible team in just my first year. The amount of hard work and dedication of each member is remarkable. I am so honoured and grateful to be part of such an accomplished and enthusiastic group of individuals who truly care about the industry they work in and share that passion through the work they put into the OIAA. Here's to another great year!



**OIAA  
Incoming  
President**

# **Ian “Gallagino” Gallagher – The Real Deal**

*By Marni Andrews*

***“Ian is internally Italian,” confirms friend and colleague Laurie Walker, Senior Vice-President of Operations, Canada, Sedgwick CMS Canada. “If he could change his place of birth without losing his family, he would be an Italian!”***

Ask incoming President Ian Gallagher where his heart lies and he'll immediately respond by saying family. He's been married to Marie (also an adjuster and a past president) for 17 years and adores his four grandchildren. But press him a little—"Yeah, Ian, but what's in that secret corner of your soul?" kind of question—and he'll come clean.

"Okay, my favourite food is Italian and I love Italian culture. Italy is my favourite place," confides the 54-year-old. "I'm also pretty successful in getting a claim settled with older Italians. I just start talking about Italy, throw out a few common expressions, and they say, 'What part of Italy are you from? How long have you been here?'" he laughs.

"Italians are so hospitable. It's a celebration every time they sit down to eat. My Italian friends from Niagara call me 'Gallagino'! And my wife laughs because I drink my wine out of little juice glasses like the Italians do."

"Ian is internally Italian," confirms friend and colleague Laurie Walker, Senior Vice-President of Operations, Canada, Sedgwick CMS Canada. "If he could change his place of birth without losing his family, he would be an Italian!"

Marie Gallagher, FCIP, CRM Branch Manager Kernaghan Adjusters in St. Catharines, surprised Ian with a birthday cooking class with Mama Agata in Ravello while they were in Italy a few years ago. She says his tomato sauce is now as

good as or better than the noted Mama Agata's.

Gallagher's passion for food began while working for an Italian restaurant in Parry Sound where he grew up. It has spilled over into a love for cooking in general. He and Marie live in a 110-year-old, historically-designated house in St. Catharines. When they renovated the kitchen in 2010, his cookbooks needed an entire shelf, according to Marie.

"My main passion is culinary. I love going home on the weekends and figuring out what I'm going to make Saturday and Sunday and having friends over," says Gallagher. "We do a lot of entertaining and our life is very rich because of it. We're

fortunate to be living in Niagara where we grow some of the best fruit and vegetables in the country not to mention the wineries."

Another passion that began in Parry Sound was Gallagher's love of hockey. Famed Boston Bruins defenseman Bobby Orr was born and raised there, and Gallagher quickly became a Bruins fan. His first girlfriend was Bobby's cousin, and he met Orr numerous times, even spending part of a week with him on a boat in Georgian Bay.

Gallagher still plays hockey once a week. He's a goalie with a group who call themselves The Miller Time Boys. However, there's one secret his team may not know. Turns out the closet Italian, weekend goalie and



*“Ian was the ideal employee and had an excellent work ethic, which is what propelled him into being such a qualified adjuster in all lines,” remembers Ponton. “He started as a trainee and was very dedicated at anything he did. I never heard anything uncomplimentary about him and everybody liked him.”*

gourmet cook is also a spinning enthusiast. Walker says it’s an interesting obsession.

“Ian loves going to spin classes,”

she says, while adding that Gallagher doesn’t strike people as being interested in that type of exercise. “He displays as that ‘hockey



goalie’ guy and ‘man around town’ but he puts on those slinky bike shorts and cleats and sweats it out regularly in a spin class!”

### **The Early Years and Career Skills**

Gallagher was born in North Bay, but his family moved first to Kirkland Lake and then to Parry Sound when he was five after his dad was transferred with the OPP. Three or four years after high school, he had worked his way up to a retail management job when he heard about his buddy’s new position as an adjuster. Liking what he heard, Gallagher enrolled in the Insurance Program at George Brown College.

He then made inquiries about part-time employment with an IA firm while he went to school. This led him to Stewart Ponton, one of the principals with an established Toronto firm called Ponton, Coleshill & Edwards.

“I started my insurance career with PC&E as a part-time telephone adjuster while at George Brown. I was later hired full time,” says Gallagher. “While attending college, I was also working on my private pilot’s license. Stewart Ponton saw the opportunity for the firm to expand into aviation and I was privileged to have my employer pay for the rest of my pilot’s license costs and my insurance training. I’ve been involved with aviation claims from the early 1990’s until today.”

“Ian was the ideal employee and had an excellent work ethic, which is what propelled him into being such a qualified adjuster in all lines,” remembers Ponton. “He started as a trainee and was very dedicated at anything he did. I never heard anything uncomplimentary about him and everybody liked him. He is one

of those Steady Eddie kind of guys, a friend forever."

Jay Daley is an Investment Advisor with Raymond James Ltd in Barrie. He has known Ian since 1970 when they were childhood friends in Parry Sound. He says he's just one of several 45-year-plus friendships that Ian has maintained.

"He has worked very hard over the years to improve himself in his profession. Aside from earning his CIP designation, which is tremendous, one trait stands out that is more inherent than learned. He's trustworthy," says Daley. "In the insurance industry, like many others, you are selling and delivering trust. Ian exudes that."

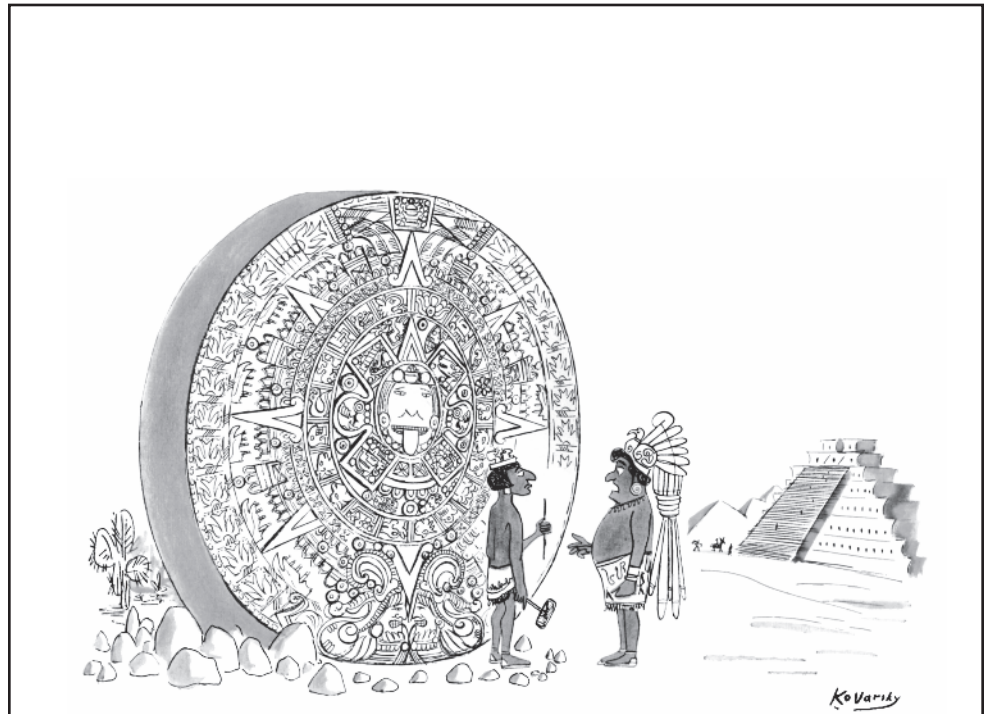
Gallagher's passion for aviation began when he was a boy and watched a friend's father build an ultralight aircraft in his basement. He no longer flies but may take it up again when he retires.

"I love the challenges associated with aviation claims and I've had some interesting ones. I handled a hangar fire in Timmins where the fire started about midnight. The fire also consumed the next hangar," he recalled. "The guy who owned the plane next to where the fire started was killed in a hit and run snowmobile accident and was found within the same hour that the fire started. It was bizarre but we eventually found the incidents to be unrelated."

"Being a pilot, you can walk the walk and talk the talk with aviation claims. I know exactly what they're talking about and understand the lingo," he explains.

With aviation claims, the pilot has a lot at stake when he/she crashes a plane since most claims are due to pilot error, says Marie Gallagher.

"So not only are the technical aspects of the investigation important but also the people skills. Ian is



*"No, no, no! Thirty days hath September!"*

## Welcome Back!



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an expert at both," she adds.

In 1995, Gallagher was sent to Antigua for two months to adjust commercial losses. He worked in Puerto Rico after a major hurricane as well as Grenada. He's done catastrophic claims in Western Canada and the U.S., and in Montreal following the ice storm in 1998.

He and Marie have travelled extensively on their own time, visiting Europe, Britain, Thailand (four times), China, Japan, UAE, Canada, U.S., Mexico and most Caribbean islands.

Another area that has benefited from Gallagher's people skills (and attention to detail) is the 250-unit condo development in Delray Beach, Florida that he and Marie bought into seven years ago. He has been President of the condo association for five years. When they first purchased, the development was close to receivership.

