

A woman with dark hair, wearing a white polka-dot top and a light-colored skirt, stands in a kitchen. She has a distressed expression, with her hands pressed against her face. She is carrying a light blue handbag. The kitchen appears to be in a state of disrepair, with a dark, possibly charred, countertop and a window in the background. In the foreground, there is a dark wooden table with a bowl of fruit and some dried herbs on it.

# Canadian underwriter

January 2019

YOUR GUIDE TO INSURANCE SUCCESS. SINCE 1934

## BE A CLAIMS WHISPERER

HOW TO GROW YOUR BOOK AND KEEP CLIENTS THROUGH SUPERIOR CLAIMS HANDLING

## OUT OF THE ASHES

How Canada's biggest disasters have changed cat response

**Patti Kernaghan**

AN ICON'S TAKE ON THE MOST VEXING CLAIMS ISSUES

**CU**  
INTERVIEW

**+**  
NEED  
CAPITAL?  
BUILD A  
GREAT TEAM

ARE AUTO  
JURY TRIALS  
DEAD?

A FRESH  
LOOK AT  
COMMERCIAL  
CLAIMS

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Rowan Saunders, President and CEO,  
holding Economical's first policy



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What's inside a Chartered Insurance Professional designation?

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## Reinsurance Protectionism

Will OSFI proposals take the "global" out of global reinsurance?

Canada's solvency regulator appears to be concerned about capital flight from Canada by way of reinsurance contract arrangements.

In its June 2018 *Reinsurance Framework Discussion Paper*, the Office of the Superintendent of Financial Institutions (OSFI) raises concerns about developments it has tracked over the past decade. Among them:

- Insufficient collateral requirement for unregistered reinsurance
- Concentration risk, in which a single reinsurer, or a limited number of reinsurers, is on a program
- Worldwide treaties that create the potential for claims in other jurisdictions to drain the capital available for Canadian claims events
- Overreliance on quota share treaties (in some cases, OSFI says, an insurer may cede a majority of their earned premiums to reinsurance)
- Fronting arrangements in which an insurance company insures the risk and then reinsures 100% of that risk with an unregistered unrelated foreign insurer (although there is nothing inherently wrong with such arrangements, OSFI wants to uphold the integrity of the arrangement)
- Foreign reinsurers ceding risks back to the home office, potentially causing a delay in moving the funds back to Canada in the event of a disaster.

OSFI has a number of specific proposals to counter each of the risks outlined above. For the sake of economy, I characterize them into two broad categories: Requiring capital (or more capital) to be parked in Canada, and making it more expensive for reinsurers to move the capital outside of Canada.

Either way, the approach appears to take the "global" out of global reinsurance. Indeed, the whole point of global reinsurance is for capital to flow freely over boundaries, depending upon where the disasters occur.

By requiring reinsurers to park funds in individual countries, or to make it harder for them to move funds out of individual countries, that reduces the global capital pool available for reinsurers to apply to disasters happening worldwide. This in turn makes it harder for reinsurers to diversify their risks. Some suggest OSFI's recommendations would create an "island" of capital in Canada.

So far, this is all in discussion mode. There is still time to express opinions to OSFI. Now is the time to speak up. cu

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## Why Ozzy Osbourne is a factor for actuaries to consider

December 15

**The story:** Properly segmenting data can make or break the performance of an insurance company or brokerage, a KPMG insurance conference heard. For example, if actuaries define their data categories too broadly, they would not notice the difference between Ozzy Osbourne and Prince Charles: statistically, both are wealthy, 70-year-old men who are famous, married with children, and born in Britain.



Piero Tiseo says:

Statistically speaking actuaries are not always right. They look at past statistics to project forwards. This is why slowly we have killed off a tried-and-true concept like the law of large numbers....Actuaries, like all professionals, are necessary; however, they have their limits. Data is not always accurate, even in the best of times. Continuously looking at data, results, statistics on an hour-by-hour, day-by-day, or month-by-month basis is far from the very nature of this business. Over the years that I have been in this business, I fail to see how it has actually improved...Maybe someone out there that can statistically show me how has improved?!

## Is your client liable for canoeing while impaired?

December 16

**The story:** The Ontario Court of Justice rules that canoes are in fact “vessels” under the *Criminal Code*. The question came up in a trial of an Ontario man who was charged with criminal negligence causing death after his canoe capsized, causing an eight-year-old boy to fall out of the canoe and drown.

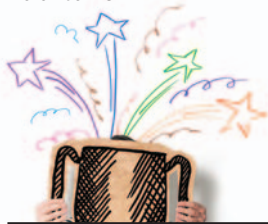
Frank Cain says:

In the event that anyone reading the *Criminal Code* (CC)’s definition of “vessel” believes it is nothing more than gobbledygook, let me say that it could easily apply to an airplane as well as a boat. Allow me to elucidate. An object will float if the gravitational (downward) force is less than the buoyancy (upward) force. In other words, an object will float if it weighs less than the amount of water it displaces. How airplanes fly: airplane wings are shaped to make air move faster over the top of the wing. When air moves faster, the pressure of the air decreases. So, the pressure on the top of the wing is less than the pressure on the bottom of the wing. The difference in pressure creates a force on the wing that lifts the wing up into the air. (A propeller or jet does the rest.) Therefore, based on the CC’s definition of “vessel,” an airplane is a vessel as it ...“derives support in the atmosphere”... and ...“from reactions”... “of air expelled from the machine.” Thank you CC legislators. Always nice to know.



## Why these four insurers have highly engaged employees

November 18



**The story:** Allstate Insurance Company of Canada, Intact Financial Corporation, The Co-operators and Trisura Guarantee Insurance Company were platinum award recipients of the 2019 Aon Best Employers in Canada Study. The study recognizes high-engagement organizations that demonstrate effective leadership, build a performance culture and leverage the strength of their employer brand.

Jason Cormier says:

Surveys that give these companies the awards are a sham. Employees are afraid they will lose their job if they say anything bad. Sure they are supposed to be anonymous, but when it’s online, nothing is anonymous.

## Insurer prevails when vehicle driven without owner’s consent

November 22

**The story:** Alberta Motor Association Insurance Company does not have to pay a claimant who was injured while riding in a vehicle driven without the owner’s consent. A court found a trial was warranted because the wording of the standard Alberta auto policy is ambiguous, but the ruling was overturned on appeal.

Blessing Opara comments:

One would expect the policy term on the exclusion to include “whether or not the passenger has the knowledge of the owner’s consent.” With this, it becomes clear to the insureds whether the passengers are indemnifiable upon the occurrence of a loss or damage.

## Why insurers urge caution on regulating condo deductibles

November 12

**The story:** The Insurance Bureau of Canada suggested the government take a “wait-and-see” approach towards defining a reasonable deductible for condo insurance. Deductibles are contractually determined by the insurance company, but existing regulations do not set a specific required amount.

Marc Dubois comments:

The biggest issue in settling these claims is getting the parties to agree on who pays for what. A uniform definition of owner and condo corporation responsibilities applicable to all associations would go a long way to simplifying the process. Also, condo associations with large deductibles and damages emanating from common components are very slow to react, leaving unit owners holding the bag. Solutions are required.





Putting the pieces together.



## Events and Seminars Calendar

CIP Society Events and Seminars give you the opportunity to learn, to network, to catch up on industry developments and to advance your professional and career development.

### CIP Society Seminars

Vancouver—Builders' Risk Claims and Construction Insurance.....	January 24
Edmonton—Xactimate Training.....	January 29
Vancouver—Legalization of Cannabis: Emergent Insurance Issues.....	January 31
Webinar—Fundamentals of Financials .....	January 31
Toronto—The Art of Persuasive Negotiation.....	February 5
Webinar—Introduction to the Garage SPF4 .....	February 5
Hamilton—Fireside Chat .....	February 7
Langley, BC—Introduction to Business Interruption Insurance .....	February 12
Webinar—Business Interruption: Beyond the Basics.....	February 13
Webinar—Subrogation: Maximizing Recovery .....	February 14
Webinar—Cyber Liability Exposure & Coverage .....	March 5

### CIP Society Events

Toronto—Industry Trends & Predictions.....	January 16
St. John's—CIP Society Bowling Event.....	January 18
Quebec—2019 Gala.....	January 19
Toronto—Annual Convocation and Awards Night.....	January 24
Conestoga—Leafs vs. Redwings in Detroit .....	February 1
Kawartha/Durham—Annual Convocation Luncheon.....	February 1
Hamilton—Annual Convocation Dinner.....	February 27
Ottawa—Industry Trends & Predictions .....	February 27
Conestoga—Annual Convocation Dinner.....	February 28
Toronto—CIP Society Curling Bonspiel .....	March 6

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| Business



# Tailored insurance for small business clients

## Aviva Canada has the insurance that your small business clients need

There are over 1 million small businesses across Canada, and just like snowflakes, no two are the same. From graphic designer to consultant, and from electrician to small shop owner, over 98% of Canada's economy is comprised of this segment<sup>1</sup>. For that reason, they each and all require relevant and specific insurance coverage to meet their unique needs.

At Aviva Canada, we recognize that it takes a lot for small businesses to operate, and be successful in an often crowded and competitive marketplace. Brokers know all too well that recommending the best coverage options is extremely important, but it doesn't need to be difficult.

Historically, we know small business products have had their limitations. Our brokers and their clients have told us directly that packaged products were either too complex or not designed to meet the specific needs of small businesses. Sometimes, small business owners ended up paying for additional coverages that just weren't applicable to their businesses.

Aviva Onpoint™ insurance has fixed that, because it is tailor-made for small businesses rather than a one-size-fits-all solution. It offers clarity and simplicity for customers at an affordable price point, including our minimum policy premium of \$500, where applicable. On top of that, it's all under a single and easy-to-understand P&C policy.

Specifically, Aviva Onpoint™ insurance provides small businesses with three leading benefits, which include:

- 1. Broad base protection** to match the needs of your client's business, and can include up to two secondary operations in addition to their primary operation.
- 2. Enhanced coverage options** that are industry specific and selected based on your client's profile.
- 3. Flexible options** for you to adjust coverage amounts and deductibles to provide the most relevant and tailored product possible to your clients.

Aviva Onpoint™ insurance is for clients with revenues of up to \$5 million in Canadian sales and operation(s). As a start, we're offering Aviva Onpoint™ insurance to three leading small business segments – Business and Professional Services, Contractors and Retailers.

Some examples of business and professional services include consultants, graphic designers, hair salons, lawyer offices, real estate agents and veterinarians. Contractors would include, but aren't limited to electricians, landscapers, painters or masonry and renovation contractors. Examples of businesses under the retail segment include everything from bicycle shops, clothing stores to drug stores, as well as flower shops, hardware shops and more.

Small business clients falling within those three segments and seeking the right property and liability coverage (which may also include relevant and specific additional coverage options, such as business income, equipment breakdown, and crime), may wish to consider how Aviva Onpoint™ insurance can work for them.

