NU PROPERTY & CASUALTY

PANDEMIC LESSONS

2020 WAS TAILOR-MADE FOR E&S INSURANCE MARKET PLAYERS TO WRITE THEIR OWN 'SILVER LININGS PLAYBOOK.'

+

LITIGATION WATCH
A LOOK AT THE TRENDS
p. 26

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September // 2020 // Volume 124 // No. 9


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Departments

Correction: Due to a reporting error, the name of Lynn Weaver, senior vice president at Starr Companies, was misspelled in our August 2020 issue.

NU PROPERTY & CASUALTY

To e-mail any staff member, use firstinitialastname@alm.com, unless otherwise specified. (Example – to write John Smith, his e-mail is jsmith@alm.com)

EDITORIAL HEADQUARTERS
150 East 42 Street, New York, NY 10017
(212) 457-9400
website: PropertyCasualty360.com

EDITOR IN CHIEF Rosalie L. Donlon
EXECUTIVE EDITOR Elana Ashanti Jefferson
DIGITAL MANAGING EDITOR Heather Turner
ASSOCIATE EDITOR/ONLINE FEATURES & MULTIMEDIA Danielle Ling
DIGITAL EDITOR IN CHIEF John Hernandez
GROUP EDITOR IN CHIEF, REGULATED MARKETS Nichole Morford

VICE PRESIDENT, INSURANCE GROUP SALES
Peggy Schecter (212) 457-9509

GROUP PUBLISHER/SENIOR DIRECTOR OF INTEGRATED MEDIA SALES
Tamara Gentry (720) 895-4988

ADVERTISING SALES
INTEGRATED MEDIA ACCOUNT MANAGER Susan Gould (314) 649-8321
INTEGRATED MEDIA ACCOUNT MANAGER Erica Queen (212) 457-9684
CLIENT SERVICES MANAGER Lorrie Allen lallen@alm.com

PRODUCTION & DESIGN
ART DIRECTOR Tim Schafer
DIRECTOR OF MANUFACTURING Joshua Gazes (212) 457-9579

MARKETING
DIRECT MARKETING Amy Sievertsen
DIRECTOR OF AUDIENCE MARKETING Lynn Kruetzkamp

SUBSCRIPTIONS
PO Box 3136, Northbrook IL 60065
Customer Service Tel. (800) 458-1734
Fax: (847) 763-9587 • e-mail: propertyandcasualty@omeda.com

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TOP *of* MIND

Just How Safe is School in 2020?

BY ELANA ASHANTI JEFFERSON

As the clock ran down on this year's summer vacation, my freshly-minted middle schooler and I felt excited for her to get back inside a classroom.

I wanted her to settle into a new school as quickly as possible by meeting the faculty face-to-face, and hopefully avoid the haphazard, often lackadaisical learning that happened in the spring after educators were hustled, without notice or planning, into a remote-learning environment.

Our school and district agonized over a complex hybrid-learning model for the new school year in which kids spend two days a week in class, masked and distanced, and the rest of the week online. It's a good plan.

But our enthusiasm waned as the first day of school inched nearer and several locations nationwide began to see fresh coronavirus infection flare-ups. Families around us started to pull out of the hybrid-learning option, and my daughter worried that she might be the only "hybrid kid" in her friend group. (Let's face it: There really is nothing more important to her at this age than being with pals.) It felt like there were no good options.

On the one hand, we craved the socio-emotional connection that only in-person learning can provide. On the other hand, no parent would willingly choose to put loved ones in danger by welcoming the coronavirus into our home via the fresh public contact points at school.

Our family dilemma was a microcosm of what risk managers and other insurance pros have been navigating as businesses and schools reopen after coronavirus lockdowns and quarantines. Burns & Wilcox Underwriting Director Heather Schaaf writes in this issue that every decision education leaders make amid the pandemic — from how to protect staff and students to the management of their physical infrastructures — could leave them open to scrutiny, criticism, and ultimately lawsuits that trigger various types of coverage.

"Now is not the time to pull back on insurance coverage," she writes. "We know more lawsuits are coming."

More lawsuits? The economic pain bred by the pandemic has already launched hundreds of lawsuits against insurers over denied business-interruption claims. My colleague, Hannah E. Smith from the Insurance Coverage Law Center, has been tracking this litigation and does an expert job of summarizing the trends in this month's feature, "A Litany of Lawsuits."

I also can't help but admire leaders in the surplus insurance market, who, despite financial and regulatory headwinds, are looking for silver linings in the pandemic, and strategizing around how insureds can be better prepared for the next unforeseen catastrophe. Such conversations are sure to punctuate this month's virtual installment of the Annual Marketplace hosted by the Wholesale & Specialty Insurance Association, an organization with whom the *NU Property & Casualty* team is thrilled to partner again this year on event communications. Keep an eye on our website, *PropertyCasualty360.com*, for our Annual Marketplace content hub, where we'll share news and updates from that event along with more specifics about what's happening in the world of surplus lines insurance.

Not long ago, bullying was the chief safety concern related to sending kids to school. Then, parents had to worry about bullies or their victims bringing guns to school. Now, our decisions about how to best educate kids could impact more than just our own families; they could ripple throughout our neighborhoods, cities, states and nation. That's a lot of pressure when the coronavirus creates few good options.

And that's what's top of mind for me this month. NU

Elana Ashanti Jefferson (ejefferson@alm.com) is executive editor of *NU Property & Casualty* and PC360 online.


Agency President.
Advocate for Winery Protection.
Meet Larry Chasin, who experienced firsthand the human tragedy—and triumph—following the devastating Wine Country wildfires. His team's boots-on-the-ground approach helped comfort clients who lost nearly everything.
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FIRST LOOK

WINDY RECORD BREAKER

INSURED LOSSES from Hurricane Isaias will be around $4 billion in the United States and $200 million in the Caribbean, according to early-August estimates from the risk modeling firm Karen Clark & Co. Estimates reflect wind and storm-surge damage but do not include NFIP reporting. Isaias began as a tropical storm, then developed into the second seasonal hurricane to make landfall in the U.S., unleashing winds up to 85 mph. Wind speeds in New York City were the highest since Superstorm Sandy in 2012. The storm also battered the Bahamas, the Dominican Republic and Puerto Rico.

THE CHALKBOARD

SURPLUS LINES

GROWTH CONTINUES

Mid-year premium growth reported to the U.S. surplus lines stamping and service offices revealed that surplus lines remained resilient during the first half of 2020 despite the ongoing COVID-19 pandemic, lockdowns and social distancing regulations, and the resulting economic turbulence. Stamping office reporting provides an indicator of the overall direction of the surplus lines market.

