



**Risk and
Insurance
Management
Society, Inc.®**

RTMS NEWS
January 2005

THE AWARD WINNING HOUSTON CHAPTER

Advancing the Risk Management Profession

Vehicle Policy Best Practices January 19, 2005 Guest Speaker: Greg Carson

- Minor Body Shop Repairs: \$500
- All other costs associated with that "door ding": \$11,500
- Knowing your Vehicle Management Plan could handle that same accident for \$500: Priceless

So you don't think a minor auto physical damage claim can cost your organization \$12,000? How long did it take the repair shop to fix the vehicle? How many hours of downtime occurred? How long (and how many resources) did it take to get your money back from the at-fault party?

Come to this month's meeting where Greg Carson of PHH will help us discover how you can make sure your average fleet accident doesn't cost \$12,000.

Do your underwriters want more detailed information on your vehicles and your Vehicle Policy more than ever before? Vehicle Policy Best Practices to help you prove to underwriters that your organization is actively involved with minimizing and mitigating risk will be discussed.

Join us for this discussion and gain some helpful hints to take back to the office.

Texas Supreme Court Holds that "Like Kind and Quality" Can Include A More-Expensive-Than-Identical Replacement: *Republic Underwriters Ins. Co. v. Mex-Tex, Inc.*, Texas Supreme Court, Cause No. 03-0662 (Nov. 19, 2004)

By: James L. Cornell*

This case deals with the issue of what the terms "like kind and quality" of "comparable material and quality" mean in a property policy. Property policies typically allow the carrier an option to replace with "like kind and quality" and of "comparable material".

In this case, Mex-Tex's roof was damaged by hail. Mex-Tex replaced the roof with a more expensive roof which was different from the original because it was mechanically

Continued on page 3 . . .

SENATE BILL 127 (sb 127) ADJUSTER LICENSING

By: Charles Dale, Vice President, Jansen International, LLC

After several years of lobbying efforts and in the wake of the recent mold crisis, the Texas Legislature has passed a law requiring licensure for public insurance adjusters. These adjusters, also known as loss consultants, assist insured clients with the measurement, documentation and negotiation of first party property claims, contents inventory and business interruption accounting. Public insurance adjusters are hired to outsource the claims management for the insured client and do not represent insurance companies.

Jansen International, LLC and other members of The Texas Association of Public Insurance adjusters (TAPIA) were instrumental in working with the Governor's office and legislature to pass this bill. "We applaud this effort and are pleased with the outcome" stated Art Jansen, Jr., President of TAPIA. "This bill will bring a needed improvement in the professionalism and credibility of our industry". Concurrently, The National Association of Public Insurance adjusters (NAPIA) is working with the National Association of Insurance Commissioners (NAIC) to establish a national license bill that will apply to all states. A vote on this issue in mid December by the Commissioners is expected to pass.

The license requirements are similar to those of other adjusters and include criminal background checks, a state administered examination, fiduciary bonds and continuing education. The bill also generated a pre-approved retainer agreement that allows a 72-hour cancellation option for the client and a fee capped at 10 percent of the amount adjusted in the claim. Solicitors and adjusters must be licensed to practice in Texas.

If a RIMS member should suffer a property loss and seek to outsource this function, they should always ask for proof of licensure, a formal proposal for services and check the company's references. More information and a copy of the bill can be found at www.tdi.state.tx.us/index.html or by contacting Charles H. Dale, Vice President of Operations, Jansen International LLC Email: charlesd@jansenco.com or Phone: 281-873-8700.

Officers & Directors
 President
 JULIA KOVACH, ARM
 Houston Chronicle Publishing Co.
 713.362.7607
 Julia.Kovach@chron.com

First Vice President
 VIRGIL MEAD, ARM
 Nabors Industries, Inc.
 281.775.8168
 virgil.mead@nabors.com

Treasurer
 THOMAS M. MACE
 Nabors Industries, Inc.
 281.775.8116
 tom.mace@mail.nabors.com

Vice President/Secretary
 SUSAN SANDERS
 Philip Services, Corp.
 713.625.7015
 ssanders@contactpsc.com

Vice President/Assistant Secretary
 JIM LYON, CPCU
 Philip Services, Corp.
 713.625.7174
 jlyon@contactpsc.com