After all, starting and maintaining a small business is no easy feat. Often, the teams may be small for quite some time and chances are you or at least one person you know, works for one. Competitors can be fierce and just as motivated to succeed, the threat of failure is always present, resources can be difficult to come by, and regulations may easily feel like they are getting in the way of efficiency. And fundamentally, the drive to succeed is very often a deeply personal one.

That's why Aviva Onpoint™ insurance is designed to deliver simplicity and clarity, so that small business owners can just get on with what they do best.

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<sup>1</sup> Key small business statistics – June 2016. Retrieved from the Government of Canada: [https://www.ic.gc.ca/eic/site/061.nsf/eng/h\\_03018.html](https://www.ic.gc.ca/eic/site/061.nsf/eng/h_03018.html)



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# declarations

**HIGHLIGHTS** Survey Says... p.14 | Best Workplaces p.15 | New Offers p.16 | Big Moves p.17



2018 TOP BROKER SUMMIT

## Data is King

In the “trillion-sensor economy,” brokerages in total command of their data will rule the roost

DAVID GAMBRILL, *Editor-in-Chief*

**Artificial intelligence (AI)** is already shaping the expectations of Canadian insurance consumers, according to speakers at the 2018 Top Broker Summit, hosted by *Canadian Underwriter* in Toronto. And in the “trillion-sensor economy,” data will become the foundation of broker innovation.

To prepare, brokers need to build strategies right now for capturing and using data in their systems, speakers at the summit urged. And they need

to plan for the looming interaction between humans and machines.

In other industries, machines are already learning from reams of data generated by sensors, said Andrew Lo, an insurtech innovator and former president and CEO of Kanetix Ltd. In the upcoming world of “hyper-connectivity,” 26 billion devices are projected to be connected to the internet by 2020. And the average home with two teenagers is anticipated to own roughly 50 inter-

net-connected devices by 2022.

All told, the AI market is projected to be valued at \$36.8 billion by 2025, added Amber Mac, a speaker, writer and national best-selling author.

Successful insurers and brokers will be able to parse through all of this information gleaned from sensors built into homes and cars, allowing for a better segmentation of risk. Consumers will expect something different from their insurers and their brokers as a result.

### ELEVATING MOBILITY | DEC 17

Passenger drones (quadcopters) and flying cars may appear in the urban skies by as early as 2025, pending regulatory approval, according to a Deloitte report.



### PUBLIC INSURER SEEKS RATE | DEC 17

The Insurance Corporation of British Columbia, which lost \$582 million over six months ending in September, has asked the province's regulator for a 6.3% auto rate increase, effective Apr. 1, 2019.



6.3%

“Give me a quote,  
give me a callback,  
give me a PDF – give  
me something, because  
I know my information  
is valuable for your  
company.”

“With all of these devices working together, consumers are going to start to expect personalized products and services based on the data they provide,” Lo said. “We live in a world that knows your needs before you do.”

How will brokers collect the data required to provide such specialized advice? Knowing the value of their personal information, nine out of 10 customers today will not engage with a brokerage’s online contact form unless there is something in it for them, says Daryl Keezor, founder and CEO of Candybox Marketing. Brokers should be using customer value forms, he recommended.

For consumers, the deal is: “If I give you my data, you give me something in return,” Says Keezor. “Give me a quote, give me a callback, give me a PDF, give me an e-book, give me an enter-to-win – give me something, because I know my information is valuable for your company.”

Brokers of the future can also help their clients make sense of information overload. While studies show customers will find out basic information about insurance on their own, they still look to brokers for guidance on tailor-made solutions. Lo noted that 74% of consumers still want to talk to a broker, just at the end of their self-learning process, not at the beginning.

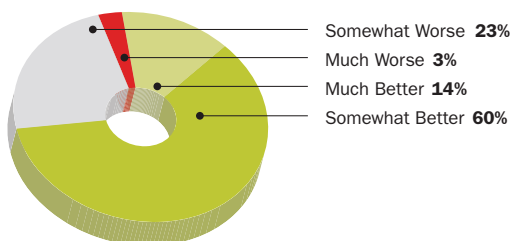
The true value of the broker emerges when the informed consumer starts to ask questions, said Ramona Pringle, director of Transmedia Zone, and associate professor in the RTA School of Media at Ryerson.

## SURVEY SAYS...

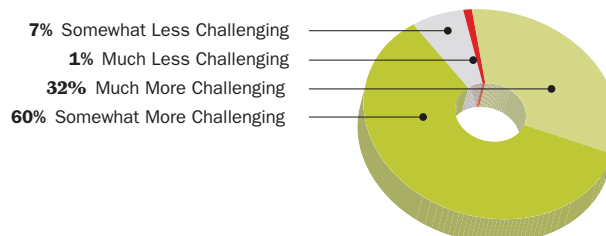
## 2019 OUTLOOK: WORKING HARD FOR THE MONEY

*Canadian Underwriter* asked the profession for its outlook on a variety of topics looking forward into 2019, including financial performance and the challenges that lie ahead.

In your opinion, how well will the company you work for perform financially in 2019 compared to 2018?\*



How challenging will your job be in 2019 compared to 2018?\*



\*255 survey respondents for each question

Given all of the sensors that people have in their homes, that information can help the broker to be an advisor in real-time, says Pringle.

AI’s segmentation of the information will not displace the value of the broker in the process. Rather, it will “enhance the way that you communicate with people,” Pringle said. “You have domain expertise. Your understanding of what questions need to be asked will be the big differentiator.”

As machines start to slice and dice the data into meaningful patterns, brokers will need to start thinking strategically about “an inevitable human-machine partnership,” Mac said.

But that doesn’t mean machines will displace all of the jobs in the brokerage,

Lo said. “Automation that eliminates a human from a task does not necessarily eliminate a human from a job.”

Ultimately, Pringle said, the narrative about technology needs to change: “It all ends up feeling very exclusionary, right?” she said. “The future is going to be designed by coders, programmers and engineers and that everyone else is going to be out of a job.”

Not so, she concluded. “We need a massive shift in the way we talk about technology and the future, because ultimately we are the ones designing it, we are the ones buying it, we are the ones using it. We are the ones in control, but the narrative is quite often that we are losing control; that things are spinning out of control.” cu

## SAFEST PLACE TO DRIVE | DEC 17

Hanmer, Ont. ranked the safest among 64 Canadian communities rated in a claims study by Allstate Insurance Company of Canada. The northern Ontario community had an average vehicle collision rate of

**3.8%** PER 100 CARS  
OVER THE PAST DECADE.

## COST OF FLAMES | DEC 13

Fires or explosions accounted for almost a quarter (23%) of commercial claims by value, with the average claim worth about Cdn\$750,000, according to a recent global study by Allianz Global Corporate & Specialty (AGCS).



## BEST WORKPLACES

## Ahead of the pack

What makes for a stellar workplace? Four insurers reveal key insights into developing happy and motivated workers

BY JASON CONTANT, *Online Editor*

**W**hat does it take to keep highly engaged employees at your insurance company?

“It boils down to this: the best employers help people understand where they need to focus, give them the support they need to perform at a high level in a changing work environment, and have engaging leaders who help employees feel valued and part of the organization’s success,” says Todd Mathers, partner and culture and engagement consulting leader for Aon in Canada.

Mathers was referring to the recent release of the *2019 Aon Best Employers in Canada* study, now in its 20th year. The study recognized 49 companies for the quality and performance of their workplaces, using global standards based on more than two decades of learnings and best practices.

Four Canadian property and casualty insurers made the Best Employers list:

- Allstate Insurance Company of Canada
- Intact Financial Corporation (IFC)
- The Co-operators
- Trisura Guarantee Insurance Company (Trisura, with fewer than 400 employees, was among the best small and medium-sized employers in Canada).

Best Employers score much higher in the survey in agility of decision-making, Mathers says. Related to that, they tend to implement innovation and changes quickly and effectively. They excel in the areas of employee learning and development, they effectively allocate talent to get work done, and they make their employees feel valued.

Insurers appearing on the list cite values, people and culture as key differen-

tiators between workplaces.

“Our employees are the reason Allstate Insurance Company of Canada has been given this honour for the last seven years,” says Adrienne Sullivan-Campeau, the insurer’s vice president of human resources. “We are extremely proud that our employees recognize the commitment at all levels to creating a culture that supports our employee value proposition of opportunity, flexibility, family, diversity, and community. This takes consistency over time and a congruency between what we say and how we behave.”

Intact strives for an environment in which employees are engaged and motivated to bring their best to work each day, says Denise Thompson, IFC’s vice president of human capital management. “That is why employee en-



### BOAT COVERAGE BUOYED | DEC 12

Federal regulations requiring liability insurance for boats that carry passengers will take effect Jan. 11, boosting boat liability insurance sales by an estimated \$24.8 million over 10 years.



### MOST STOLEN VEHICLE | DEC 11

Ford F-Series trucks have once again topped the list of Canada’s most frequently stolen vehicles, according to Insurance Bureau of Canada. Of the top 10 stolen vehicles, nine were Ford F350s or F250s, with the Lexus GX460 taking the number nine spot.



agement is a priority for Intact. What makes this award so meaningful is that it's based on what employees have to say about our company."

Trisura prides itself on working hard to maintain its entrepreneurial culture, says Cindy Grant, the insurer's vice president of human resources. "Our culture is based on transparency, philosophy of excellence, discipline, passion and a sense of urgency in everything we do. These values are demonstrated from the top down and are communicated frequently. They are evident in how we operate on a daily basis."

For the Co-operators, which has made the Best Employers list 16 years in a row, the values promoted in the workplace are reflected in the name of the company, which is founded on voluntary and open membership, democratic member control, autonomy and independence. "We see these as significant differentiators and a top driver of employee engagement within our organization," said Michelle Robichaud, senior manager of corporate communications with The Co-operators. "Our employees have expressed pride in these distinct values and they feel connected to our commitment to good corporate citizenship."

Thinking outside the box can help address career opportunities, says Allstate's Sullivan-Campeau. She says her company encourages its employees to think about progression not as a career ladder, but a career lattice.

"Meaning there are opportunities across different verticals – underwriting, claims, finance, HR, sales, marketing, etc.," she said. "Sometimes the best career move for you is not always 'up.' It might be across, or even down for a while."

Developmental opportunities are available for those who take on a temporary assignment to try out their skills in another area of the company. "This opens up developmental opportunities that people may not expect," she says. cu

### NEW OFFERS

#### ChemMeta

**Vendor:** Allianz Global Corporate and Specialty

**Target Audience:** Risk managers for chemical manufacturers and users

**What it does:** Provides information on chemical safety risks



Allianz Global Corporate and Specialty (AGCS) has teamed up with analytics vendor Praedicat to offer ChemMeta, a data service intended to provide risk information for chemical manufacturers and users of chemicals. ChemMeta helps users "understand which substances are more likely to cause negative impact on human health and well-being or trigger regulatory action in the future," stated Hartmut Mai, chief underwriting officer for Munich-based AGCS. Target markets include the chemical, pharmaceutical and food and beverage industries, which have seen an "exponential growth of data and information as a result of digitalization," states AGCS. Available to Canadian customers, the product uses both artificial intelligence and machine learning to scan and analyze data from scientific journals to identify product risk, states Praedicat, which describes itself as an insurtech. Companies that buy their liability insurance from AGCS can access ChemMeta for a "defined period," after which they can buy a subscription.