MID-YEAR ASSESSMENT TOTALS

Premium (Millions): $19,738,105,476
Percentage premium change: .... +10.3%
Number of Transactions: 2,263,117
Transaction change from 2019: .... -2.6%

PREMIUM GROWTH

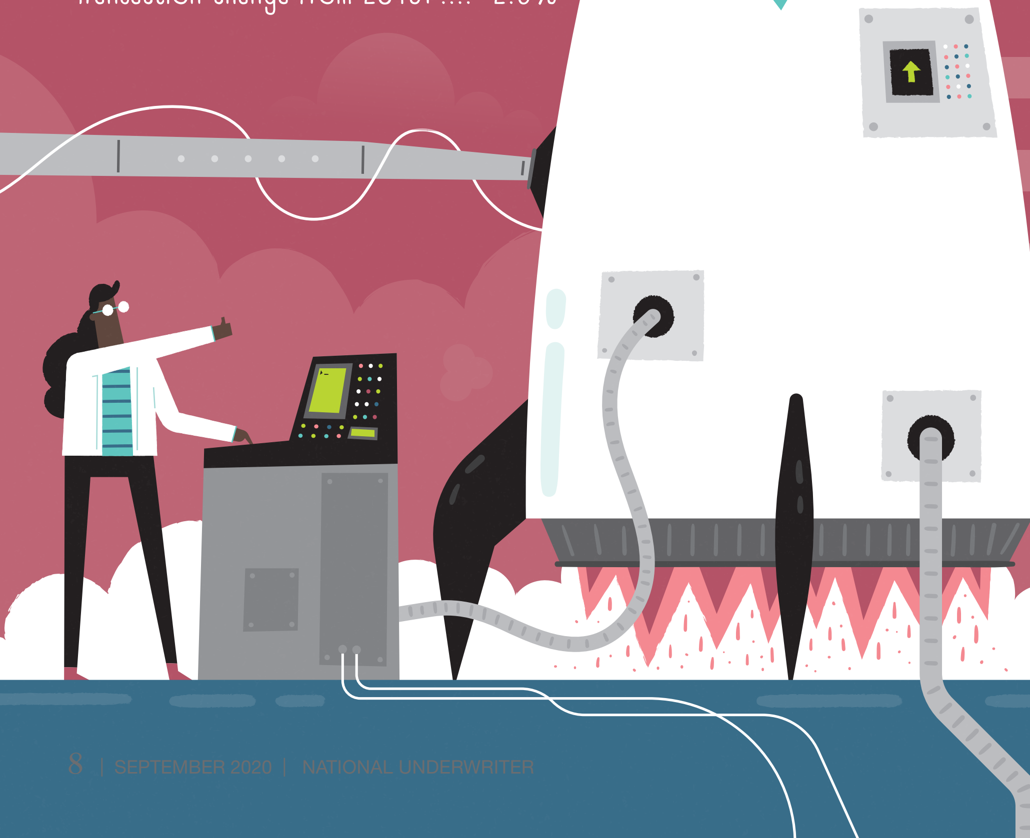
IN SOME STATES, THIS COINCIDED WITH A DECREASE IN TRANSACTIONS

WASHINGTON	+29.90%
TEXAS	+13.41%
ILLINOIS	+12.20%
PENNSYLVANIA	+11.53%
FLORIDA	+9.65%
NEW YORK	+5.73%

THE FOLLOWING STATES

SAW PREMIUM GROWTH ALONGSIDE INCREASED TRANSACTIONS.

UTAH	+40.29%
IDAHO	+40.16%
OREGON	+17.82%
NORTH CAROLINA	+10.34%
CALIFORNIA	+7.84%
MISSISSIPPI	+6.00%
NEVADA	+3.24%
ARIZONA	+3.19%
MINNESOTA	+2.46%



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- SPECIALTY LIABILITY
- CROP
- SURETY

COVERAGE Q&A

A Tale of Two Auto Policies

AT TIMES, TWO INSURANCE POLICIES WILL BE CALLED ON TO PROVIDE COVERAGE FOR THE SAME LOSS.

BY FC&S EDITORS

QUESTION: My insured has two auto policies providing liability coverage. The "Other Insurance" clause suggests one policy is primary over the other.

The driver of a vehicle, who was not the owner but had permission to operate the auto, caused an accident. The driver has her own personal auto policy. I need to determine if the driver's policy is excess or if one policy cancels out the other. Can you locate any favorable cases for the driver either way?

— Illinois subscriber

ANSWER: This really relies on the policy language between the two policies. The liability other insurance section of the ISO form is as follows:

If there is other applicable liability insurance, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide for a vehicle you do not own, including any vehicle while used as a temporary substitute for "your covered auto", shall be excess over any other collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this Policy.

This language is fairly standard. What this is saying is that because the insured was driving a non-owned vehicle, this policy will be excess over the vehicle owner's policy, if the owner's policy does not cover all injuries and damages.

RENTAL BOAT COVERAGE

QUESTION: The insured rented a 20-foot pontoon boat with a 30-horsepower motor for an afternoon. He struck a large rock, poking hole in the left pontoon. He has AAIS GL-2 Ed 2.0, which states that under watercraft: 'We pay for the bodily injury or the property damage that results from the maintenance, use, loading, or unloading of a watercraft that is powered by outboard motors that total more than 25 horsepower if the motors are not owned by an insured.'

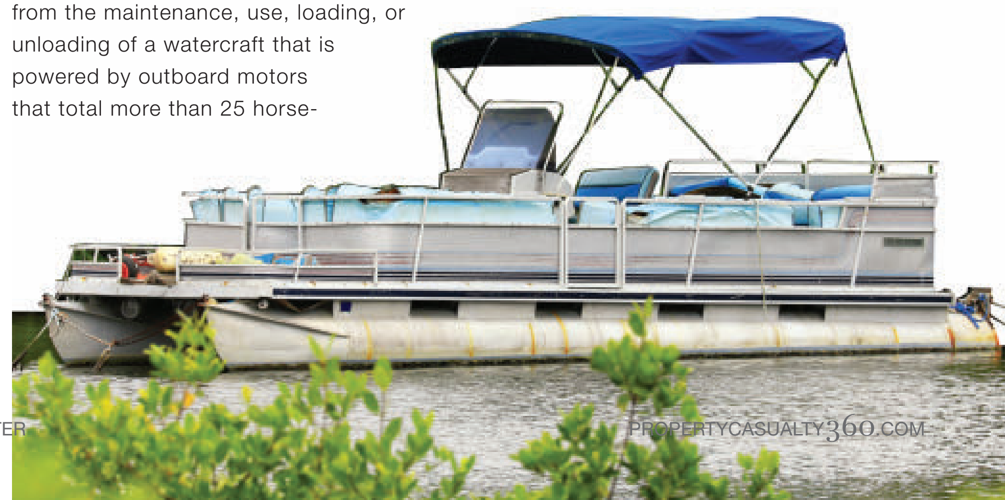
Property Damage is defined in the policy as physical injury to tangible property. So the company says there is no coverage, but it appears to me that it would be covered, per the above. Your thoughts please.