***In 1995, Gallagher was sent to Antigua for two months to adjust commercial losses. He worked in Puerto Rico after a major hurricane as well as Grenada. He's done catastrophic claims in Western Canada and the U.S., and in Montreal following the ice storm in 1998.***

However, after dismissing the property management team and reorganizing the Board of Directors, Gallagher was successful in helping turn around the association to where they are now budgeting for reserve funding. As President, Gallagher has brought to the table an understanding of contracts and budgets from his career. He is also on the Board for the Alzheimer Society of Niagara Region.

Dale J. Davis, CEO with Big Brothers Big Sisters St. Catharines-Thorold & District, has known Gallagher for 15 years and mentions his work as a volunteer mentor with

Big Brothers Big Sisters as well as his volunteer support with fundraising. She and her husband also own a condo in the Delray Beach complex.

"Without hesitation, Ian's leadership and focus on strategic problem solving with the size of our development has raised the bar for all of us who enjoy living there. He has provided huge direction for the Board and a plan that has enhanced the development in many areas, from repairs to improvements in amenities," says Davis. "He has a great philosophy on life, a wonderful sense of humour and outlook and is there when you call on him."



*“Ian is always trying to keep everyone happy and maintain the status quo and is often the person sought out to resolve conflict or for his sound, steady outlook. He is always thinking of others and his generosity is endless,” says Walker.*

### **The Presidency**

Looking ahead to his OIAA presidency, Gallagher is characteristically low key about his accomplishments and what he'll bring to the table. His friends, colleagues and wife are not as reticent.

Dale Davis notes that Gallagher has the personality and demeanor to bring people together to work for a common goal, while Laurie Walker

says his greatest strength is his ability to identify with every person in every walk of life.

“Ian is always trying to keep everyone happy and maintain the status quo and is often the person sought out to resolve conflict or for his sound, steady outlook. He is always thinking of others and his generosity is endless,” says Walker.

She notes his commitment to vari-

ous OIAA portfolios and says that they've all shown significant improvement while he's managed them. “His involvement in the golf tournament and with the provincial conference next year will once again show that Ian is always thinking about development. Whether it's financial improvement, efficiency or having a more profound impact, he's always about recognizing the need and improving upon it. That is why he's a successful adjuster,” she says.

Marie Gallagher says that her husband has always made friends easily and will often say to her about industry colleagues and clients, “‘We should have them over for dinner,’ but there aren't enough available weekends in the year to invite everyone he'd like to!” she laughs.

At Christmas time, the Gallaghers have made a tradition of hosting a gathering of 14 friends they call Tortiere Tuesday, where people stop by to eat tortiere made by Ian and Marie on a less busy night of the week. It perfectly blends Ian's flair for cooking, entertaining and being with people.

“Treating each other with respect, that's the way I approach my claims,” he says. “Be fair to people, respect them, especially the elderly. I'm a huge softie! I don't like a lot of drama; just get the job done.”

Gallagher believes it is imperative to go into a claim neutral and secure all of the facts before forming an opinion on an individual or the circumstances of a loss.

“I'm a good listener, good at diffusing a situation and believe in treating people fairly,” he says.

“Constant and transparent communication with the policy holder is essential. We owe it to the policy holder to be able to explain the claims process in detail and to ensure there is no misunderstanding along





the way. This eliminates routine complaints such as, 'The adjuster never got back to me,' or 'What's the next step?'," he explains.

Gallagher mentions issues of coverage for the sharing economy and generational changes around how people are purchasing policies as two key challenges in the industry today.

"With the rapid influx of online

shopping, younger and/or computer savvy consumers now want to purchase their insurance protection online vs the traditional broker market or direct writer agent. For insurers, the creation of these new methods and channels to sell their insurance product should prove interesting," he says.

As a lifelong independent adjuster, Gallagher notes another

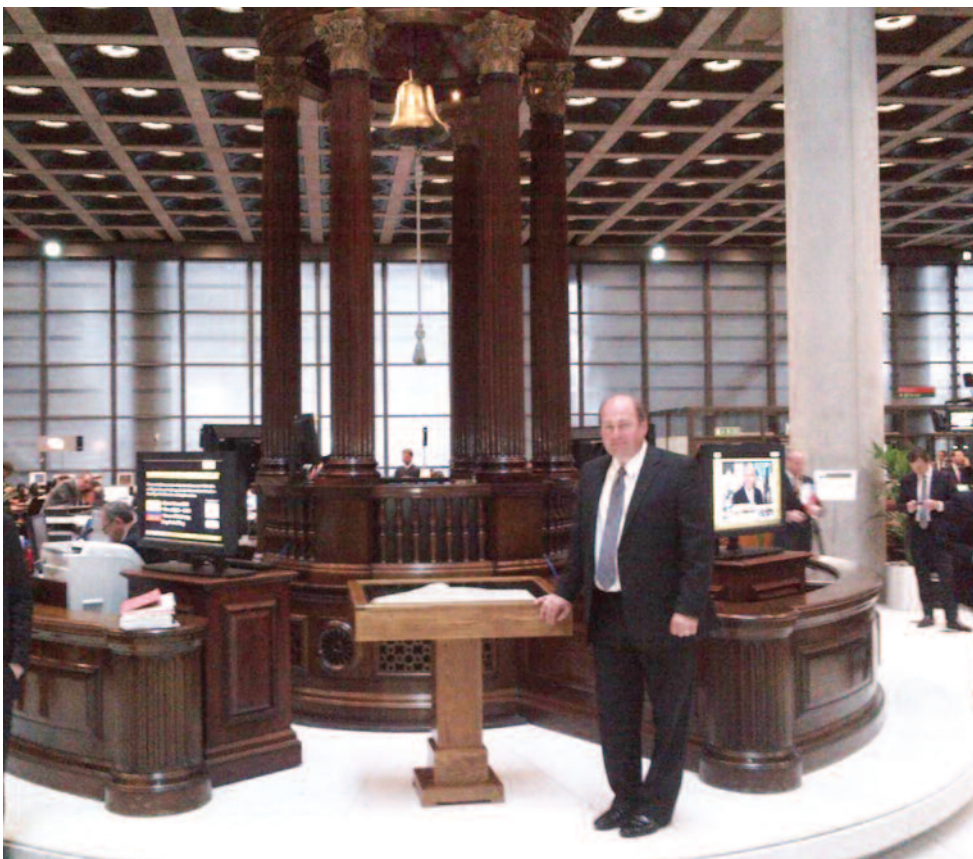
challenge facing smaller as well as larger IA firms.

"There is a shrinking pool of new adjusters entering the industry. This, combined with the depletion of qualified adjusters from those entering retirement, should truly be a concern to both IA firms and insurers alike," he says.

Gallagher is proud that the OIAA has expanded their Claims Conference to include a Career Fair to give graduating students from Insurance Business programs an opportunity to discuss employment and career options with insurers and IA firms. Gallagher is proud to note that this Career Fair has steadily gained momentum over the years. He would like to increase membership during his tenure and get the word out that there is value in membership.

In addition to providing a platform for our members and vendors to network, the OIAA is deeply committed to providing and promoting education throughout the province.

"Ian is that guy. Everyone has one in their life," says Laurie Walker. "He is that guy for so many people. He shies away from the spotlight but it's his time to shine. It is our turn to support him as he has done for so many of us in the past."



# LCLDD

*By Deborah Sherren, CIP, Senior Claims Adjuster,  
VeriClaim Services*

**When reviewing an initial claim report, there are several steps every loss adjuster should follow, regardless of the type of claim considered. We discuss the various areas to consider and in what order to consider them when reviewing a new or transfer claim, and some specific considerations for Accident Benefit Claims given the recent changes in the legislation.**



***What gave rise to the claim? Without a Loss, there is no claim, clear details on how the loss occurred is crucial. What type of claim is this? First Party Accident Benefits or Third Party Liability? How did this claim happen? Is it even an “accident”?***

Detailing these observations in your claim file will organize your thoughts, ensure all areas are considered and set up an “easy to follow” disposition plan.

**First: Analysis of the Loss**

What gave rise to the claim? Without a Loss, there is no claim, clear details on how the loss occurred is crucial. What type of claim is this? First Party Accident Benefits or Third Party Liability? How did this claim happen? Is it even an “accident”? Do we need further investigation into the Loss that gave rise to the claim? Recent case law has given us areas to pause and consider. Claims involving assaults to drivers need further investigation, established by *Kumar v. Coachman* (SCCA No. 195, file No.: 30721). Do “slip and fall” type accidents in and out of the car, as considered by *Dominion v. Prest*? A clear understanding of the Loss in the notes will ensure an auditor, manager, legal counsel or judicial decision makers who review the file will be able to determine that the insurer and adjuster had a solid understanding of what happened to cause the claim.

**Second: Coverage Verification**

The Loss Adjuster should consider “Coverage Verification” next. Is the “Loss” covered? What policy period covers the loss? What is the term of the policy? This is exceptionally important when consider-

ing post June 1, 2016 Accident Benefit Claims as the renewal date of the policy will dictate the limits of coverage available for certain benefits.

- Are there optional benefits to consider?
- Is there exclusion to coverage?
- Was an excluded driver operating the vehicle at the time of the accident?
- Are there Criminal Code Offences that affect coverage for certain benefits?
- Are Loss Transfer Provisions applicable?
- Limitation issues?
- Did the policyholder report their claim in the time required?
- Is there a Priority of Payments Investigation that needs to be commenced?
- Are there Out of Province issues that would create jurisdictional issues?
- Is WSIB an issue?
- Are there limits of coverage?