#### ONPOINT

**Vendor:** Aviva Canada

**Target Audience:** Companies with less than \$5 million in annual revenue

**What it does:** Tailors small business coverage under one policy



With its recently-launched Onpoint, Aviva Canada says it offers a wide range of coverage for small businesses under a single property and casualty policy. Onpoint is aimed at companies with revenue of up to \$5 million. Onpoint is designed to tailor coverage for a specific industry and give a customer flexible options to adjust coverage amounts and deductibles. Equipment breakdown and crime are examples of options that customers might include. What motivated the company to create Onpoint? Many existing packaged insurance products "were too complex and not designed for the specific needs of small businesses," explains Fred Shurbaji, Aviva Canada's head of small to medium enterprise in commercial insurance.

#### MANAGEMENT LIABILITY INSURANCE PROGRAM

**Vendor:** Verisk Analytics Inc./ISO

**Target Audience:** Management liability insurers covering private companies

**What it does:** Helps price management liability insurance



Verisk Analytics Inc.'s ISO unit has released a new rating model for Canadian insurers that is intended to help them price several lines of liability, including directors and officers, employment practices liability and fiduciary liability. Privately-held firms face many of the same risks as companies traded on stock exchanges — including mergers and acquisitions activity, regulatory investigations, discrimination and sexual harassment. The new rating model factors in "a wide range of classes and risk sizes for employment practices liability developed using the latest modeling techniques." It includes options for crime and kidnap and ransom.



#### FRAUDSTER DATABASE | DEC 7

Health clinics and auto repair centres involved in auto insurance fraud should be named in an online database that is easily accessible to consumers, Aviva Canada recommends.



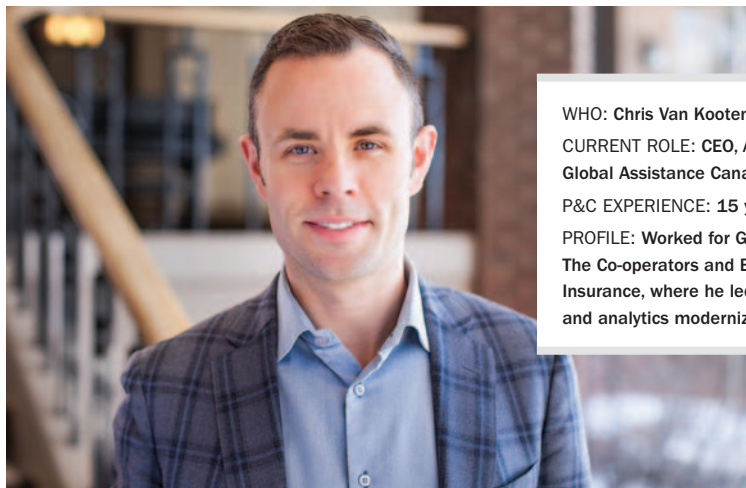
#### UNDERSTANDING WATER COVERAGE | DEC 6

Only about half of 3,020 Canadians polled by Canada's third largest insurer understood what kind of water damage is covered by their insurance policy, according to Desjardins Group Insurance.

## BIG MOVES

## New CEO for Allianz Global Assistance Canada

Chris Van Kooten, former managing director of Guy Carpenter Canada, is replacing Phil Hibbert as CEO of Allianz Global Assistance Canada



**WHO:** Chris Van Kooten  
**CURRENT ROLE:** CEO, Allianz Global Assistance Canada  
**P&C EXPERIENCE:** 15 years  
**PROFILE:** Worked for Guy Carpenter, The Co-operators and Economical Insurance, where he led pricing and analytics modernization

Chris Van Kooten, a former chief underwriting officer for Economical Insurance, is now CEO of Allianz Global Assistance Canada. He replaces Phil Hibbert, who is returning to New Zealand to be with his family and pursue executive-level opportunities in financial services and insurance. A former president of the Ontario Conference of Casualty Actuaries, Van Kooten was most recently managing director at Guy Carpenter Canada. Ultimately owned by Munich-based Allianz, Allianz Global Assistance Canada provides travel insurance and outsource assistance services for health insurers, property and casualty insurers and credit card companies. At Economical, Van Kooten's roles included increasing the sophistication of pricing and analytics. In addition, he has also held actuarial roles with The Co-operators General Insurance Company.



Kevin Daniel is executive vice-president and chief client officer for The Co-operators Group Ltd. He was previously executive vice-president and

chief operating officer for Co-operators Life Insurance Company and president and chief operating officer for The CUMIS Group Limited.



Dennis Dalmas, vice president of business solutions delivery at Aviva Canada, is now on the board of directors of the Centre for Study of Insurance Operations (CSIO).

Toronto-based CSIO is an association that makes forms and industry data standards for the Canadian P&C industry.



FirstOnSite Restoration, an independent disaster restoration services provider, has promoted Jeremy Baker to lead its Vancouver Island branch. Previously, as a project manager with

FirstOnSite's Edmonton branch, he was involved in restoration operations during the devastating 2011 Slave Lake wildfire catastrophe.

## SUMMARY

## AUTOMATED VEHICLES

## The future of auto insurance

INSURANCE BUREAU OF CANADA

Changes will be needed to Canada's auto insurance policies and supporting legislation to ensure people injured in collisions involving automated vehicles get compensated fairly and quickly, according to a new policy paper from the Insurance Bureau of Canada (IBC).



The paper, *Auto Insurance for Automated Vehicles: Preparing for the Future of Mobility*, sets out IBC's recommended automated vehicles insurance framework.

First, a single insurance policy should cover both driver negligence and any flaws related to the automated technology itself. The insurer would compensate injured people if the automated vehicle caused a collision, regardless of whether the human operator or automated technology was in control. The purpose is to align the tort process for automated vehicle claims with traditional claims involving conventional vehicles.

Second, there should be a data-sharing arrangement with vehicle manufacturers, vehicle owners and/or insurers. The arrangement would help determine the cause of a collision, whether the vehicle was in manual or automated mode at the time of the collision, as well as the operator's interaction with the automated technology. "A data-sharing arrangement is crucial to a quick resolution of liability claims," the report notes.

Data elements would consist of 11 items, including an automated transition time stamp, time since last driver interaction, speed, and vehicle warnings or notifications to the operator. Since technology is a crucial element in the operation of an automated vehicle, IBC also recommends new federal vehicle safety standards for vehicle technology and cyber security.

Without changes to auto insurance and regulations, injured people would have to wait considerably longer for compensation. The shift in responsibility for collisions from humans to automated technology would see injured people proceeding through product liability litigation to get compensation.

### TIME TO HIKE LIMITS? | DEC 5

Ontario's new government should require motorists to buy higher limits of mandatory liability coverage, a trial lawyer says, calling for the province to boost statutory limits from

**\$200,000 to \$1 million**



### RECRUITING REVERSES TREND | DEC 4

The total number of people working for P&C carriers in Canada increased by 11.5% to 112,466 last year. This was up 2016, but down from 114,193 a little over a decade ago.

ADJUSTERS LOOKING FORWARD

# GOING MOBILE

Patti Kernaghan,  
president and CEO of  
Kernaghan Adjusters,  
tells *Canadian  
Underwriter* why the  
time is now for a  
harmonized adjuster's  
licence across Canada.

Jason Contant, Online Editor

PHOTOGRAPHY: ALEXIS TASCHUK





**cu** | We're told it's easier to bring an adjuster into Canada from the U.S. than it is to move a Canadian adjuster from one province or territory into another. What are the existing mobility barriers?

The biggest barrier is licensing. CIAA (the Canadian Independent Adjusters' Association) has worked tirelessly for decades to address any interprovincial licensing issues that arise, especially during catastrophes. Regulators still don't understand the urgency with which we need to move when a catastrophe occurs. This is a huge mobility issue. Yes, it is easy to get adjusters from the U.S. into Canada, and it is exasperating for Canadian companies to move people from province to province. For example, let's say a big storm in Alberta results in a catastrophic event that requires additional resources to be deployed from Ontario. An adjuster in the province of Ontario with a Letter of Authority will need to write an exam before they are licensed in Alberta. There are idiosyncrasies like this in each province. I've worked with the regulators for a number of years. I've represented the CIAA at a number of their meetings and made presentations. I hope there will be changes in 2019.

**cu** | Have any steps been taken to address this issue?

The regulators will consider various property and casualty [P&C] issues brought before them in any given meeting and will then need to prioritize them. Independent adjusters are a vertical market within the P&C industry, so we're between 3% to 5% of the property and casualty industry. We don't demand enough attention. Changes were made to the Manitoba laws for independent adjusting licences a few years ago. However, because of a government change, they still haven't gone through. It's very frustrating. CIAA is again at the table talking to the regulators. Hopefully there will be

Regulators still don't understand the urgency with which we need to move when a catastrophe occurs. This is a huge mobility issue.

some changes afoot; something may come down the pipeline in 2019.

**cu** | Any more details about what might happen in 2019? It's still too early to tell.

**cu** | In your view, what needs to happen in the long-term?

Long-term, we need a hybrid system of self-regulation in concert with all of the regulators. They can do the discipline, but we need to be there to create a harmonized licensing process across Canada. It is the only way that makes sense. When I started in 1988, we had a storm in my first couple of years in Manitoba. I wrote the licensing body and said, 'We're bringing in these people.' They wrote back and said, 'Wow, thank you, nobody ever tells us.' We had licences then; at the time, we did not have all the restrictions that are in place now. It's slowly been built up over the decades. Now we need to tear it down and harmonize and work together as a profession.

**cu** | Besides mobility, what would you say is the biggest challenge for independent adjusters right now?

The biggest challenge for independent adjusters is the changing partnership with our clients. For decades, insur-

ance companies have internalized the claims process; now that's heightened with more task assignments. It's a little bit like the commoditization of general insurance claims.

**cu | How were the relationships then and how is it changing now?**

In the 1980s, we did glass claims, we did every kind of claim possible in the market. Today, many of those claims are internalized with the insurers. They are much less dependent on independent adjusters except for specialized claims, which includes transportation, aviation, forestry equipment, and large property losses. Once a claim hits a certain threshold, you need the expertise of a seasoned adjuster, somebody who has the skill set and the experience to deal with the circumstances. Day-to-day relationships have changed in that regard. Independent adjusters are doing more task assignments compared to what they used to be doing; what ends up happening is that independent adjusters at the more general level are not learning the skill set that can take them to the larger losses. That's a shortcoming in the industry.

**cu | How does technology play into this, particularly property claims adjusting?**

More technology is available today for the property adjuster to use in the field. For example, an adjuster is able to enter a property and take a 360-degree video of the damage. If the adjuster is not inclined to use technology, it makes it very difficult for the individual. We put Microsoft Surface Pro tablets into the hands of our field adjusters and we're continually discovering new efficiencies. Some people have been very excited about using Surface Pro, and they're having documents signed in the field, uploading the photographs and documents. Others are somewhat circumspect about whether this is a technology they want to use. The level of acceptance isn't necessarily related to the age of the adjuster, sometimes it's about whether people are curious enough to discover new things.