— Montana subscriber

ANSWER: Although some of the policy does grant coverage for the boat, the policy then takes it away under exclusions where injury or damage that results from the ownership, maintenance, use … or watercraft owned or operated by or rented or loaned to an 'insured' are excluded. This is a liability policy. You may well find coverage under the insured's property policy, for property in the insured's care, custody or control.

SOLAR LIGHTS: LANDSCAPING OR PROPERTY?

QUESTION: I have a homeowner's claim in which a brush fire damaged many items on the outside of the house. The solar lights were destroyed. State Farm has taken the position that they are covered under landscaping, for which we have already exhausted the limits. I'm arguing that they are personal property.



They are not hardwired so they wouldn't be covered under dwelling.

— Arizona subscriber

ANSWER: You have an interesting question. In the coverage for trees, shrubs and landscaping, it covers: a. trees, shrubs, live or artificial plants, and lawns; b. artificial grass; and c. hardscape property used for aesthetic purposes not permanently affixed to realty.

Hardscape property is not defined; Merriam Webster online defines hardscape as: "structures such as fountains, benches or gazebos that are incorporated into a landscape", and references softscape. Softscape is defined as vegetation such as shrubs and flowers incorporated into a landscape. A review of hardscape materials at Home Depot included pavers, river rock, edging and fire pits. A Google search for "hardscape" returns sites providing pavers, retaining walls, and similar products. Solar lights were not included on any of the sites I reviewed.

If the solar lights are the kind you just stick in the ground that can be bought at the grocery store or Target, I would consider them personal property.

Every claim is different, and some insurance policies can be difficult to interpret. FC&S Expert Coverage Interpretation is the recognized authority on insurance coverage interpretation and analysis for the P&C industry. Our experts makes it simple to find credible answers to your complicated coverage questions. To find out more, or to have your questions answered, visit www.nuco.com/fcs/

NU ESSENTIALS

Amazon Gets Into Auto Coverage

THE BIGGEST name in e-commerce announced on July 23 that it is now offering auto insurance in India. Amazon partnered with Mumbai-based Acko General Insurance to provide customers with car and motor-bike insurance through Amazon Pay online and via a mobile app. Buying a policy will take less than two minutes and require no paperwork, the company said. Amazon Prime customers in India also will be able to access additional discounts and benefits. According to Mahendra Nerurkar, chief executive and director of Amazon Pay in India, the company plans to expand its insurance offerings to cover health, flights and cabs.

Lloyd's and the Vaccine

LLOYD'S OF London has teamed up with Parsyl Inc., an IoT supply chain platform, to provide insurance policies covering the storage and shipping of potential COVID-19 vaccines as well as other medicines, Lloyd's said in a statement. The new business, known as Syndicate 1796, was developed by Parsyl with Ascot Group, McGill & Partners, and Gavi, the Vaccine Alliance, a global public health group that focuses on delivering new vaccines to the poorest nations in the world. Lloyd's also recently called for the creation of new insurance policies and government-backed funds to protect against future pandemics and global threats.

New Lemonade Product

Lemonade announced the launch of its pet health insurance product in July, TechCrunch reported. The InsurTech startup's pet insurance covers dogs and cats and starts at $12 a month, with a discount available for existing Lemonade policyholders. It is available in 32 states plus Washington D.C. The policy will cover diagnostics such as blood tests and MRIs, outpatient and emergency procedures, hospitalizations and surgeries, and medications for accidents and illnesses. Lemonade also offers an optional wellness package that covers wellness exams, heartworm and fecal tests, bloodwork, and vaccines.

'FEAR CASES' DISMISSED

In March, two cruise ship passengers sued Princess Cruises, alleging the cruise liner was negligent for failing to take necessary precautions to keep its passengers and crew safe and healthy at the onset of the pandemic. The suit sought recovery for emotional distress based on their fear of contracting COVID-19 while quarantined on the ship. Twelve similar lawsuits were filed soon afterward. In July, a California court dismissed all 13 lawsuits against Princess Cruises. The court dubbed the lawsuits "fear cases" because they involved plaintiffs who never tested positive or manifested any COVID-19 symptoms but sought to recover solely based on the fear of contracting the virus while onboard.

$350M

THAT'S HOW much catastrophe risk modeling firm Karen Clark & Company (KCC) estimates insured losses will be from Hurricane Hanna.

On the evening of July 23, Hanna made landfall on Padre Island, Texas, with "life-threatening" storm surges, flooding rains and tree-toppling winds. According to the National Hurricane Center, the storm came ashore at about 8 miles per hour and with 90 mile-per-hour winds. Hanna then traveled southwest and quickly weakened into a tropical depression.

KCC's projection is based on its high-resolution U.S. Hurricane Reference Model and includes the privately insured wind and storm surge damage to residential, commercial and industrial properties and automobiles.

READ MORE AT PROPERTY CASUALTY 360.com

Rockets Aim to Win

THE HOUSTON Rockets and billionaire owner Tilman Fertitta sued their insurer, Affiliated FM Insurance Co., for denying the team's pandemic business interruption insurance claims. The suit was the first by an NBA team seeking to recover losses tied to the economic blows wrought by the novel coronavirus pandemic.

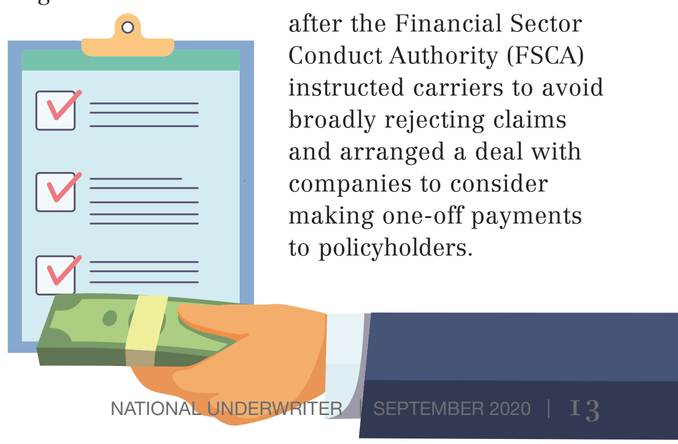
According to the complaint, Fertitta claims to have paid around $719,000 in annual premiums, totaling more than $400 million in business interruption insurance. He also said the policy should cover the pandemic because it was not specifically excluded.