Chapter Liaison
 GINNY PENZELL, ARM
 El Paso Corporation
 713.420.4814
 ginny.penzell@elpaso.com

Education
 CYNTHIA VICKERS
 El Paso Corp.
 713.420.5078
 cynthia.vickers@elpaso.com

Job Placement
 PAM CHAVEZ, ARM, CIC, CRM
 Jacobs Engineering Group
 832.351.7144
 pam.chavez@jacobs.com

Legislation
 MARSHA PHILLIPS
 Jacobs Engineering
 832.351.7149
 marsha.d.phillips@jacobs.com

Membership/Attendance
 VICTOR PIVETTA, ARM
 Houston ISD
 713.871.9365
 vpivotta@houstonisd.org

Public Relations/Newsletter
 STEPHEN (STEVE) BRODERICK
 SYSCO Corporation
 281.584.1764
 broderick.stephen@corp.sysco.com

RIMS Delegate
 Mary Isbell
 Friedkin Companies, Inc.
 713.580.3280
 misbell@friedkin.com

Webmaster
 NIKOLAS KAPATOS
 Sterling Bancshares, Inc.
 713.507.2474
 nick.kapatos@banksterling.com

Past President
 COLLEEN CUMMINGS, ARM
 The Hanover Company
 713.580.1209
 ccummings@hanoverco.com

Associate Directors
 Education
 SONDR A K FAUL, CIC
 The University of TX HSC-H
 713.500.8127
 Sondra.K.Faul@uth.tmc.edu

Legislation
 ROBERT COVINGTON, AIC
 Jacobs Engineering Group
 832.351.7153
 robert.covington@jacobs.com

Membership/Attendance
 Rebecca Walker, CPCU, ARM
 David E. Harvey Builders, Inc.
 713.243.4251
 bwalker@harveybuilders.com

From the President's Desk

Hello Everyone!

Can you believe it – another year has passed and we are beginning a new year. When a new year comes along, everyone seems to want to make “new year resolutions”. I’m no exception. And, like most people, it’s not too far into the “new year” when I realize all my resolutions have gone astray. Hopefully, 2005 will be different and I will be able to keep at least most of my resolutions (at least until next month!).

One resolution I hope each of you will make is to attend your Houston Chapter’s luncheon meetings and to participate by giving us your ideas for what you would like to get better informed about – this is your Chapter and we want you to benefit from the meetings by having strong speakers and presentations that you want to hear.

We have a lot of work ahead of us but you have a strong group of people who have your best interests in mind.

Hope you had a great holiday season and that we will see you on January 19th at our first meeting of 2005!

Julia

New Members

We are pleased to announce the following new members that joined our chapter last month:

Sheryl Bittick - GEM Insurance

William Hastreiter - Cemex, Inc.

Ian McClellan - Duke

Ray Wheeler - Affiliate

Education Corner

ARM 54 Class Beginning January 18, 2005

This course is part of a three-semester specialty program leading to the Associate in Risk Management (ARM) designation. The course is open to risk management, insurance and safety professionals. See the registration form on the Houston RIMS website for all the details.

Please email Cynthia Vickers at (cynthia.vickers@el Paso.com) for information on RIMS education programs.

Meeting Notices, Newsletters and other chapter correspondence are now sent out by e-mail.

If you are a deputy member and are not receiving yours please let us know by contacting Victor Pivetta, Membership Director. Deputies can update/correct information by logging on to the Society web site: www.rims.org. Associates & Non-Members should contact Ginny Penzell.

Continued from page 1 . . .

attached to the structure (not by ballast – or rocks—as was the original roof).

The carrier, Republic, offered to pay for the cost of replacing the roof with an identical roof. It argued that by definition, an identical roof was of “like kind and quality”. Mex-Tex sued to make Republic pay for the more expensive roof. The Supreme Court upheld the trial court’s finding that Republic breached its policy. The Texas Supreme Court stated that the “plain language of the policy neither restricted nor required Republic to pay for the cost to replace the roof with an identical one”. The more expensive roof was also of “like kind and quality” and Republic breached its contract by failing to pay for the more expensive roof.

The Texas Supreme Court also held that the 18 % penalty under the Prompt Payment of Claims Act, Article 21.55, should be based on the difference between the amount that Republic offered to pay, and the amount of the claim ultimately found by the trial court, not on the full amount claimed by Mex-Tex.