**cu | How about emerging risks such as cannabis, cyber and the sharing economy?**

When it comes to these risks, the fact is insurance is a contract. It's either a property claim, a liability claim or an auto claim, and you apply the same principles. You need to switch gears when it comes to the type of specialist who is going to help you. For instance, with a cannabis claim, you're not going to hire a lawyer who specializes in liability claims such as slip-and-falls. You need somebody who specializes in cannabis.

**cu | What about drones?**

We have not invested in drone capability. We're sitting on the edge on that one. All sorts of different issues need to be considered – everything from airspace (you need certain licences) to

privacy. We just haven't dabbled in that area yet, but things change quickly.

**cu | How are adjusters coping with the physical and emotional demands of the job?**

It's empathy on steroids, it's very difficult. Adjusters must be empathetic; at the same time, they have to consider the contract. They're walking a tight rope and it creates stress, no question, especially when it's long hours like in the Fort McMurray, Alta. wildfires. What sets you apart as an adjuster is your ability to communicate and deal with adversity. Our objective as a management team is to spend time with our adjusters and our staff to ensure things are going well with them. It's very important to do that because, no question, there's a lot of emotional burnout affecting independent adjusters. **CU**

**PROFILE**



**PATTI KERNAGHAN**

Title: President and CEO, Kernaghan Adjusters

Industry experience: Began her insurance career with Kernaghan Adjusters in 1988. Appointed president in May 1993, and now currently the CEO. Provides the firm's vision and direction and oversees relationships for the firm's largest claims management accounts for insurers, private firms and public sector organizations. Previously served as president of the Canadian Insurance Adjusters' Association, International Federation of Adjusting Associations, the Insurance Institute of BC and the Canadian Insurance Professionals of Vancouver.

Industry contributions: Past chair of the National Insurance Industry Advisory Board; served as Western chair of IIC; founding member of WICC (Women in Insurance Cancer Crusade BC). Member of the University of Calgary Insurance Risk and Management Board, BCIT Advisory Board, IIC Academic Council and Education Committee, and the Kinsmen Rehabilitation Foundation of BC Advisory Board.

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CATASTROPHE CLAIMS

# Taming the Flaming Cats

The biggest lessons from catastrophes such as Fort McMurray, and how to apply them in the future

By Brooke Smith



**D**uring the catastrophic Alberta wildfires in 2016, Fort McMurray fire chief Darby Allen and his team of first responders somehow guided 88,000 residents of Fort McMurray to safety, the largest evacuation in Canadian history. This was truly an amazing feat, given the trail of devastation the fires left behind. The blaze set a record for the most destructive catastrophe event in the country's history – approximately 60,000 insurance claims totaling a loss of \$3.7 billion.

Now retired, Allen has been touring insurance conferences across the country in 2018, telling brokers, risk managers and insurers alike about what it was like on the scene. In his speech to insurance brokers in Ontario, Allen briefly noted one poignant moment he witnessed when residents were cleared to return to their destroyed homes. He watched a claims professional ask a resident for receipts to prove the value of the items lost in the fire. On its face, Allen found the question absurd. "Their home was gone," he said.

Among the many lessons for insurers coming out of Fort McMurray, one may be in how to handle claims caused by wildfires – a peril that insurers have predicted for some time will only get worse. "Changes to Canada's climate will...have implications for climate effects other than changing precipitation patterns," the Institute for Catastrophic Loss Reduction (ICLR) published in its June 2012 report, *Telling the Weather Story*, commissioned by Insurance

Bureau of Canada. "The occurrence of forest fire activity is projected to increase by 25% by 2030, with major regional variations as certain parts of the country become hotter and drier than others."

The outcome in Fort McMurray was miraculous, given that the only exit point for the evacuation was engulfed in flames. However, not all catastrophic events will end this way, as the wildfires in California tragically demonstrated. As reported by Reuters on Dec. 4, the so-called Camp Fire, which started Nov. 8, has all but obliterated the mountain community of Paradise, home to more than 27,000 people about 175 miles north of San Francisco. The fire was fully contained Nov. 25, and the death toll has been revised to 85, based on ongoing DNA analysis of bones and bone fragments.

Insured catastrophe losses in Canada cost insurers roughly \$1.2 billion in 2017. They included all types of weather-related perils: fire, ice, wind and water. "Mother Nature has not been kind to the industry over the last few years," says Anita Paulic, director of Western Canada operations for ClaimsPro. "We have definitely seen an increase in extreme weather patterns. There have been numerous water events, but fire is so devastating and severe, it receives a lot of attention." So what, if anything, have adjusters learned from these catastrophic fires to help handle such claims events in the future, particularly when it comes to handling first notice of loss?

If you have people who've lost everything, there comes a point where you have to take them at their word – and you should. You want to assume they're acting in good faith, just like you know the insurance company is.”



PHOTO: Jason Franson, The Canadian Press

### In Good Faith

With fire, homes and contents are totally destroyed, and so proving the value of an item becomes an issue for claims adjusters. How can insureds provide receipts for the contents in their homes? Jim Eso, senior vice-president at Crawford and Company (Canada) Inc., says this issue is true of any fire claim, not simply for those deemed catastrophic (e.g. when the industry's total claims losses exceed a \$25-million threshold). “In general, it has always been an item for insurance companies and their adjusters to deal with,” he says. “If your home burned down tomorrow, there would be a good chance that you wouldn't have receipts for a whole bunch of stuff.”

But insurance is founded on the principle of “utmost good faith,” Eso adds. “Where it gets put to the test is in a scenario like Fort McMurray. If you have people who've lost everything, there comes a point where you have to take them at their word – and you should. You want to assume they're acting in good faith, just like you know the insurance company is.”

Eso points to a specific instance during the Fort McMurray wildfire. “There was a lot of food, frozen or unfrozen, in freezers that sat for a month inside these houses while we [claims

adjusters] waited to get access to the town. They were sealed and taped and disposed of without being opened; in most cases, because the risk of contamination of the property was so high,” he says. According to Eso, insurance companies were very good at generating a reasonable average number of groceries that a person would have had in their fridge or freezer. Insurers were prepared to pay their policyholders without any proof of receipts, he says, no questions asked.

“If somebody said, ‘But I had all this extra stuff,’ then that might just prompt some questions [from the adjuster],” Eso says, adding that there are ways to get receipts. “If it's something really high-value, then the store that sold it to you probably still has a copy of the receipt.”

The high-wire balancing act for an insurance company during these situations is always to treat people fairly while at the same time not opening the door to fraudulent claims.

Eso says Crawford really focused on finding a way to get Fort McMurray residents what they needed so they were satisfied that they were treated fairly. “I was reviewing and discussing with adjusters every day, and there were not many instances where people blatantly exaggerated or expanded the list of items

they had to try to defraud their insurance company,” he observes. “Insurance fraud is a pretty serious crime in Canada.”

Indeed. Each year it costs Canada an estimated \$2 billion. And the crime comes with very serious consequences, including jail, fines, and non-payment of the false claims.

### Payment Issues

Assuming most insureds act in good faith when reporting their losses, the next hurdle is to get them their payments. This was no easy feat in Fort McMurray, when 88,000 people were evacuated from their home addresses. “The town was completely closed,” says Eso. “Policyholders had been relocated to various communities, so in the earlier stages, manual cheques were still the primary source.” But despite these early challenges, Eso credits the insurance industry for coming up with good solutions. He says Fort McMurray was probably had the most robust use of electronic funds transfers, and there were a lot of advance payments to insureds. “In many cases, before we even had access to the town, we were doing either cheques or electronic funds transfers to get the money [to insureds] ahead of time, so they could fund their own expenses rather than having to continual-

ly come back to the insurance company with hotel and meal receipts.”

## ADJUSTER ISSUES

### Paperwork

For adjusters, paperwork is a concern, too, simply because so much of it arises from a catastrophe. During the Windsor, Ont. floods, says Barry McNeil, national CAT [catastrophe] manager with Sedgwick Canada, many departments within the adjusting firm – including support staff and the analytics team – provided necessary backup. “Adjusters deal with large volumes of claims over a short period of time,” he says. “They handwrite reports, get them to support staff, who then type them up and then send them back to the adjusters for proofreading to get out to the insurance companies,” he says.

Since the floods, Cunningham Lindsey has pre-populated its standard preliminary reports so that adjusters can fill out the forms themselves and either eliminate or add words particular to each claim. This allows insurance companies to get the information in a much shorter period.

### Logistics

Adjusters must handle logistical issues as well. “Prior to the first CAT I was involved with, my boss had told me about one the previous year, in which half the adjusters were sleeping in cars,” says McNeil, who became the national CAT manager in July 2017. “They went straight there and were sleeping in cars because the CAT happened over the Labour Day weekend; they couldn’t get a hotel room for the first night.” That was an eye-opener for McNeil. In subsequent CATs, he has spent hours ensuring that every adjuster gets a hotel room. He’ll contact the corporate travel agency to block off a number of rooms. That’s a simple, and yet incredibly important thing, he observes. Adjusters need to complete their scene investigations; they can’t do their work if they don’t have desks to work on within the vicinity of the catastrophe.

### Good Customer Service

Paperwork and logistics are important issues to address, but providing good customer service is essential, says Paulic. Insurance is still very much a customer service business. “A conscientious approach is imperative from all sides,” she says. “We ensure assignments go to the right people for these particular types of claims.”

For a total loss house fire, she says, she matches the losses to the adjuster’s skill set. “From our end, it is a true investigation, but with a very personal attachment to it.” The adjuster must be sensitive to the fact that this is a very emotional time for the customer.

ClaimsPro implemented soft skills training following a major CAT event several years ago. “We try to stay ahead of the curve on the shift between all of the technology and what our clients expect in terms of the level of customer service,” Paulic says. “We recognize there needs to be a balance of both.”

Have soft skills diminished through the generations, as younger generations become increasingly wired? Paulic won’t say, but she does acknowledge the broader sociological impact of a technology-focused world. “Everything is on a screen, in an email, or on a form,” she says. “There tends to be less face-to-face interaction, and you lose a bit of that sincerity when everything is moving online. The magic is building that relationship with the insured at the outset, be it over the phone or in person.”

Before High River, a 2013 flood in Southern Alberta that cost the industry \$1.9 billion, the industry leaned towards a slightly more process-oriented approach to claims handling, Paulic observes. “With each subsequent catastrophe [after High River], the focus has returned to prioritizing a superior level of customer service. During a high-volume event, you can have all the efficiencies and technology in the world, but the experience for that one person, in that one moment, for that one claim in a thousand, has to matter.”