STOPPING POLICE MISCONDUCT

New York legislators have proposed a law that would rely on insurance to strengthen individual police-officer accountability. The bill would require law enforcement officers statewide to carry personal liability insurance that covers claims against them for acts "during any period of time that such officer is performing duties within the scope of employment." The bill's sponsor is Sen. Alessandra Biaggi (D-Bronx). She says the measure aims to establish a financial disincentive for unlawful police violence or intimidation.

S. African Insurers & C19

THREE SOUTH African insurers have agreed to pay insureds for losses related to COVID-19, according to Bloomberg. Momentum Metropolitan Holdings Ltd.'s Guardrisk said it will pay policyholders who claimed business interruption losses during the nation's five-week lockdown. Santam Ltd., South Africa's largest P&C insurer, and Hollard Insurance Co. announced they would offer one-time financial relief to small and medium-sized clients. The insurers' decisions come after the Financial Sector Conduct Authority (FSCA) instructed carriers to avoid broadly rejecting claims and arranged a deal with companies to consider making one-off payments to policyholders.



PEOPLE ON THE MOVE

Russ Findlay

HISCOX

NEW YORK CITY

Russ Findlay has been promoted to group chief marketing officer at Hiscox. Findlay has been with Hiscox since 2013, most recently serving as chief marketing officer for Hiscox USA.

WES EDISON

BOYD, SHACKELFORD, BARNETT AND DIXON LLC

DALLAS/FORT WORTH

Boyd, Shackelford, Barnett and Dixon LLC appointed Wes Edison to their team as senior vice president. He previously served as senior vice president at Marsh Wortham.

JOHN L. FORNEY

GEOVERA INSURANCE HOLDINGS LTD.

FAIRFIELD, CALIF.

GeoVera Insurance Holdings Ltd. appointed John L. Forney CEO and a member of the board of directors. Prior to this, Forney held the position of CEO of UPC Insurance.

WILLIAM HUGHES

ARBELLA INSURANCE GROUP

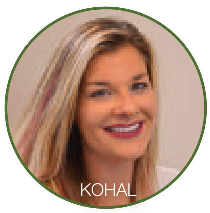
QUINCY, MASS.

William Hughes has been promoted to vice president of Arbella Insurance Group's commercial lines division. Hughes previously worked at HUB International and Liberty Mutual in sales leadership roles.

KARI DYBDAHL KOHAL

AMERICAN RISK MANAGEMENT RESOURCES NETWORK LLC

MIDDLETON, WISCONSIN

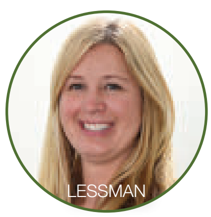


American Risk Management Resources Network LLC (ARMR) named Kari Dybdahl Kohal as its next president. She has served as executive vice president and director of operations at ARMR.

TORIA LESSMAN

QBE NORTH AMERICA

CHICAGO



Toria Lessman has been appointed senior vice president, head of professional lines and industry verticals at QBE North America. She previously worked as a regulatory and compliance attorney with the law firm Tressler LLP.

LAURIE MACKLOSKY

IASA

BRISTOL, CONN.

IASA appointed Laurie Macklosky president for the 2020-2021 term. She also works as assistant vice president of business execution at The Hartford.

SANJAY MEHTA

THE LIBERTY COMPANY INSURANCE BROKERS

IRVINE, CALIF.

The Liberty Company Insurance Brokers appointed Sanjay Mehta senior vice president. He previously worked at McGriff Insurance Services and Marsh.

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02 RETURN

03 RECOVER

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A Back to School Season Like No Other

THE TOUGH DECISION TO REOPEN SCHOOLS DURING THE CORONAVIRUS PANDEMIC IS EXPECTED TO INTRODUCE NEW LIABILITIES AND A WAVE OF RELATED LAWSUITS.

BY HEATHER SCHAAF

A GEORGIA high school that made headlines for its packed hallways and unmasked students announced Aug. 9 that it would close for at least two days after it identified nine cases of COVID-19.

Six students and three staff members tested positive for the virus after the first week of in-person instruction at the school, which was one of the first to reopen for the 2020-21 school year amid debate around the best way to resume learning in a pandemic.

Even as the school year began, many K-12 schools and colleges across the U.S. remained undecided about whether students should return for in-person learning, virtual classes or a combination of both.

That uncertainty worsened as reports emerged of an uptick in COVID-19 cases in kids. A fresh report from the American Academy of Pediatrics and the Children's Hospital Association revealed a 90% increase in COVID-19 cases among children between July 9 and Aug. 6.

"Reopening schools is going to be very difficult," said Justin Dorman, national product manager, workers' compensation, Burns & Wilcox in Charleston, S.C. "We have already seen some really harsh impacts with the spike in COVID cases in places where you have students in confined spaces. How to do this safely is still a work in progress."

Regardless of whether schools ask students to return in person or online, their decisions could catalyze new liability questions related to virus transmission or even digital learning — making directors & officers (D&O) insurance, employment practices liability insurance (EPLI), cyber and privacy insurance, and workers' compensation insurance necessary for all educational institutions.

"There are a lot of challenges and unknowns," said Matthew Lefchik, director, cyber risk management, Node International. "There are so many organizations that are still trying to navigate through the nuances of what the risks could be: not just the health risk, but the cybersecurity risk."

SCHOOL LEADERSHIP SPOTLIGHT

In Florida, where the state's largest teachers union is suing over a state mandate that K-12 schools must reopen in-person five days per week, COVID-19 cases in children increased 137% in early August.

While school districts and colleges adhere to state guidelines, local school boards are ultimately responsible for reopening plans in many areas.

The decisions that these governing boards make — from student housing capacity at colleges to desk spacing in elementary schools — could become the focus of litigation under the institution's D&O insurance. This type of policy covers board members in their decisions and actions in their roles.

If there were a misjudgment made in the decision-making process, it may result in a D&O claim. It could be the timing of their reopening plan or the way they operated while open. Additionally, if COVID cases rise and schools decide to close again and go 100% remote, any of those decisions made can be scrutinized and possibly turn into a D&O claim.