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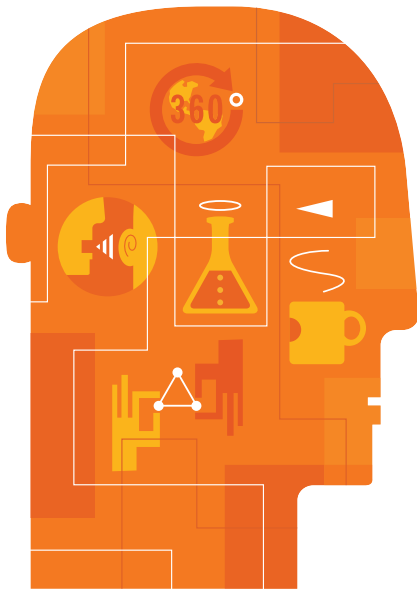
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The OAP 1 (Ontario Automobile Policy) outlines under Section 4 that there are four criteria that must be met in all accident benefits claims in Ontario. These are:

1. Accident
  - a. Has the incident met the definition of "Accident" as defined in the Statutory Accident Benefits Schedule
2. Insured
  - a. Has the person applying for Accident Benefits been determined to be an "insured" under the Statutory Accident Benefits Schedule
3. Impairment
  - a. Has the insured sustained an "impairment" as defined under the Statutory Accident Benefits Schedule
4. Territorial Limits
  - a. Has the "accident" occurred within the Territorial Limits as defined within the Statutory Accident Benefits Schedule

These criteria should be the basis of the first steps of investigation for every single claim to be documented in the notes and steps taken by the Loss Adjuster or Examiner.

## Property Losses

The same process of Loss Analysis should be undertaken but with greater emphasis of insured perils, exclusions and specified limitations. These policies may be individual to the insurer and the policy wordings are highly adaptive. As such, scrutiny of the policy wording and coverage is imperative to be reviewed, understood and verified. This process needs to be documented for the same reasons that others reviewing the file need to know what the insurer and adjuster validated as coverage under the policy.

Moreover, Property Claims require



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specific expertise and an understanding of agreements in place with vendors in order to return the insured back to the pre-loss position.

**Complicating Factors**

There are often complicating factors in handling any claims and investigating them at the initial onset. Commercial Insurance policies, whether automobile, liability or property, carry different coverages. In addition, exclusions, warranties, taxation issues must all be verified and documented.

In addition, it is important to document what legislation or statute is applicable to the governance of the claim adjudication consideration. For example, if a rental car carrier is involved, Bill 18 – Vicarious Liability must be considered and the appropriate steps taken to ensure the transfer of Liability is secured.

Understanding when an investigation must be done on a “Without Prejudice Basis” is imperative to ensure that the parties are protected. By taking steps of investigation without the declaration of Without Prejudice Undertaking, may lead to an estoppel.

**Liability & Quantum**

The Merriam-Webster Dictionary defines Liability as:

- The state of being legally responsible for something;
- The state of being liable (such as the payment of money) for which a person or business is legally responsible

As such, part of the first steps of any new claim investigation is to assess the “liability” or damages that may be owing under a policy of insurance. In some cases, this is referenced to the Third Party Liability claim.

*There are often complicating factors in handling any claims and investigating them at the initial onset. Commercial Insurance policies, whether automobile, liability or property, carry different coverages. In addition, exclusions, warranties, taxation issues must all be verified and documented.*

However, assessment of the quantum of the Basis of Claim Payment for First Party claims must be documented, calculated and posted in the appropriate reserve categories.

Legislated policy amounts, contractual policy amounts or historical judicial well established cases may dictate the amounts of payments obligated to be paid by an insurer.

Statutory Accident Benefits Claims often have unilateral expect-

tations of policy coverage access regardless of the issuance of an actual policy. Simply by the presentation of an Application for Benefits to an insurer, there are requirements to respond and investigate claims in the same fashion as if a policy had been issued.

*Danilov v. Unifund* has established that even if the insurer has no relationship to the accident, the insurer must deliver benefits and commence a dispute through the



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Provincial Regulated Dispute Resolution Process. This was known as the “Nexus” which means a connection or series of connections linking two or more things. This nexus test has been examined further with *Zurich Insurance Co v. Chubb Insurance of Canada* (SCC 36002), and again confirms the first insurer to receive the Application must respond and dispute their obligation to pay benefits within 90 days.

Once the loss adjuster has undertaken these investigative steps, they should turn their mind to the Damages or the Quantum of the Basis of Claim Payment. Calculations under the appropriate Reserve Categories are necessary. Many insurers and Loss Adjusters utilize a reserve worksheet to ensure all “heads of damage” or claim coverages are addressed.

From this, the Loss Adjuster should then apply the following considerations:

- Deductibles
- Subrogation, Salvage, Recovery
- Contributory Negligence
- Exclusions
- Exemptions
- Loss Transfer Provisions
- Policy Limitations (both monetary and time)
- Court Precedents

After all of the above areas have been considered by the Loss Adjuster a clear Disposition Plan can be established. What are the steps that need to be considered to bring this claim to a conclusion? Developing a clear “To Do” list with a diary date to address these objectives ensures the claim is moving towards closure. Often, the investigation is an ongoing process and

***What are the steps that need to be considered to bring this claim to a conclusion?  
Developing a clear “To Do” list with a diary date to address these objectives ensures the claim is moving towards closure.***

the development of what documents are outstanding and a regular practice of following up for them will ensure that they are delivered or obtained in a timely fashion. As we know, providing documentation can be a long process and often, the request is forgotten until it becomes critical to the investigation.

Proactivity is often the driving force to managing claims to closure. As such, the ongoing Disposition Plan with specific goals and time management aspects should be validated at every diary date. What has been accomplished in the last Disposition Plan and what areas are ongoing? Constant Disposition Planning is a great method of demonstrating effective claims management. The Disposition Plan should always include a review of the reserves to ensure that as documentation and new information is developed, it can be re-evaluated to ensure the most accurate reserve has

been set aside for the claim.

A simple acronym the Loss Adjuster can keep at their desk to ensure that every area is addressed in the review is **LCLDD**; Loss; Coverage; Liability; Damages and Disposition. Reviewing claims in an organized manner is a Best Practice that the Loss Adjusters can apply to every type of claim handled thorough out their career and will ensure that an auditor can clearly follow the life of the claim.



*Deborah Sherren, CIP is a senior casualty adjuster with Vericlim Canada serving the Golden Horseshoe and Greater Toronto Area. Deborah has a focus on Accident Benefits, Automobile Tort and Municipal Liability.*

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# Golfer's Liability - What to do about flying balls?

*By Jacqueline A. Bunt, Brown Beattie O'Donovan LLP, London*

**Golfing liability starts with the duties that occupiers owe to individuals who enter their premises. The Occupier's Liability Act governs the duty of care owed to all plaintiffs by an occupier of a premises.**



*The determination of what is reasonable will be specific to each case. It is open to Defendant occupiers to argue that they have met the standard of care under the Act. They do this by demonstrating the ways in which they provided a reasonably safe environment for persons entering their premises.*

An “occupier” is a person or corporation who is either in physical possession of the premises or a person or corporation who has responsibility for, and control over, the condition of the premises or activities carried on at the premises. An occupier’s duty is one that requires the occupier to take reasonable steps to prevent injury or damage.

The duty is an affirmative duty to make the premises reasonably safe for persons entering the premises by taking reasonable care to protect those persons from foreseeable harm. Mere omissions or lack of knowledge may not excuse the occupier. The duty is limited to taking reasonable action in the circumstances. The mere existence of a hazard is likely not sufficient to prove negligence under the Act. Furthermore, an injury or damage occurring on the premises does not create a presumption of negligence as an act, or failure to act, must still be proven.

The Act defines an occupier as a person who is in physical possession of a premises, or a person who has responsibility for, and control over, the condition of a premises or the activities carried on there, or control over persons allowed to enter the premises. Premises means any lands and/or structures. An occupier of a premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises,

and the property brought on the premises by those persons are reasonably safe while on the premises. The duty of care applies whether the danger is caused by the condition of the premises or by an activity carried at on the premises.

The determination of what is reasonable will be specific to each case. It is open to Defendant occupiers to argue that they have met the standard of care under the Act. They do this by demonstrating the ways in which they provided a reasonably safe environment for persons entering their premises. The standard of care will vary from case to case.

A lawsuit for injury to person or property will be based in most cases on the common law of negligence or nuisance and the statutory law under the Act.

Negligence is omitting to do something which a reasonable and prudent person would have done in

the same situation. Negligence occurs, for example, when the person hitting the golf ball should have refrained from hitting the ball. Nuisance in a golf course setting is a structural or design flaw which constitutes a continuing risk of injury to persons or property adjoining the golf course. Holes abutting residential properties and roadways are typical examples. The Act places an onus upon property owners to keep visitors reasonably free from harm.

Relevant case law tells us that players and spectators assume a certain risk inherent with either the games being played or the nature of the site, simply by entering upon the property. However, the driver of the golf ball, fellow players, golf course owners and tournament organizers could all be the potential target in a personal injury action. Fault could be apportioned between the parties with various

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degrees of liability attributed to each. Further, the Courts will consider the rules of golf and etiquette as relevant when apportioning liability. Furthermore, the personal playing a golf ball should be scrupulously careful not to hit anybody and if he does, the onus of making an explanation showing the care and caution he took is much the same as though he had thrown a stone or fired a gun. When a person shoots or throws or drives anything which may do damage a reasonable and prudent person takes great care.