For Eso, preparedness improves the claims experience not only for the in-



In many cases, before we even had access to the town, we were doing either cheques or electronic funds transfers to get the money [to insureds] ahead of time, so they could fund their own expenses rather than to continually come back to the [insurer.]”

sured, but also for the P&C industry. “It’s easy to have conversations [during a CAT event] and give go-aheads for people to start doing things, and then six months later second-guess those conversations, as opposed to having the conversations before the catastrophe even occurs,” he says.

Crawford spent a lot of time planning the Fort Mac response, particularly because there was a cushion of time when the town remained closed for a month. But even with all the advanced planning, when adjusters first arrived at the town, the circumstances required them to spend a lot of time reviewing and building procedures and processes for all stakeholders involved. “That becomes a big challenge during a CAT, and it always will be a challenge,” Eso says. “But the more preplanning we can do, the better off we will all be when the event occurs.” CU

CLAIMS HANDLING

# Insurance to the Rescue

Winning ways to guide your clients through the worst day of their lives

By Danielle Kubes

**M**arcel Moldovan, president at Levitt Insurance Brokers in Toronto, was frustrated when an insurance carrier refused to agree that his client's car was a write-off.

Instead, the carrier for this commercial policy just kept arguing over how much the repairs would cost, refusing to listen to the client. While recovering from a major accident, the customer had to call the carrier and get the broker to intervene in an extensive back-and-forth, trying to figure out what was going on – and when he would be paid. In the meantime, he had to rent a car for almost two months to run his business properly. Then, when the carrier eventually agreed it was a total loss, it disagreed with the client about the vehicle's market value, despite the client's evidence to the contrary.

Finally, under pressure, the carrier folded and had to pay not only the full cost of the car, but also all the client's expenses for the time it spent dithering.

"The consumer experience went down to the bottom, and people and resources were involved up to very high levels – and for what?" Moldovan queries. "[The carrier] could have assessed it by saying, 'Okay, this is what it's worth and if the customer accepts it, okay, but if the customer pushes back with good supporting information, we'll trust them on that and go ahead and pay out the claim.'

"So, two different approaches to the same situation: one in which you have a happy customer and a happy broker and ultimately something that is moving forward, or you have something that is lose-lose-lose on all fronts."

Moldovan isn't the only broker who believes a carrier's claims-handling process is a critical factor when placing the client's business. *Canadian Underwriter's* 2018 National Broker Survey suggests that for many brokers, the quality of a carrier's claims handling is the most important



“[The carrier] could have assessed it by saying, ‘Okay, this is what it’s worth and if the customer accepts it, okay, but if the customer pushes back with good supporting information, we’ll trust them on that and go ahead and pay out the claim.’”

factor when deciding which product to recommend to a consumer.

Just over 65% of the 527 brokers surveyed said the quality of a carrier’s claims handling was “very important,” more important than a carrier’s capacity, underwriting flexibility, policy terms and even price point.

If brokers hear clients providing consistently negative feedback about how a specific insurer handles claims, they may think twice about recommending a client to that carrier, says Janis Losie, director of member services and marketing for the Insurance Brokers Association of Alberta.

“The claims process shouldn’t feel worse than the occurrence that caused the claim in the first place,” she says.

But generally, she believes all carriers strive to satisfy and are capable of satisfying customers.

Sometimes one-off issues may arise due to extenuating circumstances. For example, an inexperienced adjuster may be working on the file. Or perhaps huge floods or fires are spreading resources thin, slowing down the claims handling for everyone.

But more often than not, claims issues are a byproduct of misunderstandings related to expectation management, communication and empathy. So, what exactly does a 5-star claims handling situation look like?

### Expectation Management

It starts far before a claim is even filed, when customers first sign up for coverage. Clients often think they have more

extensive coverage than they do; if that happens, they are automatically disappointed during a claim. Brokers play a strong role in managing expectations, explaining to their clients exactly what’s covered, any restrictions, and offering options for additional coverage. Otherwise, it’s too easy for clients to feel like they were misled.

### Communication

Once adjusters take over the claims file, communication is everything. Losie says the adjuster should immediately call the client to explain the claims process in detail, ideally the same day. This includes providing contact details, as well as explaining the division of responsibility among clients, carriers and repairers. Adjusters must remember that for a client, any claim is overwhelming; clients often have no clue what to expect. The carrier can inspire confidence and keep the client calm by outlining the process and keeping the client in the loop at every step.

Speed alone isn’t necessarily what matters most to the client. Frequently, clients just want to feel that everything is moving according to schedule and that they are kept abreast of any delays.

Even a dispute doesn’t necessarily lower a customer’s satisfaction, as long as the adjuster explains the disagreement clearly in plain language and without jargon. “You want the client to walk away saying ‘I don’t like the decision, but they were never rude to me and they did

explain the decision – and it had to be resolved that way, whether I liked it or not,” Losie says.

### Empathy

Finally, empathy is key. Claims happen daily for brokers and adjusters, but only once or twice in a lifetime for a typical customer. And so, in the world of an insured, a claim is a huge, outsized event that may involve trauma. Never treat the client like they’re on an assembly line; take the time to connect.

“The first contact, where you could have just experienced an accident, you’re at the side of the road, you’re calling [the insurance company] and it’s a really stressful time, it’s really important for insurance companies to demonstrate that they’re there to help them and express compassion for what they’re going through,” says Tom Super, director of the insurance practice for JD Power. “When customers feel it’s just a transaction, they lose levels of satisfaction with their carriers.”

At what point in this process does the broker need to step in on behalf of the client? If the broker clarified the policy initially so that the client has appropriate expectations, and if the adjuster interacts respectfully, hopefully not at all.

But what if the client thought they were covered, but now they aren’t sure? Or what if the client hasn’t heard back from the adjuster in a few days and just doesn’t know what’s going on? In either circumstance, the client may start to get bitter and irritated, piling on the original stress from the claim itself. At this point, brokers should hop on the phone and reach out to the carrier.

The carrier may in fact be handling the claim appropriately and normally, but the client doesn’t know that because they just don’t understand the process; the client may need a bit of extra assurance. A confirmation that everything is going to plan may be all that’s required to put the claimant at ease.

“The claims experience is very important,” Moldovan said. “In the customer’s mind, it determines the value they get through the broker.” CU



Marcel Moldovan, President, Levitt Insurance Brokers, Toronto



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**Jack Jones**

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**KEYNOTE SPEAKER:**

**Sir Rob Wainwright**

Partner, North-West Europe,  
Deloitte and former Executive  
Director of Europol

**ADDITIONAL SPEAKERS:**

**Gary Hayslip**

Vice President and CISO, Webroot

**Michael Stramaglia**

Executive in Residence, Global Risk Institute

**Doug Howard**

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AUTO REFORM

# Control of the Wheel

In Ontario, where about half the country's auto premium is written, politicians say they want to work with the industry to bring down auto rates. But on the issue of auto reform, the province and the industry are not always steering in the same direction to reach the ultimate destination – lower auto rates for consumers

By Sarah Cunningham-Scharf



In the Ontario government's fall economic statement, the Progressive Conservative (PC) party promised to change how auto insurance is regulated – a welcome step towards reform. So why are members of the insurance industry feeling conflicted?

The good news contained in the economic outlook follows on the heels of the recent introduction of a private member's bill by PC MPP Parm Gill. Carried at first reading, Bill 42 would ban insurers from using territorial rating factors such as postal or telephone area codes as primary rating factors to set drivers' auto insurance premiums.

And so, while some are optimistic about the province's overdue attention to fixing a broken product, others believe Bill 42's focus on removing territorial ratings is too narrow a scope to inspire real, permanent change.

"I think it's well beyond time [for reform]," says Traci Boland, partner and broker at Ontario West Insurance Brokers in London, Ont. "This product is so outdated. It came out in the '90s and has had over 90 Band-Aids placed on it. A bill moving with a majority government will bring the necessary spotlight onto this product. But I don't think anybody can answer what this bill will end up being."

Colin Simpson, president of the Insurance Brokers' Association of Ontario (IBAO), says the IBAO and other industry bodies – including the Insurance Bureau of Canada (IBC) and many large insurance companies – have been meeting regularly with the Minister of Finance's office to advocate for auto reform and help MPPs better understand the insurance landscape.

"It's pleasing to hear that [Ontario Premier] Doug Ford's government is actually addressing the issue [of auto reform]," says Simpson. "They're consulting with the industry on how to go about it, as opposed to just jamming in a solution like a short-term Band-Aid. They're eager to deal with auto rates, but it's not a simple subject."

Industry professionals are regularly visiting the Minister of Finance's office to offer guidance and help the government find a solution. All major stakeholders – insurers, brokers, and consumers alike – are united on the endgame, which is to make auto insurance more affordable.

"Everyone knows [auto insurance is] broken," says Joseph Carnevale, partner and director of sales at Brokers Trust Insurance Group Inc. in Concord, Ont. "A lot of people think it's broken for different reasons, and they may not be in agreement

as to what those reasons are, but the point is we know that it's not sustainable."

Boland thinks the PC party has worked quickly to bring auto reform because of how vocal Ontarians are about rising costs. Every day, she says, brokers hear from their customers that auto premiums are too high. The problem remains that claims are expensive for insurers, and over the past couple of years, their only solution to stay afloat has been to raise rates.

"We were forced three years ago to have a mandated [auto rate] reduction in our province when the product couldn't afford that," Boland says. "So, what we've seen over the last two years is a steady increase of premiums again, surpassing where we were before. Consumers are tired of their vehicles getting older every year, and yet they are paying more insurance when they've never had a claim."

The formula has been the same for some time: When insurers pay too much in claims, consumers pay too much in premiums. But government reforms seem to continually chip away at the premium side of the ledger, without doing much to reduce claims costs. In 2013, the minority Liberal government agreed to the opposition NDP's call for a mandated 15% auto rate reduction to assure the government's budget would pass. While rates came down on average approximately 8% across the board, the Liberals ultimately retreated, calling the 15% target "a stretch goal." Economical is one of the few companies to reduce its rates by the full 15%. Early this year, it reported major auto insurance losses in 2017, requiring the company to file for a rate increase.


"Ultimately, what we need to bring down the cost of auto insurance is more significant product reform," says Karin Ots, senior vice-president of regulatory and government relations at Aviva Canada. "Claims costs are the major cost in determining the amount of the premium. So, we need to reduce claims costs; once we do that, the price of auto insurance will start to come down."

So, what do insurers count as "significant reform?" What are the wide-scale solutions for which the industry is advocating?

### The Marshall Report

Lost in the cries to eliminate territorial ratings is the fate of *Fair Benefits, Fairly Delivered*, commissioned by the Liberal government and published in 2017. The author of the report was David Marshall, a former president and CEO of the Workplace Insurance and Safety Board (WSIB), and Ontario's adviser on auto insurance at the time.





“When they say they’re taking away postal codes and area codes on the whole, I don’t think that is a good thing, because where you live has a place in insurance.”

The thorough, 103-page document made several recommendations on the regulatory environment, as well as on the auto product in Ontario. The Liberals had started to act on some of the Marshall recommendations before they were defeated by the Ontario PC Party in the 2018 provincial election.