Even during the summer semester, many colleges saw COVID-19 spread among students and staff. At least 136 fraternity house residents and six other students were infected with COVID-19 at the University of Washington in Seattle, and Harris-Stowe State University in

St. Louis closed its campus in July after eight administrators tested positive for the virus.

In North Carolina at Appalachian State College, six employees and dozens of students tested positive, in addition to 41 subcontractors who were working on campus construction projects.

An increase in EPL lawsuits also is anticipated as more staff report to work at both K-12 schools and higher education campuses. Hundreds of COVID-related EPL lawsuits have already been filed against employers.

Such lawsuits could allege Americans with Disabilities Act discrimination if staff members with health conditions are not appropriately accommodated, and wage-and-hour cases could result if teachers are asked to don PPE, subject to health screenings or perform other unpaid work before officially starting their workday.

For instance, if the person is an hourly employee, they need to be compensated for that time.

Lawsuits related to whistleblowing activity also are expected to increase. (Whistleblower cases happen after someone sees something unlawful in the workplace, speaks up about it, and then suffers some form of retaliation.)

Consider the recent story of the Georgia student who was suspended after posting photos from her high school's crowded hallways. If it had been a staff member and that person were fired, that would be a retaliation whistleblower suit under the applicable EPL insurance policy.

As information and guidelines change, most school districts and colleges developed multiple versions of their reopening plans. Schools are in a tough position, and they are really working hard to accommodate not only their staff but also their students.

Schools and school districts should review their D&O and EPL insurance so they are ready to confront a potential wave of lawsuits. If they have insurance coverage, they should keep it or improve on it.

Now is not the time to pull back on insurance coverage to save money, as we know more lawsuits are coming.

Heather Schaaf is underwriting director at Burns & Wilcox. A version of this article was first published on the Burns & Wilcox website. The piece is republished here with consent.

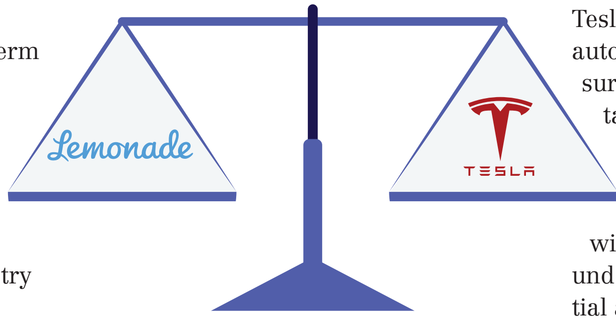
Innovator Debate: Lemonade vs. Tesla

HOW DO THESE TWO COMPANIES COMPARE IN LEADING INSURANCE TRANSFORMATION?

BY MARK BREADING

I'VE NEVER been a big fan of the term disruption.

In the InsurTech world, most startups are partnering with industry incumbents to enable faster transformation. They are catalysts for change, to be sure. But few are truly turning the industry on its head.



For instance, Lemonade is a startup that, since its inception, has positioned itself as a disruptor. The company's slogan is still "Forget Everything You Know About Insurance." The constant marketing drumbeat from the company has emphasized its different approach and has especially focused on appealing to millennials.

With its recent, spectacular IPO, Lemonade has the attention of the insurance world. I believe Lemonade has been very good for the industry (and it has certainly been good for the founders).

But I think that Tesla has the potential to be even more of a disruptor in the long run.

This might seem an odd assertion, given that Tesla has heretofore only dipped its toe in the insurance waters, and Lemonade is four years old and on a roll. At this stage, Tesla is only a year into the California auto market as a broker backed by State National (a Markel company), with mixed results. But what has caught my attention is Elon Musk's callout to insurance actuaries — inviting them to join Tesla to create a "revolutionary" insurance company. You don't go on a hiring spree of actuaries if you plan to be just a distribution player.

Now, on the surface, it might seem strange that insurance would be of interest to Elon Musk. To illustrate, let's play the Sesame Street game, "Which one of these things is not like the other?" Space exploration… Autonomous vehicles… Hyperloop travel… Battery gigafactory… Insurance.

The answer is obvious: Does insurance really have the potential to transform the world like these other ventures? Maybe not, but insurance is undoubtedly an enabler of these revolutionary advances and an essential foundation of the economy. Plus, there is great potential to "revolutionize" insurance and make a lot of money in the process.

Back to the Lemonade/Tesla discussion. Starting an insurance carrier is a long play. Lemonade, with all its success, is actually only a blip in the industry financial picture. Renters and pet insurance are nice businesses, but they will always be secondary lines.

Lemonade also is in homeowners, so there is much more potential there. But now they have to contend with the likes of Hippo, not just the State Farms and Allstates of the world.

At SMA, we consider insurers with premiums of more than $5 billion to be Tier 1. Lemonade may become a Tier 1 insurer — someday.

On the other hand, let's consider Tesla's prospects. Tesla is not the first auto insurance company to enter insurance and try bundling. Others have taken this approach, and especially those in the autonomous vehicle game, have announced plans for insurance. Most still partner with an insurance company as an underwriter. This has been Tesla's initial approach, as well. Now, with stated plans to build an insurance company, the calculus changes.

Imagine yourself as a brilliant young actuary. Wouldn't it be cool to sign on with visionary Elon Musk and help rethink insurance?

For that matter, it won't stop at actuaries — other industry professionals are sure to be recruited for this venture. Underwriters (if they have them), adjusters, loss control engineers, and others will probably join on.

Now, that's no guarantee of success … and the same long-play dynamics will apply to Tesla as Lemonade. However, what Tesla has are some unique advantages. First, it has a well-respected, established brand. Second it has the underlying assets that will be insured — electric and autonomous vehicles. Third, it has the track record and energy of Musk and his enterprise.

Of course, this is all speculation. Tesla may not go full bore into insurance, and if they do, they may not succeed. I, for one, would not bet against Elon Musk.

Mark Breading is a partner at Strategy Meets Action (SMA), a strategic advisory firm working with insurers and InsurTechs. This column first published in SMA's blog and is republished here with consent. To reach the writer, send email to mmbreading@strategymeetsaction.com.

How to be an Insurance Netflix

ONE OF BLOCKBUSTER VIDEO'S BIGGEST MISTAKES WAS THAT IT FAILED TO RECOGNIZE AND HARNESS THE LATEST TECHNOLOGY TO KEEP PACE WITH DIGITAL BUSINESS.

BY ALEX ZUCKERMAN

IN 2004, when Blockbuster was at its peak, the company operated 9,000 stores worldwide, employed 60,000 people, and posted $5.9 billion in revenue. The notion that a rival service like the nacent Netflix could dethrone the video rental giant seemed far-fetched.