In *Best v. Deal* (2006 CanLII 36355 (ON SC)), the plaintiff was a passenger in a golf cart driven by the defendant on a golf course. Damages agreed upon and the matter went to trial over liability only. The case was dismissed against driver of the golf court, finding that the accident was caused by the steep slope of hill at this location, that the driver had complied with the direction given by the warning sign and applied the brakes immediately. It was appropriate to take evasive action to leave the path in order to avoid the perceived danger of skidding straight into the trees ahead. The risk was created by gravel on path and the slope of hill. The Court noted that the duty of the golf course was to take such care as in all the circumstances of the case was reasonable to ensure that persons entering on the premises were reasonably safe while they are there. The Court concluded that they had failed to meet the duty owed to the plaintiff pursuant to section 3 of the Act and were liable to the Plaintiff for his damages suffered.

In *Pope v. RGC Management Inc.*, 2002 ABQB 832 (CanLII), the

***The Court noted that the duty of care existed if the defendant was aware or ought to have been aware that the plaintiff was forward of the defendant's position and between the defendant and the golf green", in other words, within the golf ball's potential path.***

plaintiff was struck in the mouth by a wayward golf ball causing extensive injuries to her mouth and teeth. The Court noted that the duty of care existed if the defendant was aware or ought to have been aware that the plaintiff was forward of the defendant's position and between the defendant and the golf green", in other words, within the golf ball's potential path. Here, the Court found that the driver of the ball owed the plaintiff a duty of care in the circumstances. Based upon the evidence, however,

the Court found that the plaintiff had erred as to time, distance and the speed of the defendant's play. She did not remain alert and vigilant in the danger zone. Here, the defendant was not negligent to any degree. He looked up and saw the plaintiff and the others in his foursome were not forward of his position. He could see no person in front of him nor in the area of the intended flight of his golf ball. He settled into his pre-shot routine. The Court was not prepared to place an extra burden on a golfer



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by requiring him or her to look up again once they safely had started their pre-shot routine finding the routine is conducted to give a golfer a sense of timing, distance, speed and fluidity for their approaching golf shot. It provides the golfer with some needed sense of confidence with respect to the execution of the forthcoming golf shot. The defendant therefore met the standard of care expected of a reasonable and prudent golfer. The accident was caused by the plaintiff's own negligence.

The other area of cases revolves around the tort of nuisance. Here, it is said that a land owner/ user is entitled to the enjoyment of his property and this includes freedom from flying golf balls, especially since golf courses are increasingly surrounded by intensive housing, busier roads and organized uses such as schools or camps. A property owner who unreasonably interferes with a neighbour's use and enjoyment of their land commits a nuisance rendering him liable for resulting damages.

The case law is clear that to take the position that the golf course pre-existed an adjoining use will not provide freedom from liability. A landowner who purchases a property adjacent to a golf course can recover compensation for interference with his property use resulting from misdirected golf balls landing on his property. The nuisance is exacerbated and established based on the frequency and seriousness of the interference.

In *Segal v. Derrick Golf & Winter Club*, 1977 CanLII 656 (AB QB), the Court awarded the plaintiffs damages in the amount of \$3,000.00 and an injunction restraining the continued intrusion. The Plaintiffs claimed that over 200 golf balls had

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Jacqueline A. Bunt has over 15 years of insurance defence experience. However, for the last few years has been doing Plaintiff personal

injury litigation and rehabilitation. She was called to the bar in 1998 having graduated with both her Canadian and American law degrees from the University of Windsor and the University of Detroit Mercy Schools of Law. She has extensive experience handling accident benefits and tort files and has appeared before various tribunals (including FSCO and WSIAT) and all levels of Court. Her skills include file management, oral and written communication, client/business development, negotiation and conflict resolution. With her extensive rehabilitation and marketing background, Jacqueline is now excited to return to her roots working primarily in the area of insurance defence.

Over the course of her career, Jacqueline has been involved in numerous law and community related activities. She has been a Trustee of the Middlesex Law Association, member of the Executive of the London Claims Association, member of the Advocate's Society and Canadian Defence Lawyers, a regular contributor to *Without Prejudice* magazine, as well as speaker and organizer at various OIAA and Middlesex Law Association events. She has been a Big Sister since 2000, has been actively involved in the Run for Ovarian Cancer and on the Board of Directors for Women Together, a life coaching organization for women.

landed on their property with several striking their home sufficiently hard to do damages. In one instance, a skylight was broken and in another, a shutter damaged. The Court agreed that it was not unreasonable for a property owner located adjacent to a golf course to expect some golf balls might land on their property but concluded that over 200 was excessive.

In other case law, golf ball spray from the defendant's land was considered a nuisance that could be enjoined by an injunction (*Sammut v. Islington Golf Club, Ltd.* (2005), 16 C.E.L.R. (3d) 66 (S.C.J.)). Further, a sports facility such as a golf course may under certain circumstances be held liable in negligence and/or in nuisance for damages caused by errant balls shot from its playing area (*Transcona Country Club v. Transona Golf Club* (1982) Inc. 2000 MBQB 22).

Now that the weather seems to have turned, it's time to get out to the greens! Just be aware of your responsibilities as a golfer and keep yourself and your fellow golfers safe!



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## CORRECTION

In the article Loss of Balance Claims by Alan Morris of Arcon Forensics Engineers in the June issue of WP Magazine, the label for the photo on page 27 should have read "No Trip Hazard" rather than "Trip Hazard No Marking of Sidewalk". Arcon apologizes for the confusion.

**WP**

# Rule 49 Offers - The end of Rider v. Dydyk

*By Gabe J. Flatt, Samis+Company, Waterloo*

**The Ontario government introduced some fairly significant changes to the automobile insurance regime effective August 1, 2015.**



***Under Rule 49(10) of the Rules of Civil Procedure, under certain circumstances, when an offer to settle is made by a party and that party obtains a judgment that is more favourable than their offer, the opposing party is required to pay some of their costs.***

While not as highly publicized as the increases to, and indexation of, the statutory deductibles in the *Insurance Act and Reg. 461/96*, there was also a relatively minor change to language under s. 267.5(9) of the *Insurance Act*. The change governs how costs are now to be calculated in auto tort matters. This will have a tremendous impact on the costs consequences associated with successful Rule 49 Offers to Settle made before trial.

Under Rule 49(10) of the *Rules of Civil Procedure*, under certain circumstances, when an offer to settle is made by a party and that party obtains a judgment that is more favourable than their offer, the opposing party is required to pay some of their costs. This has always been an important consideration when heading into trial, since costs awards can be extremely high.

Prior to the changes last August, Section 267.5(9) of the *Insurance Act* stated that a party's entitlement to costs shall be made **without regard** to the effect of the statutory tort deductible. That section now reads as follows:

267.5(9) In an action for loss or damage from bodily injury or death arising directly or indirectly from the use or operation of an automobile, the determination of a party's entitlement to costs shall be made **with regard** to the effect of paragraph 3 of subsection (7) on the amount of damages, if any, awarded for non-



pecuniary loss (emphasis added).

This change appears to be designed to address, and counter-

act, the impact of the decision in *Rider v. Dydyk*, a 2007 decision of the Ontario Court of Appeal that was roundly criticized by defence counsel. The Court of Appeal in the *Rider* decision determined that statutory deductibles were not to be considered in Rule 49 Offers to Settle when determining a party's entitlement to costs. For example, if a defendant served a Rule 49 Offer to Settle of \$40,000 plus costs prior to trial, and the plaintiff was awarded \$50,000 in damages, the defendant



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*- Benjamin Franklin*

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would, after application of the \$30,000 deductible, only be required to pay \$20,000 in damages. However, the Court held that, since the offer to settle was less than the pre-deductible amount of \$50,000, the defendant would still be required to pay the plaintiff's costs. Similar considerations applied to cases involving the *Family Law Act* deductible of \$15,000.

With the current reading of Section 267.5(9), it appears that the *Rider* decision is no longer applicable, since costs are now supposed to be awarded with regard to the deductible. This is even more important with the increases to, and indexation of, the tort deductibles under the August 1, 2015 changes.

While no decisions have yet been released directly applying the changes to section 267.5(9), they were discussed in *Cobb v. Long Estate*, 2015 ONSC 7373, a December 2015 Superior Court decision of Justice Belch. While he determined that all pre-trial activity in that case took place prior to the August 1, 2015 changes, and therefore the "*Rider regime*" still applied, Justice Belch went on to state that "in the event that the Court of Appeal determines the amendments to the *Insurance Act* are to be applied retroactively, *Rider* would no longer apply and the Plaintiffs would not have bettered the offer of the Defendant." Even if not retro-active, however, the *Rider* decision clearly appears to no longer be applicable to matters where pre-trial preparations occurred after the August 1, 2015 changes to s. 267.5(9).

From a practice management perspective, insurers who serve Rule 49 Offers to Settle prior to trial to protect their costs exposure can now make those offers "net" of the

## APPOINTMENT



**Michael Furyk**

Claude Blouin and Jamie Dunn, Partners at Blouin, Dunn LLP, are extremely pleased to announce that former articling student Michael Furyk has been hired back as an associate at the firm.