Marshall offers 35 recommendations to make the auto insurance product more sustainable. Generally, the report has industry support since “the fundamentals are there,” says Simpson. “We need to change the product to get the costs out, if you want the pricing down.”

One of Marshall’s suggestions is a new regulatory body that doesn’t micromanage insurers. This idea has gained traction, and Ontario’s existing regulator, the Financial Services Commission of Ontario (FSCO), will soon be making way for the Financial Services Regulatory Authority of Ontario (FSRA). The industry’s hope is that FSRA better matches Marshall’s recommendation for an agile, forward-thinking regulator.

“FSRA will have the ability to effectively change the rules of how the insurance marketplace works, at least with respect to how rates are set, and they’ll be able to do that fundamentally more quickly,” explains David McGown, senior vice president of strategic initiatives at IBC.

FSRA, which takes over from FSCO in April 2019, will also respond more quickly to transportation trends that can impact the cost of claims for insurers, says Ots. “Modernizing the regulatory environment is important when you look at the evolution of transportation.

We see different ridership models, ownership models, Uber, Lyft. The *Insurance Act* was written decades ago – it didn’t anticipate any of that. Insurers that want to [respond with product] innovations generally bump into problems with regulation, because it’s just not flexible enough to allow for that.”

While the industry seems to support a new, more flexible regulator such as FSRA, it’s unclear if the PC government plans to do anything more with the Marshall report. The Minister of Finance’s office was contacted for comment but didn’t respond before the deadline for publication.

#### Stakeholder Support of the Marshall Report

Attempting to keep the Marshall report recommendations on the government’s radar, IBAO and IBC have both submitted recommendations that streamline many of David Marshall’s insights into digestible action items.

“We have three recommendations,” Simpson says. “One is to keep geographical rating. The second one is to move carefully when implementing FSRA. And the third one is, make sure you’ve got a broad perspective on the auto product – don’t just take on one topic.”

IBAO’s first recommendation hints at an undercurrent of concern in the industry that the provincial government is focusing too narrowly on eliminating territorial ratings.

“When they say they’re taking away postal codes and area codes on the whole, I don’t think that is a good thing, because where you live has a place in in-

surance,” says Boland. “Rates are made on the risk. The risk is higher when there’s a higher population and more cars are on the road. It’s not the same for me to make a four-minute drive to work in London, Ont. [pop: 383,000 in a 2016 census] than it is for somebody to drive in Toronto [The City of Toronto had a population of 2.9 million in 2016].”

That said, the 55 territories that insurers use to set rates are out of date, says Simpson. “We think geographical rating should continue to exist, but we understand the fact that the current 55 territories isn’t working very well. They’re too broad. We would lobby [politicians] to keep geographical rating but change what they have today.”

One misconception about Bill 42 is that the government is eliminating territorial rating altogether, says Simpson. This isn’t the case: geography simply can’t be the primary rating variable. This leaves room for innovation, which is a major focus of the IBAO’s advocacy. Simpson believes by encouraging innovation, the government can achieve one critical aspect to reducing the cost of auto insurance: competition.

“Competition and diversity are good things for consumers because consumers will be able to find different price points,” Ots agrees. “Today we have a fair amount of healthy competition in terms of number of insurers. Where we don’t have competition is on the product: each one of us sells the exact same product, right down to the semi-colon.”

Insurers are looking for more freedom to come up with innovative policies, so they can compete on something other than price. For example, says Ots, “if you have life insurance, you probably have coverage for funeral expenses. But you still have to buy [coverage for funeral expenses] in the auto insurance product today, even if you don’t need it. What I’m talking about is giving customers more freedom to pick the coverages they want or need.”

By allowing insurers to use tactics like incentives and more customizable auto policies, “you could affect your price point like you do with a cell phone,” Ots says. By reducing the number of coverages insurers are mandated to cover, their risk drops – and premiums decrease. CU

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## AUTO INSURANCE TRIALS

# Ratepayer Bias

Are jurors in auto insurance trials “biased” because they pay insurance premiums?

BY ANNETTE UETRECHT-BAIN, *Partner, McCague Borlack LLP*

**T**he playing field in insurance litigation is always a subject of debate, particularly in personal injury cases.

Some say the system favours plaintiffs, arguing that judges tend to be lenient at trials and award higher damage amounts. Others believe the system favors defendants, who can select to have an action tried by a jury; this leads to bias, they contend, because juries tend to award low and unpredictable damages amounts to plaintiffs.

Recently jury bias has become such a heated topic of debate that one plaintiff in a personal injury action, *Kapoor v. Kuzmanovski*, brought a motion seeking to exclude all jurors who pay insurance premiums in Ontario from the jury pool due to bias.

The premise of this motion, based on a survey of 300 Brampton residents, was that jurors would seek to lower their insurance premiums by limiting damages awards in personal injury cases. The plaintiff argued that all potential jurors who pay insurance premiums should be excluded from the jury pool due to bias. Given that certain types of insurance are mandatory in Ontario, the motion threatened the future of jury trials in Ontario involving insurance issues.

Ontario Superior Court Justice Peter A. Daley dismissed the plaintiff’s motion in August.

He ruled that the evidence in support of the plaintiff’s motion consisted largely of hearsay and was inadmissible. He thought the evidence was nei-

ther relevant nor could it be characterized as an expert opinion.

Additionally, he found the survey data failed to meet even the basic standards required to be admitted as expert evidence. No information was provided related to the survey methodology or scientific principles applied to gather the survey evidence; furthermore, the author of the survey could not be qualified as an expert, since little information was provided about his qualifications or expertise.

Given the judge’s ruling on the survey data, the plaintiff had no evidence to support his motion and the motion was dismissed.

However, Justice Daley also considered whether the decision would have been different if the plaintiff had provid-

ed different or better evidence. His 44-page decision concludes the answer is no.

At the heart of the issue is the interpretation of the *Juries Act*. Section 3(3) of the act reads as follows: “(3) Every person who has been summoned as a witness or is likely to be called as a witness in a civil or criminal proceeding or has an interest in an action is ineligible to serve as a juror at any sittings at which the proceeding might be tried.”

This paragraph, the plaintiff argued, was grounds to exclude an entire class of citizens – i.e. those paying insurance premiums – from the jury pool. The judge disagreed, holding that the right to a trial by civil jury is a substantive right. Dispensing with a jury is reviewable and discretion to strike must be exercised judicially and not in an arbitrary manner. Furthermore, the *Juries Act* does not allow for a broad challenge for cause. There are only two forms of challenges in civil cases:

- lack of eligibility (i.e. the potential juror is not 18 years old, etc.) and

- ratepayers and officers/servants of municipal corporations in cases in which a municipal corporation is a party.

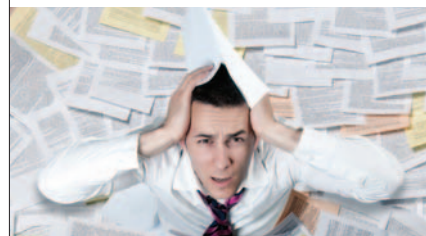
Ontario legislation simply does not extend to litigants a broad right of a challenge in civil cases, not even for racial bias, Justice Daley found. Limited statutory means exist for parties to an action to challenge jurors, but common law procedural safeguards are available for judges to combat partiality. For instance, there is judicial pre-screening in jury selections, and judges have the authority to discharge a juror during a trial for many reasons including partiality. Judicial instructions to the jury throughout the trial could also combat any potential partiality or other bias. It is not yet known whether the decision will be appealed. Either way, it seems unlikely that there will be any successful broad challenges to juries anytime soon. **CU**

Before joining McCague Borlack in 2015, Annette articulated and worked for a prominent insurance defence boutique firm.

## TRUSTED ADVISOR

**I am overloaded with accounts at my brokerage. How do I juggle the need to prospect for new clients without taking time away from my existing book of business?**

— Torn in Two.



Dear Torn,

**It comes down to focusing on clients that are the right fit for your business, based in turn on solid data analytics.**

It's not uncommon for businesses to give sales reps 100 or more accounts. Obviously, it's impossible for a sales person to keep in touch with more than 100 people at once. So which clients get the attention and which ones don't? In one example cited in the *Globe & Mail*, Tibor Shanto, a principal at Renbor Sales Solutions Inc., said a company he knew had several reps, each of whom had more than 100 accounts in their territories. His study of the reps' accounts found that, on average, the Top 10 accounts represented 72% of revenue in the territories. That suggests not much attention was paid to the other 90-plus accounts. So how did the reps choose the best accounts to pursue? Often when reps are overloaded with accounts, the choice is hardly scientific, as noted by Ian Altman of B2B Integrity. He observed that sales people tend to gravitate towards the accounts that are the easiest to contact. Or else they will pay the most attention to the “squeaky wheels” who whine and complain the loudest. However, these may not be the best or most profitable clients for the brokerage. Sometimes shrinking the number of accounts, while not always popular with the sales people, is better for business. The idea is that the numbers shrink to accommodate those clients who are the best fit for the business. This should be based on a thorough data analysis of key performance benchmarks. While you may wind up with fewer clients, the clients you do have will get better coverage, and your book may end up performing better.

## BY THE NUMBERS

## Fraud-Busting

### THE FRAUD

66% of Canadian insurers report an increase in “soft fraud,” which describes when applicants or policyholders alter or omit information to obtain a lower premium, or misrepresent the value of a claimed item



### TWO WAYS TO FIGHT FRAUD

#### Tighter verification procedures

77%

of industry professionals agree the end-user authentication process is too complicated, resulting in a poor customer experience

#### Better training of employees required to spot fraud

45%

of those surveyed said they lack the specialized skills needed to detect increasingly sophisticated fraud schemes

SOURCES: Fraud Detection and ID Verification in Financial Services and Insurers: Strike the Right Balance Between Fighting Fraud and CX, studies conducted by Forrester Consulting on behalf of TransUnion. Participants included 465 decision makers in the financial services and insurance industries from Canada, the United States and India.



## COMMERCIAL INSURANCE

## Claims of Distinction

We all know commercial property claims are unique, so why do we treat commercial customers like residential customers?

BY MATT JOHNSON, *President, Commercial Loss Experts (CLE)*  
 MARK WEIR, *Managing Director, President, Loss Control Management (LCM) Solutions*

**U**nderwriters continue to feel the pressures of climate change on their property losses and look for ways to reduce claims costs. The formal procurement process has helped to reduce costs and improve service, but has procurement gone far enough?

One of the greatest exposures for underwriters is business interruption for their commercial clients, yet little has been done to address this exposure specifically. The uniqueness of commercial exposures and risks is clear:

- Building and security access can often delay remediation and restoration
- Access by the general public and occupants present additional risk
- Business interruption exposure requires

a different level of project management

- Building structures can be more intricate and require commercial-grade contractors
- Safeguarding corporate assets such as records, equipment, server rooms, etc.
- Skills to assess and manage HVAC systems and knowledge of the building code are paramount
- Remediation equipment and capacity of equipment must align to exposure

We know the needs of commercial customers are different than residential customers, and that servicing commercial claims implies more risk than servicing residential claims. So, why do we continue to treat our commercial customers in the same manner as we treat residential customers?