But within six years, Blockbuster had filed for bankruptcy as Netflix soared in popularity.

The fall of Blockbuster can't be pinned on any one decision. One of the company's biggest flaws, however, was that it failed to latch onto the growing availability of streaming technology. By contrast, Netflix embraced it, pivoting away from DVD sales and rentals in anticipation of changing viewership habits.

A similar dynamic is unfolding in the insurance world, where those that are suspicious of change and slow to innovate may find themselves on the same trajectory as Blockbuster.

Meanwhile, insurers that harness the latest technology to achieve digital transformation will be better positioned to serve an evolving market.

To understand the importance of innovative technology to the future of insurance, look no further than recent trends in InsurTech funding. In 2019, InsurTech investment reached nearly $6.4 billion, a 63% increase over 2018 figures, Willis Towers Watson says.

Advances in artificial intelligence and data analytics, in particular, are providing opportunities to optimize operations and improve the customer experience with reduced costs and speedier processing times.

While InsurTech fundraising plunged 54% in the first quarter of 2020 amid coronavirus-driven economic turbulence, the pandemic has, in fact, made enhanced digital capabilities all the more important for insurers. As business operations moved almost entirely online, companies that already had robust digital infrastructure found themselves faring better than the tech laggards.

Not surprisingly, even in a tight economy, few insurers are planning to scale back their digital investments. A Lightico-Sapiens survey found that 28% of insurers are accelerating their digital transformation plans, and only 5% are retrenching.

Thinking back to the rise of Netflix and demise of Blockbuster, it's fairly obvious from the vantage point of 2020 why consumers came to prefer the convenience of browsing, selecting and streaming content, all from the comfort of their homes, when the alternative was making a trip to the local video rental store to select a movie and then making yet another trip to return it.

Better yet, using AI, Netflix learned what types of content its individual viewers liked and then tailored its recommendations accordingly, making it much easier for viewers to discover shows and movies they'd actually like.

Consumers increasingly expect that same convenience from insurers. In the Lightico-Sapiens survey, 66% said they would try a new mobile app or website that makes buying insurance easier. Sixty percent said they have little patience for paperwork.

Insurance carriers that can satsify these expectations by delivering high-performance, streamlined digital experiences powered by strong core systems, will enjoy the competitive advantage.

Data-driven insights also can help insurers direct consumers to the offerings best aligned with their coverage needs. Artificial intelligence (AI), chatbots and virtual agents can enable insurers to ramp up customer service capabilities in a scalable, cost-effective way. And Natural Language Processing (NLP) technology, a subset of AI, can process customer service requests in an intuitive way while also assisting on the insurer side with underwriting and fraud detection.

By 2025, AI spend in the U.S. insurance industry, alone, is expected to reach $2.63 billion, unleashing new opportunities for greater operational efficiency, better customer service, and new revenue.

Those who remain on the digital path will find themselves reaping the benefits of transformation, while those who hesitate may wish they had more quickly heeded the writing on the wall.

Alex Zukerman is the chief marketing officer and chief strategy officer at Sapiens. Connect with him at linkedin.com/in/alexzukerman.

Our Best, Worst Year

THIS YEAR DEFINED BY COVID-19 WAS TAILOR-MADE FOR E&S INSURANCE MARKET PLAYERS TO WRITE THEIR OWN 'SILVER LININGS PLAYBOOK.'

BY ELANA ASHANTI JEFFERSON

Among 2020's gloomy economic indicators — the chaotic unemployment rates, widespread business closures and supply-chain problems, just to name a few — the market for excess and surplus (E&S) insurance might provide a silver lining.

At this risk of stating the obvious: 2020 will be remembered as the year of the global coronavirus pandemic. Brady Kelley, executive director of the Wholesale & Specialty Insurance Association (WSIA), can't help but note the personal and professional impact of this event on insurance professionals. "I'm really proud of how our segment rallied to support policyholders," says Kelley, whose organization hosts a virtual Annual Marketplace Sept. 10-17.

"All of us were impacted by stay at home orders or some type of restriction or disruption because of the pandemic," Kelley continues. "Even though many of (our members) were dealing with disruption in their own shops and their own offices, they were absolutely communicative, reaching out to their insureds and offering relief."

Therein lies one of the most notable trends in the E&S insurance market from the past year: The rapidly shifting regulatory landscape. "Right away, we started tracking state bulletins," Kelley recalls of the early days of the pandemic. Most states in the U.S. issued some type of insurance-industry guidance around such policyholder financial accommodations as premium forbearance timelines, payment cancellation and policy renewal adjustments.

"A lot of good things were done to make sure those that were impacted were given some relief, which we strongly supported" Kelley says. At the same time, many states issued guidance quickly and inconsistently. "Our mission was to make sure we had a nice compliance resource so that companies that needed state-by-state information had it right away."

Kelley considers the proverbial second wave of the pandemic's impact on insurance to be the swelling number of business-interruption claims related to the virus along with lawsuits and legislation related to those claims.

"These were policies underwritten and priced with no regard for a pandemic loss," he says. "So we did a lot of work right away to educate lawmakers and regulators about the impact of forcing a carrier to pay a claim that they didn't underwrite or price."

The third financial wave arrived as businesses began to reopen after COVID-19 closures, and that trend continues this month as schools and campuses tenuously come back to life. This phase may open up insureds to lawsuits spurred by individuals who believe they contracted the virus at a particular location.

"General liability for COVID-19 risk is now top of mind," Kelley says.

He adds that WSIA's work, along with the future of the E&S insurance market in general, is now tied to how insurance legislation and regulation takes shape with regard to the pandemic (or any other unforeseen and far-reaching catastrophe). He posits: "Is a pandemic insurable? Is it completely un-insurable? Is there an appropriate way to share this risk between the private market and the government?"

The bottom line, Kelley says, is that there would be no way to profitably underwrite another pandemic. "The levels to which private-public groups work together on that is yet to be seen," he says. "I'm just thrilled we're moving down that path, because there has to be some longer term, focused solution for the next pandemic."

GLASS HALF FULL

That sounds a lot like a silver lining.

Bryan Sanders is president of Markel Specialty and board president of WSIA. He says that although uncertainty persists, insurance professionals remain focused on the silver linings they can knit together on the other side of COVID-19. "This new future of work that we're all looking at in the insurance industry? I think it's going to help our recruiting efforts as an industry," Sanders says.

He adds that other industries likely lured away great potential hires because they recognized the appeal of a dressed-down, flexible, remote-work business model before the insurance industry did.

In 2020, however, insurance people became speedy remote-work experts. “I think the future of work is going to provide us better opportunity to attract some of those folks,” Sanders says.