Michael obtained his Honours Bachelor of Arts degree in Law & Society from York University in 2010, after which he received his Bachelor of Laws degree from the University of Sussex in Brighton, England in 2013.

Before joining Blouin Dunn, Michael worked as a Case Manager & Litigation Support Specialist at a well-known personal injury firm as well as an Accident Benefits Law Clerk at a mid-sized insurance defence firm in downtown Toronto.

Michael completed his articles with Blouin Dunn and was called to the Ontario Bar in 2016. He is an active member of the Law Society of Upper Canada, Canadian Bar Association, Ontario Bar Association and Toronto Lawyers Association.

Michael has experience in various areas of civil litigation including, but not limited to, bodily injury, statutory accident benefits, motor vehicle accidents, property damage, occupier's liability and priority and loss transfer claims.

Outside of work, Michael enjoys sports, travel, mixed martial arts, fashion, music and exotic cuisine

Michael's contact information is:  
**mfuryk@blouindunn.com**  
**(416) 365-7888 ext. 142**

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## APPOINTMENT



**Rory J. R. Love**

Claude Blouin and Jamie Dunn, Partners at Blouin, Dunn LLP, are extremely pleased to announce that former articling student Rory J. R. Love has been hired back as an associate at the firm.

Rory received his Bachelor of Law degree from Glasgow Caledonian University in 2010, after which he attended the University of Strathclyde, where he obtained his Diploma in Professional Legal Practice in 2011. He obtained his Certification of Qualification from the National Committee on Accreditation in 2014.

Rory articulated with Blouin, Dunn LLP and was hired back as an associate after being called to the Ontario Bar in 2016. Prior to articling, Rory worked as a Liability Claims Adjuster with a major Canadian insurance company.

Rory's practice focuses on insurance defence litigation and he has had extensive exposure to various aspects of defence work, including personal injury, motor vehicle liability, statutory accident benefits and property damage disputes. Rory is a member in good standing of the Law Society of Upper Canada and the Toronto Lawyer's Association.

Outside of work, Rory enjoys spending time with his family and friends, travelling, trying new food and cheering on Glasgow Rangers FC.

Rory's contact information is:  
**rlove@blouindunn.com**  
**(416) 365-7888 ext. 170**

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statutory deductible, since the deductible will now be taken into account by the courts when assessing which party must pay costs. This will allow insurers/defendants to avoid having to make the kind of inflated offer they had to previously – not in keeping with their view of the true value of the claim – in order to protect themselves against adverse costs awards – a very positive development.



Gabe Flatt is a lawyer at Samis+ Company's Waterloo Office. He can be contacted at 519.279.7801 or

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# Get to know your Chapter

## OIAA Georgian Bay Chapter

As the first year of my Presidency comes to a close and I get ready for the second year of my term I look back at 2015/16 with pride at my Executive and our Members who are not only great claims experts but people who I now call Friends. We have moved our chapter forward with a new and exciting newsletter which showcases our territory and events proudly. We have added more educational events to our calendar and updated our Web Site.

Most importantly we have listened to our Members in general to focus our monthly meetings on topics that are relevant to our current file situations and our ever changing legislation(s) and getting our members out and involved in our meetings and activities. Each of our meetings continue to host a good turn out and the feedback from last year was fantastic over all.

In addition to our Chapter having success in upgrading our education, events, newsletter and website, we have had fun along the way. The 2015 Charity Golf Tournament for Tim Horton's Foundation was again a great success and we have already raised over \$800.00 during our monthly meetings for our Presidents Charity The Learning Centre and hope to present our gift to this amazing centre at the end of next term to help their great works in our community.

Carroll Heyd Chown LLP co-hosted our Mock Trial and it went over better than our committee could have predicted.

We had a blast and learned a lot. We had speakers address issues of employment for every type of member and we thank Dooley Lucenti LLP for providing expert advice.

We addressed legal issues of Health and Safety as they apply to our claims experts as well as insured's and we thank Bruce Bolduc and Dale Thompson for very helpful advice that we took directly to the field. We are looking forward to seeing how the new legislation has been playing out since June of this year as we welcome Kadey Schultz to our Chapter for a full day seminar in September.

Big thanks to Rob and Joe for providing another fantastic day at our annual Curling Bonspiel and our Past President's night was a great success in thanking and honouring those before us who put their commitment, time, energy into making our Chapter better each year.

I think our photos speak for themselves and show Georgian Bay Chapter Members are having a great time learning and playing together as we continue to get to know the professionals in our territory that help us each day on our challenging files.

I welcome all the chapter's members to come up north and visit us at any of our events and I invite you all to check out our fun newsletter filled with interesting and helpful pages along with our website at [www.oiaagb.com](http://www.oiaagb.com).

**Leslie Guerette**

President, Georgian Bay Chapter





See more photos from the Georgian Bay Chapter on page 62.

# OIAA

# 85th Annual Golf Tournament 2016

June 1, 2016 - Deer Creek Golf & Banquet Facility





See more photos from the OIAA 85th Annual Golf Tournament on page 56.

### Annual Golf Report

By Jeff Edge, CIP, CFEI, Golf Tournament Chair

Our annual golf tournament was held on June 1, 2016 at the deer creek golf and country club near Ajax Ontario. I am pleased to report that the tournament was another huge success, including perfect weather again this year. I am also pleased to report that we had a sell out this year and offer sincere thanks to those who supported our golf tournament and took part – Some returning familiar faces and even some new ones.

Thanks to the success of our tourna-

ment and the generosity of our sponsors and those who attended, Our president Catherine Groot presented the Alzheimer's Society of Ontario with A donation in the amount of \$6020.00. We know that it will be put to good use.

Thank you to our sponsors, our golfers and attendees, the Deer Creek golf and country club and finally to the golf committee for such a fantastic day. We look forward to seeing you all again next year.



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## OIAA Calendar of Events around the Province

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	
<b>SEPTEMBER</b>	<b>OIAA September Kick-Off Event on September 21, 2016</b> Register now on-line at <a href="http://www.oiaa.com">www.oiaa.com</a> !			<b>1</b>	<b>2</b>
<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b> Thunder Bay Chapter Annual Golf Tournament - Superior National Golf Course	
<b>12</b>	<b>13</b>	<b>14</b> Thousand Islands Chapter - Golf Tournament - Colonnade Golf & Country Club Kingston	<b>15</b> London Chapter Past President's Night Location TBA Northern Chapter, Golf Tournament, Pine Ridge, Sudbury	<b>16</b> Niagara Chapter Golf Tournament - Sparrow Lakes Golf Course, Welland	
<b>19</b> Ottawa Chapter, Luncheon seminar Al's Steak House, Ottawa	<b>20</b> Georgian Bay Chapter, Seminar – AB Update by Kadey Schultz, Barrie Golf and Country Club	<b>21</b> <b>OIAA September Kick-Off Event</b> Ripley's Aquarium, Toronto at 5:00 pm	<b>22</b>	<b>23</b>	
<b>26</b> Kitchener/Waterloo, Niagara and Hamilton Chapters, Lunch/Seminar – AB Update by Kadey Schultz, Location TBD	<b>27</b>	<b>28</b>	<b>29</b> Kitchener/Waterloo Chapter, Annual Trade Show, Crowne Plaza Kitchener, Doors open at 4:00 pm Dinner served at 7:00 pm	<b>30</b>	

### Upcoming Chapter Events around the Province

#### October 20, 2016

Kawartha/Durham Chapter, Seminar  
 – AB Update by Kadey Schultz,  
 Location TBA.

#### October 19, 2016

Thousand Islands Chapter,  
 Educational Luncheon at  
 Mino's Village.

Please visit  
[www.oiaa.com](http://www.oiaa.com)  
 for more upcoming  
 chapter events

## UPCOMING OIAA EVENTS

Mark these dates down on your calendar -

### DON'T MISS THEM!

- September 21, 2016 **SEPTEMBER KICK-OFF**  
 – Ripley's Aquarium, Toronto at 5:00 pm
- October 12, 2016 **PAST PRESIDENTS NIGHT**  
 – Sandman Hotel Airport Toronto
- December 14, 2016 **OIAA CHRISTMAS PARTY**  
 – Royal York Hotel - Details to follow

All events are listed in our *WP* magazine. Each event will have registration on our website prior to the event – please watch for the details on our website [www.oiaa.com](http://www.oiaa.com) or in the *WP* magazine for more details.

**WE HOPE YOU CAN JOIN US!**



# September Kick-Off at Ripley's Aquarium

OIAA incoming president Ian Gallagher invites you to come out and meet your executive and see what educational and networking events we have planned for you in 2016-2017.