A significant opportunity exists in this area. For those who manage commercial customer expectations and risks, there will be increased engagement, resulting in improved satisfaction, supporting future commercial growth and retention for underwriters. Pre-planning and vendor selection are two ways to reduce claim costs while improving customer engagement and retention for commercial customers.

### Pre-planning

Consider applying Business Continuity Planning (BCP) principles to the disaster recovery process.

Pre-planning is an important risk management process that focuses on business

continuity and mitigation of business interruption. Today's internet technology allows us to capture site-specific information that can be stored in the cloud and delivered directly to disaster recovery technicians at the time of the loss. This enables the technicians to reduce unnecessary delays in the recovery process, reducing business interruption and avoiding secondary damage (i.e. mould).

Each building in a customer's portfolio can be pre-coded with an emergency service process specific to that building (i.e. communication and security protocols, loading dock and parking details, water shut-off valves, building-specific vendors, etc.), all in support of avoiding unnecessary delays, reducing recovery time and costs, resulting in reduced business interruption.

The question is how to incorporate pre-planning into our current claims process, whether managed by a broker, underwriter or a claims department. Service providers who offer pre-planning will provide this service at no cost as long as they perform the mitigation or restoration services. By investing in a partnership with your service providers, your service providers will in turn invest in your insureds' business continuity while contributing to reduced claim costs.

For underwriters, the greatest challenge in implementing a change like this is that it crosses multiple departmental silos within the company (i.e. broker relations, underwriting and claims). A champion is needed to lead this kind of initiative; independent and objective guidance from an outside consulting firm can potentially help you to maneuver through the obstacles. Clearly this will require senior level sponsorship and direction to overcome the issues created by departmental silos.

Who will be the first to capitalize on this new opportunity?

### Vendor selection

The second opportunity is to refine your vendor selection process for commercial claims.

Organizations procuring services for their customers all too often fail to real-

ize that there are many different ways to achieve efficient claim resolution, even if the surface requirements may look the same. Understanding these differences is the first step in knowing what expertise, skills and experiences are required, so that your performance meets the expectations of both the customers and underwriters. All the while, this has to be done while complying with the standards of care for the worker, customer and community. Consider the following:

Generally speaking, the public is not affected by residential property claims, nor is the public interest taken into account during the residential claims process. And so, when advising on your client's supply chain, have you considered the additional risks associated with public involvement in the commercial claim environment?

### Resources and skills required to service the commercial environment

What priority do commercial claims get over residential claims during a catastrophic event (CAT)?

Segregating commercial claims from residential claims will allow you to focus on factors that can reduce business interruption, severity of claims and the overall commercial claims cycle.

Underwriters should take care to align the circumstance, situation and risk/exposure of their commercial clients to credible and experienced contractors who are aware of all of the nuances that commercial claims can bring.

This focused approach will not only reduce costs for underwriters, but will ensure that commercial customers receive the type of service that represents the risks associated with their environment.

There is no downside to this approach. Customer engagement is improved, customer sustainability is protected and claim costs will decline. In addition, commercial customers will be drawn to underwriters who offer priority commercial service over those who do not. CU

This article has been co-written by Commercial Loss Experts (CLE), a focused commercial restoration and risk mitigation company, and LCM Solutions (Loss Control Management Solutions), a business optimization advocacy firm.

## CROWDSOURCED

## WHAT YOU SHOULD DO TO PREPARE FOR A.I.



**Martin Kosk**

Commercial Manager at Insly

### Everybody should be thinking critically

about where their company is today and how they can improve aspects of their technology to gain some benefit. Think of where you are and what you can do. Don't try to do everything at once, just pick something and get going. Data warehouse and analytics solutions come in handy to understand fully what you are writing. For example, if you have flexible rating tools and an analytics tool, then – based on the insight you get from the analytics tool – you can adapt your rates to be more competitive, profitable and so on.



**Clara Angotti**

President and Founder of Next Pathway Inc.

**For AI to take place**, you need not only high computing power and storage, but also vast amounts of data. A lot of software tools exist that someone can purchase to use AI; what's more challenging is for companies to take multiple files, many of which come in different file formats, and standardize them so that you can inject all the data you want and analyze it across multiple data sets.



**Ian Scott**

Partner and Chief Data Scientist for Deloitte Canada

**There is a cost** to implement A.I. in terms of person power. Very often, small businesses don't have the data. Many of the initial A.I. implementations have used companies' internal data, and a small business would not necessarily have a lot of data. You don't need massive quantities of it, but if you only have 100 customers, there is not much point of doing A.I.



## FUTURE OF AUTO CLAIMS

## Litigating data points

Two litigators shed light on the court battles you can expect to see in the future when the courts start to assess automated car liability

GLENN M. ZAKAIB, *National Co-Chair, Class Actions Group, Borden Ladner Gervais*  
ROBERT L. LOVE, *National Chair Product, Borden Ladner Gervais*

In a November report entitled, *Auto Insurance for Automated Vehicles: Preparing for the Future of Mobility*, Insurance Bureau of Canada (IBC), recommends the use of a single insurance policy to cover driver negligence and automated technology in addition to a data-sharing arrangement with vehicle manufacturers, owners and/or insurers. If IBC's proposal doesn't come to fruition, what will this mean for automotive product liability in the future?

### Background

The *Autonomous Vehicles Sales Forecasts* predicts sales of autonomous vehicles will be in the order of 51,000 globally in 2021 and increase to upwards of 33 million by 2040. It is generally presumed that most auto companies will skip over production of a Level 3 vehicle [in which the driver must still pay attention] and move into production of Level 4 vehicles

[very little need for human intervention].

Given the many vehicles on the road in various stages of automation, what are the issues that owners, drivers, insurers and original equipment manufacturers (OEMs) face in addressing this new technology in product litigation?

The litigation of product issues is not new, but addressing issues such as data retrieval and analysis, cyber security, privacy and the interaction of technology with human behavior raises increasingly complex issues for all parties and the courts. Vehicles are already able to collect and store high volumes of data; this volume will increase with the introduction of more autonomous vehicle technology. Existing technology already allows for various levels of connectivity, including communications, entertainment and driving assistance. These systems have already been demonstrated to be vulnerable to cyber attack, with no trace of the

attack in the vehicle's data record system.

### Keeping Data Confidential

In the absence of a regulated system of insurance, it is not known how the courts will address automated vehicle cases. The basic framework of an automated driving system lawsuit will need to address issues of identification and confirmation of any defects in the systems, in addition to how fault may be allocated between the vehicle and the operator. As more data is recorded in the vehicle, the ability to retrieve and analyze the data – and determine its reliability – will be essential features of the litigation. Once the data is retrieved, the issue of how to analyze it properly raises other litigation concerns. Increasingly, third-party providers are supplying the technology to equip autonomous vehicles; consequently, protection of the proprietary technical information, or

“source code,” will be an important issue to address with the court. While protective orders are common in U.S. litigation, our open court system in Canada does not usually favour the sealing of documentation from public review.

The court system is filled with requests for disclosure of proprietary information for review by technical experts. As a result, there is a perceived need to protect confidential and highly confidential information in the possession of OEMs and their component part suppliers. We can expect to see greater requests for orders protecting both confidential business documents and highly confidential technological information. Particularly with the highly confidential information, the protections will necessarily include:

- restrictions on who may see the information
- whether any copies can be made
- how integrity of the information is preserved
- how security over the information is maintained
- sealing of any information containing such technical information in court.

As noted by Transport Canada in its *Guidelines for Testing Autonomous Vehicles*, federal, provincial and municipal governments will each bear some responsibility for the safety and regulation of autonomous vehicles. Compliance with regulations may create further liability issues for all parties.

After an accident involving an automated vehicle, capture and download of onboard vehicle records will play a significant role in the subsequent litigation, as will privacy. Data recorders capturing all features controlled by the automation systems in a vehicle will be subject to review and testimony by a new breed of more technical automation systems experts.

Many of these cases may devolve into a battle of experts. There will be debates about the qualifications of experts who propose to testify about the technologies and the interaction with the accident. Add to this, experts will be required to address: 1) human interaction with the features of autonomous vehicles, and 2) the inevitable growing pains of each new level of automation.

Capturing and reviewing accident and autonomous feature data from the vehicles will take us to the next level regarding issues with the admissibility and reliability of eyewitness testimony versus recorded vehicle data. These are just some of the possible issues facing litigants and courts as we move towards a more highly automated vehicle population. **CU**

Glenn Zakaib has successfully defended class action and product liability claims related to medical, consumer, industrial, pharmaceutical, automotive, aviation, and electrical products, to name a few. A senior partner within BLG's insurance and tort liability practice, Robert Love leads the national product liability and automotive sector groups.



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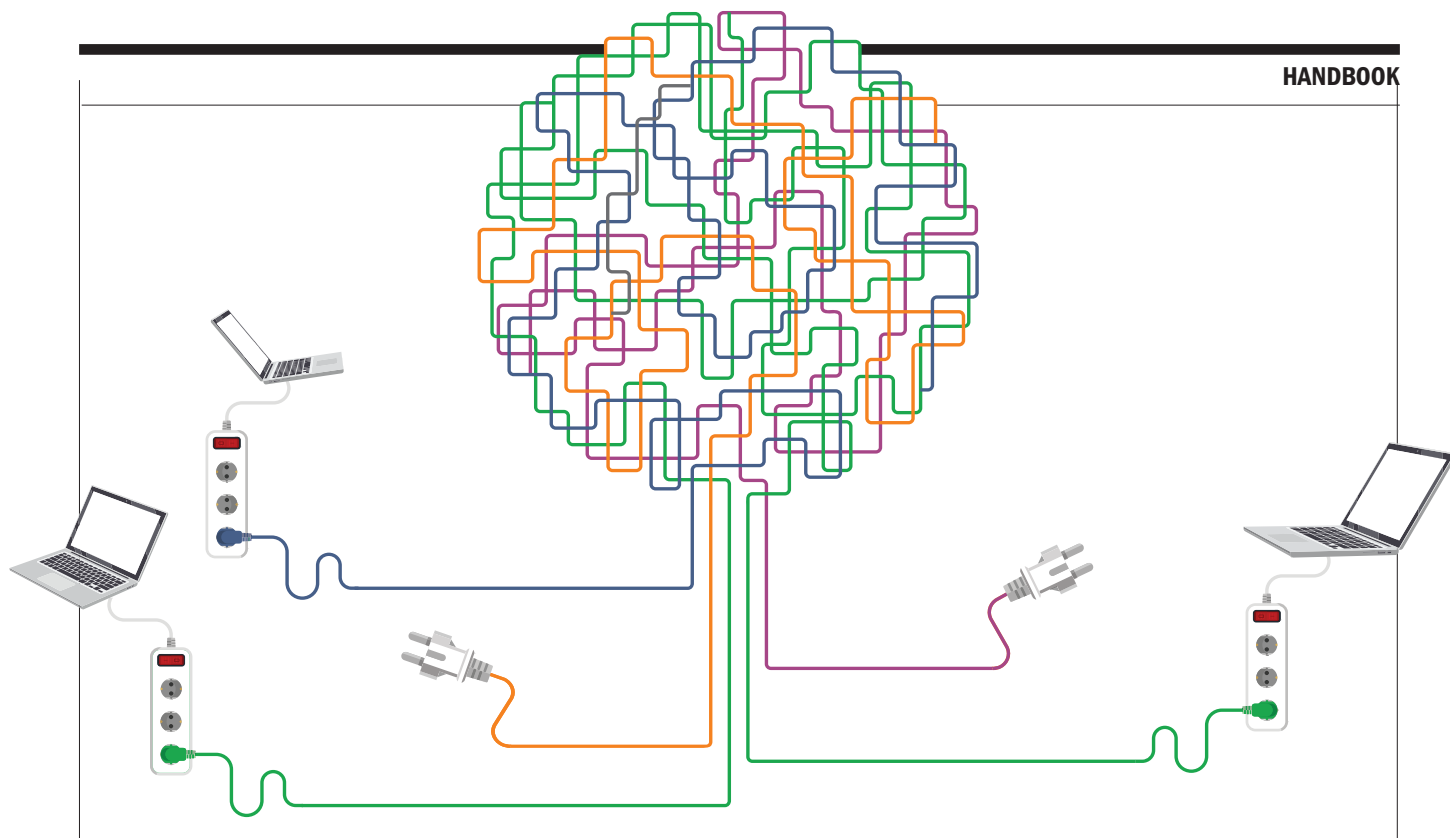
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## DATA EXCHANGE