The specialty insurance sector, which has enjoyed sustained growth in recent years, will need the extra help. Surplus lines premium reported to the U.S. surplus lines stamping and service offices in the first six months of 2020 neared $20 billion, up 10.3% over the first six months of 2019. This happened despite longstanding pressures on the E&S market.

“The issues around social inflation were real before the pandemic,” Sanders says. “The impact of natural disasters was already having an impact on the market. The low interest rate environment? All of these things had had an impact before the pandemic.”

As 2020 winds down, the real insurance-business conversation will be about how to survive the pandemic.

“We don’t know where we are yet in the pandemic,” Sanders says. “We don’t know if we’re at the beginning. We don’t know if we’re at the end. But where we are in terms of the market is, it still hasn’t permeated all areas of insurance. There are still some pockets that I would not consider a hard market. There is a firming in some areas, but it’s not across all lines in the industry.”

Other insurance-business silver linings that Sanders sees as a result of the pandemic include increased digital connectivity and technological savvy that has supported more robust communication between brokers and underwriters. It follows that insurance has become a quicker business during the pandemic, Sanders says. And in terms of the quality and strategy around insurance-business metrics, “in the past, we looked at things on a monthly or quarterly basis. Now we have the ability to look at things on a weekly basis better than ever before.”

DRIVING IN THE DARK

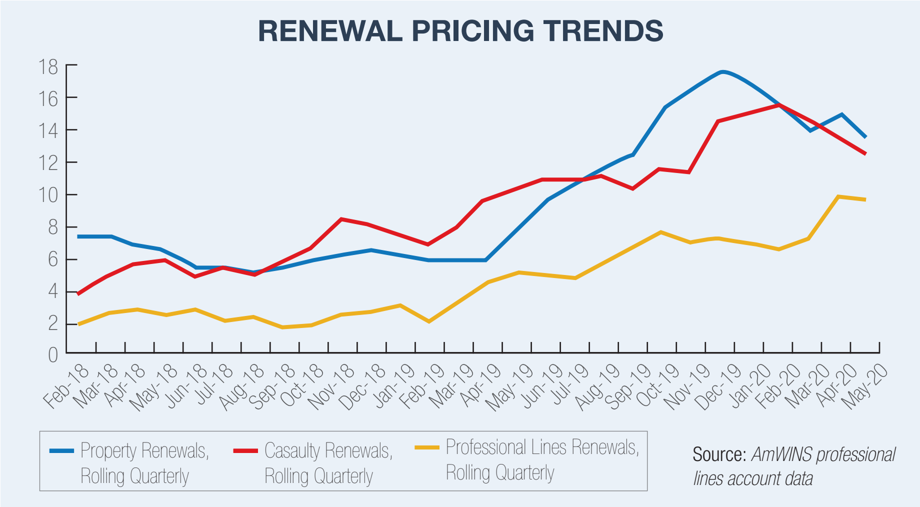
Uncertainly about the future, however, is the main headline on the current E&S market. Such uncertainly fosters conservatism, according to Risk Placement Services President Joel Cavaness, who also is a past board president of WSIA, and a self-proclaimed lover of analogies: “If you’re driving a car and it’s raining cats and dogs and you don’t have a clear view of where you’re going, what are you going to do? You’re going to slow down. You’re going to be more cautious. I think that’s kind of where we are today” in the E&S insurance market, Cavaness says.

But that’s not his takeaway from 2020. Cavaness notes that E&S policies remain popular. “Even when the market was in a different state of affairs, our section of the industry was growing,” Cavaness says.

However, the E&S market is changing. It is tightening up in places, and carriers are instituting more restrictive policy limits than they did in the past.

“A year ago, people were willing to provide much more in the way of limits than they are today,” Cavaness says. “Now they are protecting their balance sheets and their exposure to a particular large loss or series of large losses.”

This is due, in part, to social inflation and the “mega verdict” trend in recent years. Cavaness also notes the impact of litigation funding, or an arrangement in which an investor, of sorts, agrees to pay the costs of litigating an insurance claim on the chance that it pays out big at the back end of a lawsuit. As a result, claimants may be less willing to settle their cases out of court, because they’re not on the hook for litigation costs. “That’s definitely been interesting,” Cavaness says.



Source: *AmWINS professional lines account data*

U.S. SURPLUS LINES SERVICE OFFICES | Mid-Year Assessment

State	% of Change		30-Jun-20		30-Jun-19		Rates		Comments
	Premium	Items	Premium (Millions)	Items	Premium (Millions)	Items	Stamping Fee	S/L Tax	
Arizona	3.19%	2.64%	$363,347,118	45,497	$352,127,819	44,328	0.20%	3.00%	
California	7.84%	3.21%	4,606,128,054	372,630	4,271,130,282	361,047	0.25%	3.00%	Stamping fee increased to .25% eff 1/1/20 from .2% Date range used is based on the date the policy was received by the CA SLA from the broker.
Florida	9.65%	-6.87%	4,161,104,433	608,900	3,794,932,503	653,828	0.06%	4.94%	Stamping fee reduced to .06% effective 4/1/20. Tax rate reduced from 5% to 4.94% for policies issued/renewed on or after 7/1/20. Premium and policy counts shown are based on Submit date.
Idaho	40.16%	6.73%	89,005,822	10,464	63,505,007	9,804	0.50%	1.50%	
Illinois	12.20%	-8.35%	1,025,202,844	71,298	913,688,254	77,793	0.075%	3.50%	
Minnesota	2.46%	2.35%	310,553,397	24,768	303,083,275	24,199	0.04%	3.00%	
Mississippi	6.00%	5.03%	256,048,467	84,339	241,560,004	80,300	0.25%	4.00%	
Nevada	3.24%	4.20%	195,522,468	20,490	189,380,381	19,665	0.40%	3.50%	
New York	5.73%	-5.56%	2,424,700,000	164,388	2,293,400,000	174,063	0.17%	3.60%	
North Carolina	10.34%	2.07%	468,077,034	91,908	424,222,452	90,043	0.40%	5.00%	
Oregon	17.82%	7.63%	251,535,831	35,705	213,487,017	33,173	$10	2.30%	
Pennsylvania	11.53%	-0.86%	783,547,906	112,192	702,563,875	113,162	$20	3.00%	
Texas	13.41%	-3.89%	3,941,263,546	527,541	3,475,143,960	548,884	0.15%	4.85%	
Utah	40.29%	23.06%	215,771,864	24,699	153,804,869	20,070	0.18%	4.25%	
Washington	29.90%	-6.36%	646,296,692	68,298	497,539,180	72,939	0.10%	2.00%	
Totals	**10.33%**	**-2.59%**	**$19,738,105,476**	**2,263,117**	**$17,889,568,878**	**2,323,298**			

> "There is a firming in some areas, but it's not across all lines in the industry."
>
> — Bryan Sanders, president of Markel Specialty and board president of WSIA

ULTIMATE SAFETY VALVE

The E&S insurance market remains the place where insureds turn when they need to cover complex risks. To that end, publicly traded directors and officers liability insurance has seen an increase in the number of entrants.