**Wednesday, September 21, 2016**  
**5:00 pm to 8:00 pm**  
**Ripley's Aquarium, Toronto**



**Cost: \$100 per person**  
**Tickets are now available online at**  
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***Save the date...***

**please register in advance at our website at [www.OIAA.com](http://www.OIAA.com).**

If you have any questions please contact any of the Toronto Delegates below:  
Johanna Rienzo at [johanna.rienzo@dgig.ca](mailto:johanna.rienzo@dgig.ca); Carrie Evans at [carrie.evans@scm.ca](mailto:carrie.evans@scm.ca);  
Matthew Rienzo at [Matthew.Rienzo@crawco.ca](mailto:Matthew.Rienzo@crawco.ca); Shawna Gillen at [Shawna.Gillen@aig.com](mailto:Shawna.Gillen@aig.com)

***See you there!***

**New Members**

**The following were approved as active new members in May 2016**

NAME	COMPANY	CITY	CHAPTER
GUY, Kayla	GR South & Associates Insurance Adjusters	Orillia	Georgian Bay
KAUK, Stephen	Cunningham Lindsey	Guelph	Kitchener-Waterloo
RAMSARRAN, Ray	Economical Insurance	Waterloo	Kitchener-Waterloo
SMITH, Jeff	Economical Insurance	Waterloo	Kitchener-Waterloo
TUNJIC, Tony	Economical Insurance	Waterloo	Kitchener-Waterloo
BHANSINGH, Biana	CAA Insurance	Thornhill	Toronto
FERREIRA, Brad	Wawanesa Insurance	Toronto	Toronto
MARSHALL, Carol	CAA Insurance	Thornhill	Toronto
OSMOND, Danielle	CAA Insurance	Thornhill	Toronto

**The following were approved as active new members in June 2016**

NAME	COMPANY	CITY	CHAPTER
KING, Kathleen	Mohawk College	Hamilton	Hamilton
SAWYER, Debbie	Wawanesa Mutual Insurance Company	Indian River	Kawartha-Durham
BODEMANN, Lisa	Greater Toronto Adjusters Inc.	Burlington	Kitchener-Waterloo
HARRISON, Jesse	Quelmecc Loss Adjusters	Ottawa	Ottawa
JENNINGS, Krystal	The Co-operators Insurance	Ottawa	Ottawa
NAZARETH, Anselm Buzz	Unifund Assurance	Richmond Hill	Toronto
SHIM, Susie	CAA Insurance	Thornhill	Toronto

## People On the Move

If you are a current member of the OIAA and have changed employment recently. We can announce it free of charge in this **"People on the Move"** section. Send us your name, a picture of yourself, company name and contact information. Submit to Shawna Gillen at: **Shawna.Gillen@aig.com**  
All submissions meeting the above criteria will be considered.

### CORRECTION

In the *"People On the Move"* section of the June 2016 issue of WP. Employer information was missing in the announcement. It should have read:  
Kelly Stevens, Branch Manager of Toronto West, Crawford & Company (Canada) Inc. is pleased to announce the addition of Sonja Bonanni to our dynamic adjusting team.  
Sonja is an all lines licensed adjuster who has specialized in Accident Benefits handling for more than 15 years.



**Sonja Bonanni,**  
CIP, CRM



# OIAA BURSARY

**Do you have a child or grandchild  
enrolling or enrolled in  
Post-Secondary School?**

The OIAA bursary offers financial assistance in the form of 3 awards in the amount of \$1000.00 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 2016-2017.

The deadline to apply is September 30, 2016 at 5:00 pm.  
Visit our website [www.oiaa.com](http://www.oiaa.com) for further details.

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Kitchener Office (Conestoga Chapter)    October 5  
GTA Office    Winter 2017



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GTA Office    Winter 2017

## **Understanding Bodily Injury | Two days**

Learn how to more effectively manage bodily injury claims through an in-depth look at the main principles and concepts, including presenting the claim, investigating exposures and more.

GTA Office    November 23-24

## **Understanding Serious Injury | Five-day format**

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***"Having the law panel was excellent. A great way to wrap up the program."***

***"It makes me excited to handle BI claims!"***





# Ontario Insurance Adjusters Association Past Presidents' and Honourary Members Night

**October 12, 2016**

**Location:** Sandman Hotel Airport Toronto  
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**Time:** Registration 5:00 p.m.  
Dinner 6:00 p.m.

**Cost:** \$90 + HST



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---

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# Cybercrime...A Quick Update

*By Clive Wayne, CIP, CRM, Excel Claims Adjusters Inc.*

**It has been less than a year since the writer's last Cybercrime article appeared in this magazine but in that short time things have continued to change at a staggering rate.**



*There are thousands of cyber criminals worldwide who are not just looking to break into large corporations but in fact, are looking to target small or medium sized companies as traditionally they are much easier to hack and can often offer access to a larger target.*

As touched upon in the October 2015 article, cybercrime attacks are very much different from what the world has experienced in the past. Attacks no longer have to come from large well organized forces, one individual with bad intentions can cause a significant amount of damage. Couple this with the fact that there is little or no repercussion an attacker feels he/she can do whatever they want.

Not so long ago if a criminal wanted to break into a company and steal money or trade secrets they would have to physically go to that place and try to “pull it off” without getting caught. Now a cyber criminal can sit at home in his/her living room in his/her pajamas half way across the world and push a few buttons to get what they want. No longer do terrorists have to use violence and fear to cause fear and disruption, they can sit at a computer and tamper with a city’s water or power supply from

home. There are thousands of cyber criminals worldwide who are not just looking to break into large corporations but in fact, are looking to target small or medium sized companies as traditionally they are much easier to hack and can often offer access to a larger target. As has often been said by people involved in the cyber security field...Hackers only need to be successful once, but companies need to be successful repelling or defending against these attacks all the time.

From a security perspective it is now a well known truth that it is impossible to keep up with potential threats. Regardless of what new encryption or security we have put in place someone is always thinking ahead of us to try and subvert it. In a 2016 60 minutes episode Mr. John Brennan, the current director of the CIA, reported that his email had been breached which in his words, “proved that nobody is

safe”. This type of thinking was also prominent amongst IT specialists who spoke at a Canadian Cyber Security Seminar recently attended by the writer.

It is extremely difficult to know the exact number of intrusions or breeches that are taking place as, in Canada, there is currently no requirement for companies to report them. However, it is anticipated that by the fall of 2016 the breach notification sections of Bill S-4 (The Digital Privacy Act) will become law and that is expected to dramatically change the cybercrime landscape. This will be addressed in greater detail later in this article.

It is expected that the current intrusion rate is greater than anyone suspects. On March 31, 2016 the Department of Homeland Security (DHS) and the Canadian Cyber Incident Response Center (CCIRC) issued a joint statement to address the staggering number of Ransomware attacks. On February

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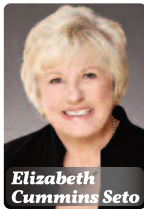
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5, 2016 the same bodies issued a statement about avoiding social engineering and phishing attacks, and the list goes on.

In the past, we would look to insurance as a means of protection against risks beyond our control but for this particular type of loss insurers are still trying to catch up to this fast changing environment. There are now a number of insurers writing cyber coverage policies in Canada but underwriters continue to be faced with some difficult questions such as how to determine and fix an annual premium for a risk that has no historical data and becomes more sophisticated and dangerous with each passing day. A 2015 IBM study on the average cost of a data breach found it to be \$3.8 million in the US or an average of \$145 - \$154 per stolen record. What kind of limits can underwriters offer with those types of exposures? The consequence of these concerns is that cyber policies we keep evolving as cyber crimes change and in all likelihood the cyber policies that we write today will, in 5 years, feel like they were written in the Stone Age.

Insurers are not the only ones trying to keep up, unless you are technically inclined (a techie) this can all be somewhat difficult to grasp, and with more and more devices being built with some sort of chip we can expect more and more incidents, new developments, terminology and of course cyber crimes.

Cyber terminology is now a part of our daily lives but how many of us know what some of this terminology really means? A portion of this article has been dedicated to some of the everyday terminology that can sometimes be difficult to compre-



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hend so let's look at a few of these terms, such as...

### **"The cloud"**

When this term was first introduced it mystified people, where is this cloud located? It's obviously out there somewhere, but where? Is the data floating around in space waiting to be retrieved?

When someone refers to "the cloud" they are actually talking about Cloud Storage which is essentially when digital data is stored on a server that is typically owned by a hosting company. By storing your data this way it is easily accessible from anywhere at any time. Being stored in the cloud simply means the data is not being stored on your device. These cloud storage facilities can be located anywhere around the world. The term "icloud" simply refers to data storage system from Apple Inc. for your Apple devices.

Some things you should look for when choosing a cloud based service are

1. Where are the servers located
2. What security or redundancies do they offer
3. In what country or jurisdiction do they operate as this may affect what information they are required or able to release
4. Up time numbers (how often has the data been unavailable)
5. References, are you dealing with a reputable company
6. Storage capacity and cost.

### **Ransomware**

This is presently the most popular type of cyber crime attack being performed by cyber criminals against businesses and individuals. Just imagine that you wake up one day, rub the sleep out of your eyes, and boot up your laptop expecting to see a Twitter feed or Facebook profile,

*The attacker attempts to force you to purchase a program or an encryption key to de-encrypt your data. The criminals often ask for a nominal payment, figuring you'll be more likely to pay to avoid the hassle and heartache of dealing with the virus.*

instead you're greeted with a big red image, demanding that if you don't pay \$200 to an unknown party in the next 24-hours, everything you know and love on your computer will be erased, and gone forever. That is ransomware.

In some instances, your computer will work, but each time you try to click on a Web page ads for pornographic websites appear on your screen. The ads cover the portion of the page you're trying to view. As you can you imagine this would be incredibly disruptive to your life and could you imagine if this happened while you were sitting at work? Another version of the virus might put time pressure on the victim, stating that a piece of your data will be destroyed every 30 minutes if you don't pay up.