## Your best connection

How are brokers linking to their insurers? A recent report reveals some best practices for streamlining broker-carrier data workflows

BY JEFF PURDY, *Senior Vice President of International Operations, Applied Systems*

**A**s brokers and insurers alike embrace digital transformation, never has there been a more opportune time for enhanced collaboration and connectivity.

Brokerage-insurer connectivity consists of two main areas: real-time quoting and servicing.

Automated quoting workflows provide brokers greater product and coverage choices for customers through digital technology such as comparative raters. Speedy submission to insurers with direct upload through the comparative rater or broker management system (BMS) ensures fast and efficient completion of the transaction with the selected insurer. Download provides access to the latest policy-related information directly within a BMS, ensuring the

most up-to-date information is available when servicing customers.

While brokers stand to gain from these digital technologies, there remains a gap in adoption, according to a brokerage-insurer connectivity report by Applied Systems, *2018 Digital Technology Adoption Trends in Digital Distribution and Servicing*. The report draws from an online survey conducted in February with more than 1,300 independent agencies and brokerages across Canada, the United States, the United Kingdom and Ireland.

The report identifies three key trends, as well as tips for brokers to enhance connectivity to their insurers.

### Broaden your access to markets

Fifty-two percent of brokerages are predominantly using comparative rates to

quote more insurers concurrently.

Many aspects of insurance are becoming more digital, but the process of finding markets remains challenging. Comparative rating software enables brokers to source a wide variety of accurate quotes in real-time while presenting clients and prospects the best policy options.

Data prefill, in addition to the enrichment tools embedded within the digital comparative rater, minimize the time associated with quoting while enabling brokers to focus on giving advice to their clients. Brokers can also extend the option to their customers through consumer-facing quoting tools, enabling the broker to demonstrate the value of risk advice when presenting the final quote. Brokerages need to adopt digital tools to take advantage of the best products and services for

both current and prospective customers.

### Create efficiency with real-time upload

Seventy percent of brokerages would prefer to quote directly from their broker management systems.

Brokerages and insurance companies may be transforming digitally, but the process of submitting risks to insurers re-

mains outdated. Simple workflow changes ensure that the process starts in the BMS when risks are submitted directly to the insurer from the broker's system.

To ensure access to the best products and services for customers in the shortest amount of time, brokerages need to leverage real-time software. Many insurers are enabling real-time quot-

ing capabilities and have implemented streamlined processes to communicate with the BMS and capture submissions directly from their brokers.

### Automate servicing for greater data exchange

Sixty-six percent of brokerages said they receive eDocs and Messages download.

Download automates the exchange of critical policy-related information to ensure information is instantly available when you need it. It creates a seamless, secure and integrated link between the BMS and policy files and activities for transactions with insurers, providing efficient communications required in today's business world.

Automating the exchange of certain types of download, such as eDocs and Messages, enables brokers to manage documents digitally. Examples of documents transmitted through eDocs may include declaration pages, billing summaries, pending cancellation notifications, and other PDF documents. Messages, meanwhile, offers a secure and managed alternative to email, mail and faxes.

Eliminating paper and automating the exchange of policy-related information with insurer partners makes the underwriting and servicing process more efficient throughout the policy lifecycle.

Delivery of electronic documents directly from the BMS through embedded consumer communications such as mobile consumer-facing apps ensures that the customer receives the information in a timely fashion. This is critical for today's insurance customer, who expects 24/7 service.

You can leverage many digital tools to become more efficient and profitable. By increasing connectivity with your insurers through rating and download, you are able to focus more time on providing trusted advice and safeguarding and protecting what matters most in people's lives. CU



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Jeffrey D. Purdy is responsible for Applied's Canadian and U.K. operations. He began his Applied career in the company's Canada operations in 1989. He was named president of Applied Systems Canada in 1993.



SELLING CYBER

## Notification Alert

How brokers can turn Canada's introduction of new data breach reporting requirements into a "teachable moment" for their small business clients

MIKI HO, *Cyber Underwriter, Beazley Canada*

**W**ith mandatory breach reporting now in effect in Canada, it is increasingly important to have open discussions with clients about exposure and existing coverage.

Reporting data breaches became mandatory for Canadian businesses when an amendment to the *Personal Information Protection and Electronic Documents Act* (PIPEDA) took effect on Nov. 1, 2018.

The amendment comes at a time when the likelihood of a breach occurring is on the rise. In 2017 alone, 21% of Canadian businesses were affected by a cyber security incident, according to Statistics Canada.

While the onus is on businesses to make cyber security a priority, brokers can take the opportunity to educate their clients on the new regulations and coverage options. Brokers are encouraged to work with their clients to ensure they un-

derstand the legal obligations imposed by PIPEDA, as well as the available protections to help mitigate or manage a breach.

### The Digital Privacy Act

PIPEDA was first implemented in January 2001 to enforce guidelines for the collection, use and storage of personal information by organizations. With data breaches making headlines more frequently, it's no surprise that PIPEDA was amended in 2015 to include the *Digital Privacy Act*, which enforces mandatory breach reporting. This amendment requires any data breach posing "real risk of significant harm" to be reported to the Privacy Commissioner and affected individuals. Real risk of significant harm revolves around the sensitivity of the personal information involved in the breach, such as income or medical

records, and the likelihood that the information will be or has been misused. Reputation damage, loss of employment, financial loss, identity theft and property loss are examples of significant harm that call for reporting.

Beyond the need to safeguard against cybercrime, the *Digital Privacy Act* was enacted to give structure to breach reporting. All Canadians, including affected individuals and the Privacy Commissioner, will now receive the same, consistent information in a timely manner. With the amendment, businesses are required to provide clear information to ensure that all individuals involved understand the implications of the breach.

### Opportunity for Brokers

For brokers, this new regulation is an opportunity to educate clients about the

new reporting obligations, and to help them understand the coverage offered under a cyber policy. We encourage brokers to offer a proactive approach to risk management; this could mean purchasing a cyber policy to ensure the client has access to an expert panel of legal counsel should they suspect an obligation to report under the new legislation. It is always easier to prepare and respond, rather than react during a crisis.

According to Statistics Canada, more than half (54%) of businesses affected by a cyber security incident in 2017 reported that employees were prevented from carrying out day-to-day operations. Of those companies targeted by a cyber incident, larger businesses were most frequently affected (41%), resulting in an average of 29 total hours of work stoppage.

Taking a closer look at businesses affected by cybercrime in 2017, 38% experienced a hack and/or ransom attempt, and 23% experienced attempts to steal personal/confidential information. Cyber attacks are becoming more sophisticated in nature, and businesses of any size remain vulnerable.

Sophisticated schemes, such as business email compromises, are on the rise, the *Beazley Breach Insights* report for 2018 Q2 revealed. If a company falls victim to such an attack, laborious programmatic and manual inbox searches are required to determine the level of personally identifiable information at

risk. The cost of forensics, data mining, legal, manual review, credit monitoring and notification can exceed \$2 million for large-scale email compromises, while even small-scale email compromises can cost over \$100,000.

In addition to purchasing a cyber risk policy, employee education is a necessary proactive step for businesses. Accidental disclosure by employees accounted for 22% of all breach incidents. Employees should have the necessary training to identify phishing email attempts and understand the risks of recycling passwords. Reinforcing authentication procedures for wire transfer requests and vendor payment changes are important for employees with access to payable or wire transfer systems.

Smaller businesses often lack the funding for a comprehensive cybersecurity policy; as a result of the new legal obligations imposed by the *Digital Privacy Act*, these clients may be more receptive to a conversation about their coverage options. Larger companies that already have a policy in place should revisit their existing policies to make sure they are covering all their bases. CU

Miki Ho joined Beazley in September 2017 as an underwriter within the international technology, media and business services team, with a focus on Canadian technology and cyber liability risks.

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*— Rowan Saunders, President and Chief Executive Officer, Economical Insurance*

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# how **I** did it

## **BUILT A SUCCESSFUL INSURTECH**

Mark Morissette shares how he and co-founder Karim Jamal secured investment dollars for their insurtech Foxquilt. The Canadian company uses big data and machine learning to empower social groups to save on home, small business and auto insurance. In October, the company successfully raised \$1.2 million in a seed round of investment, led by Extreme Venture Partners.

- As told to David Gambrill



Photography: Caroline Ryan

**I've never done anything myself in my whole life.** It's always been in partnership with other people. This is fundamentally important: when you are building an insurtech or fintech, you must start with a great team. Before we even started, we built a full-stack platform. In other words, we are building a dynamic back-end and front-end insurance purchase platform that connects the customer journey. A chiropractor, for example, basically doesn't want to just search 'business insurance' online. They want to know there is insurance

for chiropractors as a pre-package. How do we get them through a very dynamic platform? Well, all that architecture is very complex. So, we have to find the best leadership in the country. When it comes to insurtech marketing, we get Roshni Wijayasinha, chief marketing officer, who brings her network of digital marketers and partners. We get Milind Joshi, our chief technology officer, who builds out our computer data and technology – machine learning, big data platform development. He's one of the most prolific CTO fintech guys in Cana-

da. And you have the Foxquilt co-founders, Karim Jamal, the chief financial officer, and me, the CEO, building out products. This company is a seven-figure investment with just these four people alone. These four people would each make six-figure salaries at their traditional companies. And then, when you talk about the costs of building the technology, add in another seven figures. It's a very big investment, and it requires third parties to be committed and get you there. Venture capital is investing in the team. cu

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