Finally, although the Texas Supreme Court stated that a conditional offer to pay would not stop the assessment of penalties under Article 21.55, in this case, the Texas Supreme Court found that the offer made by Republic was not conditional. The Texas Supreme Court reviewed the factual evidence relied on by the trial and appellate courts, and found that the evidence did not support a finding that the offer was conditional.

* James L. Cornell practices law and is a partner at Cornell & Pardue. His practice includes representing corporate policyholders on a contingency fee basis in their coverage disputes with insurance carriers as well as other complex commercial litigation. He may be reached at jcornell@cornell-pardue.com or 713.526.0500. (c) 2004

Houston Area Job Links for January 2005

For further information regarding positions or to place a job opening for your company in our newsletter, contact Pam Chavez, Director - Job Placement (832) 351-7144
[email:pam.chavez@jacobs.com](mailto:pam.chavez@jacobs.com)

Listing descriptions and contact information can be found at The Houston RIMS website:
<http://houston.rims.org/ChapterWebsite/RIMSChapter.cfm?CID=328>

For information regarding RIMS Society listings, contact Jennifer Berman in New York at (212) 286-9292
[email: jberman@rims.org](mailto:jberman@rims.org)

Also, look online at the Houston Chronicle’s classified web site under employment. Do a key word search for Safety or Risk Management at:
<http://www.houstonchronicle.com/classified>

Or look online at the Houston Press’s classified web site:
<http://www.houstonpress.com/classifieds>



RIMS Society News

2005 Schedule of RIMS Workshops and Courses
Update Your Knowledge - Keep Competitive. REGISTER NOW!

<i>DATE</i>	<i>COURSE</i>	<i>LOCATION</i>
<i>Feb 3-4</i>	<i>Techniques of Risk Management</i>	<i>Memphis, TN</i>
<i>Feb 7-8*</i>	<i>Workers' Compensation Management</i>	<i>Denver, CO</i>
<i>Feb 10-11*</i>	<i>Alternative Risk Financing Techniques</i>	<i>Houston, TX</i>
<i>Feb 24-25*</i>	<i>Enterprise Risk Management</i>	<i>Atlanta, GA</i>
<i>Feb 28 - Mar 1</i>	<i>Fundamentals of Insurance</i>	<i>San Jose, CA</i>
<i>Mar 14-15</i>	<i>Risk Analysis Tools for Effective Risk Management</i>	<i>Ft. Lauderdale, FL</i>
<i>Mar 14-15</i>	<i>Corporate Governance and Risk Management</i>	<i>New York, NY</i>

* Credit towards the RIMS Fellow designation

For details about any of the above workshop or courses, visit:

<http://www.rims.org/education>

For details about the RIMS Fellow designation, visit:

<http://www.rims.org/aboutrf>

For Information about the On-line Crisis Readiness Courses, visit:

<http://www.rims.org/onlinecourses>

For additional info contact the Professional Development Dept. at 212.655.6212 or e-mail pd@rims.org

Nikolas G. Kapatos
RIMS Newsletter Editor
c/o Sterling Bank
2550 N. Loop West, Suite 600
Houston, TX 77092



Houston Chapter of RIMS

UPCOMING EVENTS

Luncheon meetings are at 11:30 am

2005

January 19, 2005
Vehicle Policy Best Practices

February 16, 2005
Past President Meeting
Presentation by Risk Manager of the Year

March 16, 2005
Joint RIMS/CPCU Meeting

April 17-21, 2005
RIMS Annual Conference - Philadelphia
(No Local Chapter Meeting)

Check the website:
www.rims.org > chapters > chapter web sites > Houston.
Watch for event information.

January Reservation Deadline

Friday, January 14, 2004 at 4pm

Please send your response by e-mail to jlyon@contactpsc.com or fax the notice to 713.625.7087.

The Luncheon Registration form is available on the chapter web site at www.rims.org

choose "chapters" then "chapter web sites" then "Houston" look for the "Monthly Meeting Notice" on the list to the left.

MEETING PLACE

The Hilton University of Houston

University Drive - Entrance One, Suite 207
Phone #713.741.2447

- Parking is being provided by the Houston Chapter of RIMS.
- Be sure to pick up your token at the registration desk so you can get out of the parking garage free of charge.