The attacker attempts to force you to purchase a program or an

encryption key to de-encrypt your data. The criminals often ask for a nominal payment, figuring you'll be more likely to pay to avoid the hassle and heartache of dealing with the virus. They may ask for as little as \$10 to be wired through Western Union paid through a premium text message or sent through a form of online cash such as a bitcoin. Once the ransom is paid an encryption key and instructions are usually provided to the victim but there are plenty of stories of ransom being paid but the encryption key not being provided or where the encryption key is provided by the hacker but in such a way that he victim still has to go through the process of decrypting their data every morning.

The following list represents some basic preventative measures you can implement to reduce the



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odds of your device being attacked, but as we have come to realize it is almost impossible to prevent it. Experts advise taking these steps not only to reduce the odds of an attack but to protect you after an attack:

1. Always use reputable antivirus software and a firewall. It is important to use antivirus software from a reputable company because there is a lot of fake software out there.
2. Back up your computer as often as is practical. If you back up files to either an external hard drive or to an online backup service, the threat is not as disabling. "If you have backed up your information with a reliable device you can simply wipe your computer clean and start over with a new install if you come under attack.
3. Enable your popup blocker as these are a prime tactics used to infect a computer. If a popup appears, click on the X in the top right-hand corner. The buttons within a popup might have been reprogrammed to do different things than what they say, so do not click on them.
4. Be cautious by not clicking on links inside emails, and avoiding suspicious websites. If your computer does come under attack, use another computer to research details about the type of attack.
5. If you do come under attack disconnect from the Internet so your personal data isn't transmitted back to the perpetrators. If you have backed up your data, you can re-install software.

**Firewall**

A firewall works like a filter between



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your computer/network and the Internet. You can program what you want it to keep out and what you want to allow in. Another way of looking at it is that a firewall is a layer of protection that should be used in conjunction with other security measures to prevent an intrusion by an unwanted source.

**Internet of Things**

Commonly called IoT, the internet of things is a very interesting topic and warrants a discussion paper all by itself. Put simply, the IoT refers to the connectivity of devices over the internet so they can talk to you, each other or applications. More devices are being made with Wi Fi capability and with sensors. The most talked about examples are those that are soon to be implemented such as a smart fridge that could text you when you were out of milk or juice or a smart home heating device that would recognize when you leave the home and automatically turn down the heat. What if, after it woke you up, your alarm clock could communicate with your coffee maker and tell it to brew your coffee. What if your car was connected to your calendar and would determine the most efficient way of getting to your next appointment, and send a text to that person letting them know exactly what time you will be there. If things continue to evolve it will be only a matter of time before all the machines can talk to each other in an effort to create more efficient humans. It sounds like something straight out of Star Trek, but it could very well be our reality sooner rather than later.

**Bitcoin**

A Bitcoin is a decentralized digital

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currency, commonly known as the currency of the cyber industry. It was first issued in 2009 and what makes it attractive to a large portion of the population is that it can be transferred between people without the involvement of a bank. Currently there are more people in the world with access to a computer than there are to a bank.

The value of a bitcoin is determined by what someone is willing to pay for it however as there are a finite number of coins the currency is not deflationary. There will only ever be 21 million bitcoins in circulation at any given time which helps the currency maintain its value. A bitcoin account can be set up easily and quickly as opposed to setting up a conventional bank account. There are no transaction fees and the account holder can remain anonymous.

More and more small businesses are accepting bitcoins as there are no service fees attached like there are with credit cards. However, the greater the usage of bitcoin, the more incentive there may be for the government to regulate this type of currency.

**Malware**

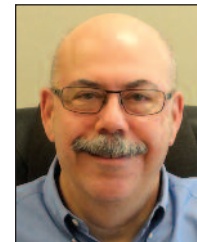
Quite simply put this is software that compromises the operation of a system by performing an unauthorized function or process. Malware can often form part of a phishing email and take the form of a virus, Trojan horse, spyware as well as other hostile or intrusive software.

**Conclusion**

In June 2015 the Digital Privacy Act (Bill S-4), an Act to amend the Personal Information Protection and Electronic Documents Act (PIPEDA), received Royal Assent and became law. However, the sec-

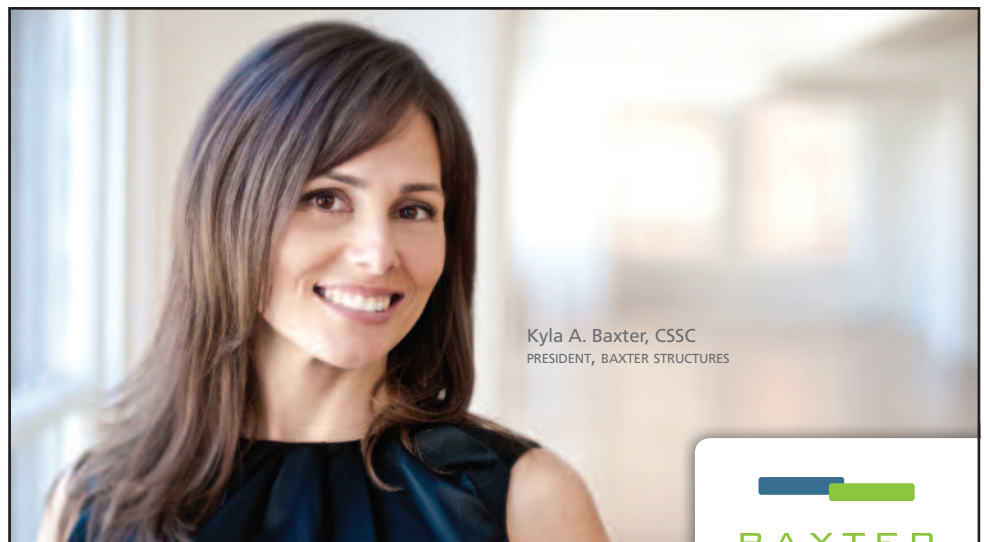
tions dealing with breach notification regulations are still being fine tuned and will not come into effect until a later date which has not yet been announced but is expected to be in the fall of this year. The breach notification sections of the Act will create an explicit obligation to notify individuals in cases of breaches, and report incidents to the Privacy Commissioner of Canada (OPC) if it is "reasonable in the circumstances to believe that the breach creates a real risk of significant harm to an individual". While this wording may be open to interpretation there will soon be a legal requirement to report a breach which will ultimately increase the awareness of the general public and push the corporate world to demand more options for insurance coverage.

As the cyber industry continues to flourish and intertwine itself with our day to day lives there will undoubtedly be more and more cyber crimes, cyber terminology and inevitably cyber insurance. These are most certainly interesting times.



*Clive Wayne, CIP, CRM has been involved in claims adjusting for over 35 years. He is a partner at Excel Claims Adjusters Inc. specializing in a diverse range of claims with a strong knowledge of cyber related claims investigation.*

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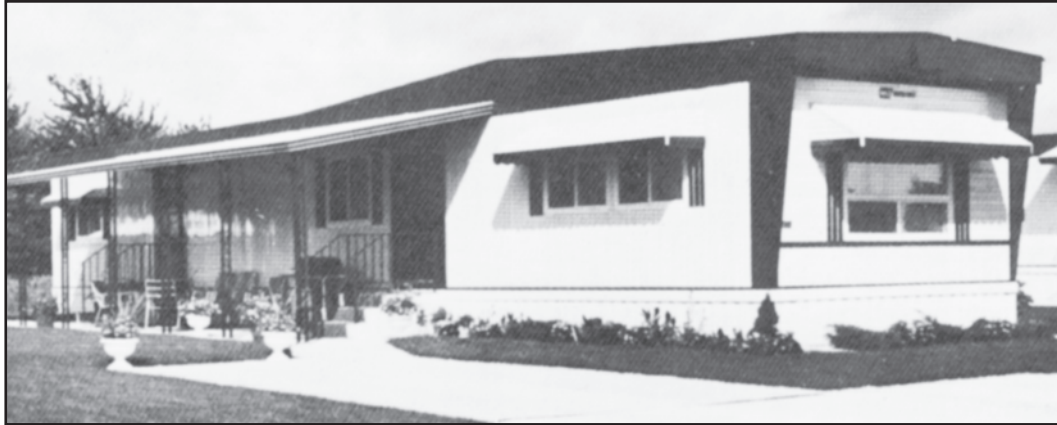
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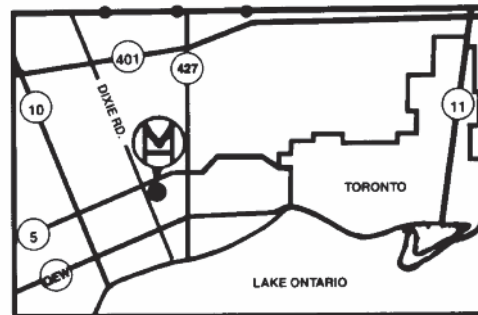
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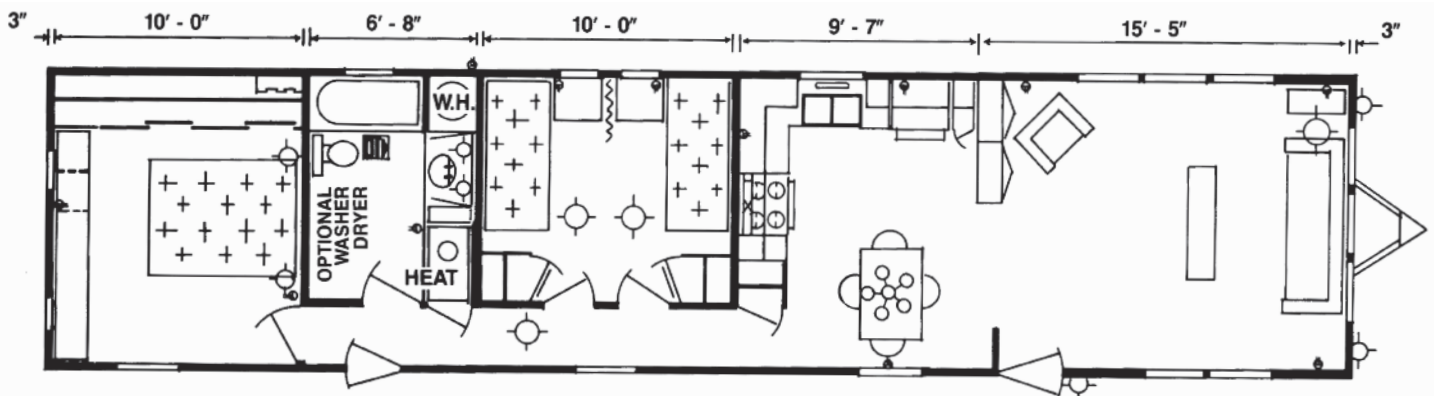
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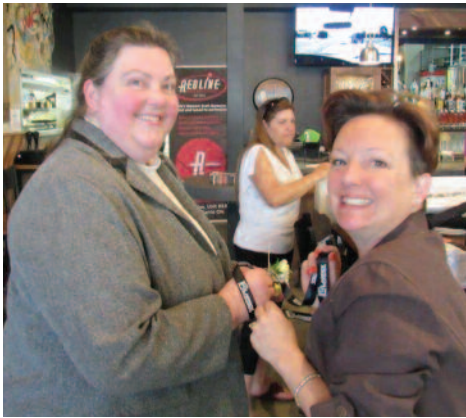


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## OIAA Georgian Bay Chapter Past Presidents Night

On May 4, 2016, the Georgian Bay Chapter hosted their Past Presidents Night at the Redline Brewery in Barrie.





# OUT AND ABOUT



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## OIAA Hamilton Chapter Elections

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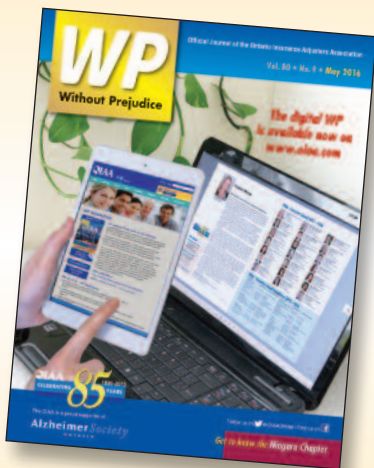
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## Final Report

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*Greg Doerr, CIP, Georgian Bay Delegate*

**Y**ou are reading this in September but really, it's mid-July. The BRITISH OPEN is on and the RBC Canadian Open is next week (yes, I like golf). The kids are out of school and summer vacations are being enjoyed. Summer sports are well underway and we are in the middle of an extreme heat wave! The Georgian Bay Chapter is shouldering deep planning the annual Golf Tournament. Being part of the Golf Tournament committee, I am quite confident, knowing how much effort is going into the planning, I can report it will have been a success.

By this time of year, my wife begins to feel like a "golf widow". Don't get me wrong, I have invited her to play many times and she has however she does not enjoy it the way I do. Frankly, she does not share my passion for the game. I am happy to report my son plays the game. I think it is a great way to enjoy some father-son time together.

I have been really working on this game for 10 years now. You would think a player would get to be a better golfer over this length of time. I have been playing golf with a friend for over 10 years and for the first time, I won a game against him. So, I suppose I have been getting better at golf, but like anything in life, it takes practice. You may not be a golfer, but I think the same life lessons can be applied to anything you do.

Golf is a lot of repetition. It takes focus and commitment. At first, it is just about hitting the ball. Then, it is about positioning the ball for your next shot. You need to make an action plan to get from the tee to the green. Every hole is

not the same. Every course is a little different. Some easier, some more difficult. As claims adjusters, you should be able to relate!

Some shots will not be your best. Golf takes a clear mind. It is easy to become frustrated after you hit a shot into the woods and your next shot goes into the water. It takes a lot of effort to try and forget the bad shot or choices you made, but that is done and you have to move on.

Someone I met this year shared a quotation that often comes to mind: *"Success is a result of continued action filled with continual adjustments"*. Learning from "efforts made", not "mistakes", but the efforts made that may not have gone quite as planned, is what makes us better. We cannot change the past. We can only move onto the next shot. Sometimes, you may just want to quit the game, but then you make a great shot or sink a long putt. For most of us, that keeps us coming back.

There is also a lot to learn about the etiquette of the game. Some may be familiar with golfers that struggle with the sudden verbal outburst after the errant shot. I have to admit, it is sometimes very difficult to control, however this verbiage affects others around us. More respect comes to those that keep the outbursts to themselves. We are all human. Take a deep breath and carry on.

Life is full of many shots. Sometimes we chase the birdies. Sometimes we aim for par and end up with a birdie. Regardless, aim for the middle, relax, have fun and enjoy the game!

**WP**

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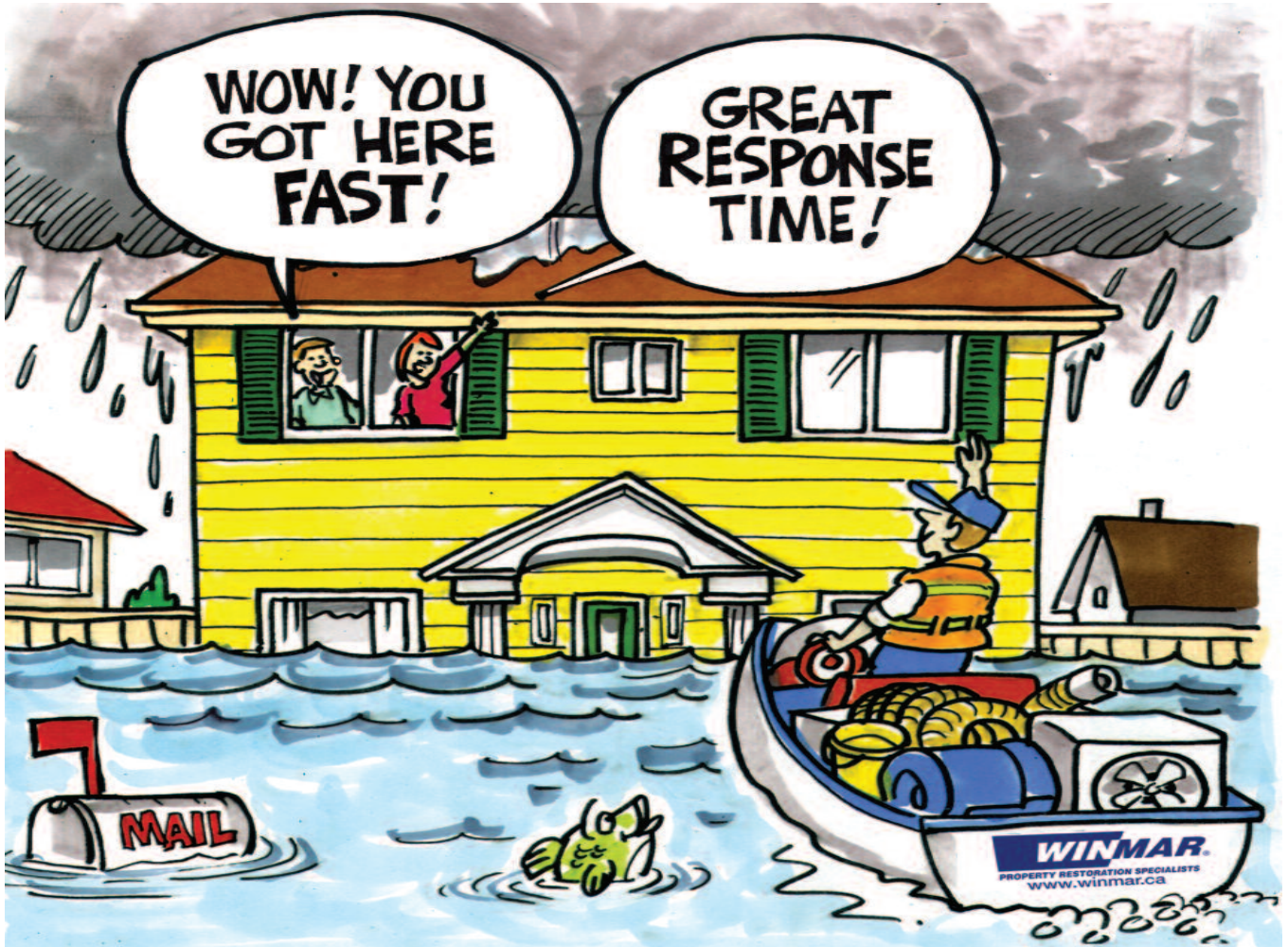
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