"It's a very complicated placement," Cavaness says of D&O insurance policies. "People are desperate to get better solutions than are currently available from the standard marketplace. And a lot of agents and brokers need the expertise that the wholesale and intermediary firms have."

Some E&S market watchers also believe that traditional standard lines such as homeowners insurance and commercial auto insurance will begin to move into the E&S market as risks increase and coverage becomes more difficult. This will result in increased competition and demand on capacity.

To remain competitive, many carriers are becoming more niche-oriented.

"That way, they have a deeper and better understanding of the various types of accounts that they're willing to write," Cavaness says. "They know the broad range of exposures, so they're apt to have fewer surprises."

Cavaness offers one final analogy: "Those that are truly specialized have performed very well through all of this. Those that go into the woods at night without a flashlight and try to feel their way around? They're the ones that fall into traps."

The increased availability of high-quality risk data also is driving new entrants into the E&S marketplace.

"There is a history to this," Cavaness notes. "You can chart the hard market. It's happened every single time you've had disruption. Smart people with money will jump in and begin to ease some of that shortage of capacity."

Agents and brokers can distinguish themselves in this shifting marketplace by forging strong client relationships, educating clients about the realities of their insurance needs, and when necessary, having tough conversations about premium pricing. They also need to be creative about how to use adjustments, deductibles and Self-Insured Retention (SIR) policies to help clients realize some premium savings, Cavaness says.

INNOVATION NATION

Big data isn't the only high-tech tool making waves in E&S insurance.

"Carriers, agents and brokers have implemented technology to create a more engaging customer experience," says Michael Parcelli, senior vice president of global solutioning and process consulting at Xceedance, an insurance management services firm. Parcelli has more than three decades of experience in the insurance industry.

"They are implementing analytics dashboards to track product demand, and pricing sensitivities to make immediate changes to the types of available products, while simultaneously communicating line of business capacity — both within carrier operations, and to carriers from agents and MGAs," Parcelli says. "Carriers, agents and brokers must focus on maintaining their offerings based on insight into policyholder behaviors." NU

LITIGATION WATCH

A Litany of Lawsuits

HUNDREDS OF INSURANCE COVERAGE LAWSUITS SURFACED AFTER BUSINESSES WERE FORCED TO SHUT DOWN BECAUSE OF COVID-19. HERE, WE TAKE A CLOSER LOOK AT CORONAVIRUS LITIGATION TRENDS.

BY HANNAH E. SMITH

In the age of new coronavirus, it is important to identify areas in which your insurance business might be threatened by a lawsuit for failing to provide coverage in the aftermath of non-essential business shutdowns.

Many businesses that were shut down looked to business interruption or business income insurance for relief. This type of coverage is typically included in a property insurance package. Most, however, have faced resistance from insurers.

Generally, in order for coverage to be triggered, these policies require:

- Direct physical loss or damage;
- To covered property;
- Arising out of a covered peril; and
- Resulting in the suspension of the business' operations.

In cases in which that coverage is triggered, an insured business may be entitled to recover the net income that it would have generated if the interruption had not occurred, along with the operating expenses during the period in which operations were suspended.

The main issue that courts must decide in addressing these claims is whether businesses whose operations were shut down during the crisis can demonstrate "direct physical loss or damage."

Virus exclusions present another challenge. They were first seen after the 2002-2003 SARS outbreak, which led to millions of dollars in business-interruption claims, mostly in Asia. As a result, insurers added exclusions to standard commercial policies for losses caused by viruses or bacteria.

The following are some of the most common types of lawsuits being filed against insurers for failing or refusing to cover business income losses caused by the coronavirus pandemic.

LAST CALL FOR ALCOHOL

Thousands of bars and restaurants nationwide were affected by the current pandemic crisis. Restaurants pose an interesting challenge to the courts. Many did in fact shut their doors completely during the early days of the pandemic. But with millions of people hunkering down at home, the demand for drive-thru and takeout food skyrocketed. The fast food chain Wendy's reported in a recent financial update that drive-thru business grew by about 90% during the first half of the year. Restaurants that could accommodate drive-thru sales, takeout, outdoor dining and now, spaced indoor dining, managed to hang on during the pandemic.

Although doing business through these methods may not provide the same level of revenue, the fact that they were able to prepare food at any capacity refutes arguments that they suffered direct physical loss or damage, from an insurance standpoint.

Here are three cases to consider:

French Laundry Partners, LP v. Hartford Fire Insurance Co., et. al.

One of the first restaurants that sued its insurer based on business interruption losses was Napa Valley's The French Laundry, owned by Thomas Keller. In this case, Keller, one of the most renowned restaurateurs in the United States, sought a judgment to confirm that his insurance company should cover coronavirus-related business losses. The suit, and other similar challenges filed by restaurant owners, was intended to establish legal precedent, so that businesses facing mandated closures due to the coronavirus would be covered from the beginning of the shutdown, and they could be confident in the coverage they had in place.

In-N-Out Burgers v. Zurich American Insurance Co.

In May, In-N-Out Burger added its substantial voice to the chorus of restaurant owners claiming insurance companies are improperly denying business interruption claims. The suit cited breach of contract, after the insurer officially denied the restaurant chain coverage for its business interruption chain. In-N-Out had an "all-risk" coverage plan with its insurer, Zurich. The policy provides coverage for common risks such as fire, but also provides coverage for "novel risks that may arise which were not previously considered by the company, Zurich or by the public-at-large." The policy, which has a $250 million limit, contained no exclusion for viruses or infectious diseases. The claim was denied by Zurich in late June.

> Although these claims cover a wide range of industries, the dominant conflict is the same.

Gavrilides Management Co. et al. vs. Michigan Insurance Co.

Early in July, we saw the first decision out of a state court considering a restaurant, business interruption losses, and the COVID-19 pandemic. In the *Gavrilides Management Co.* case, the plaintiff alleged that the physical requirement of the policy was met because customers could not physically use the dine-in services. The judge denied this allegation, determining that in order to meet the requirement, the insured must show a physical alteration to the premises.

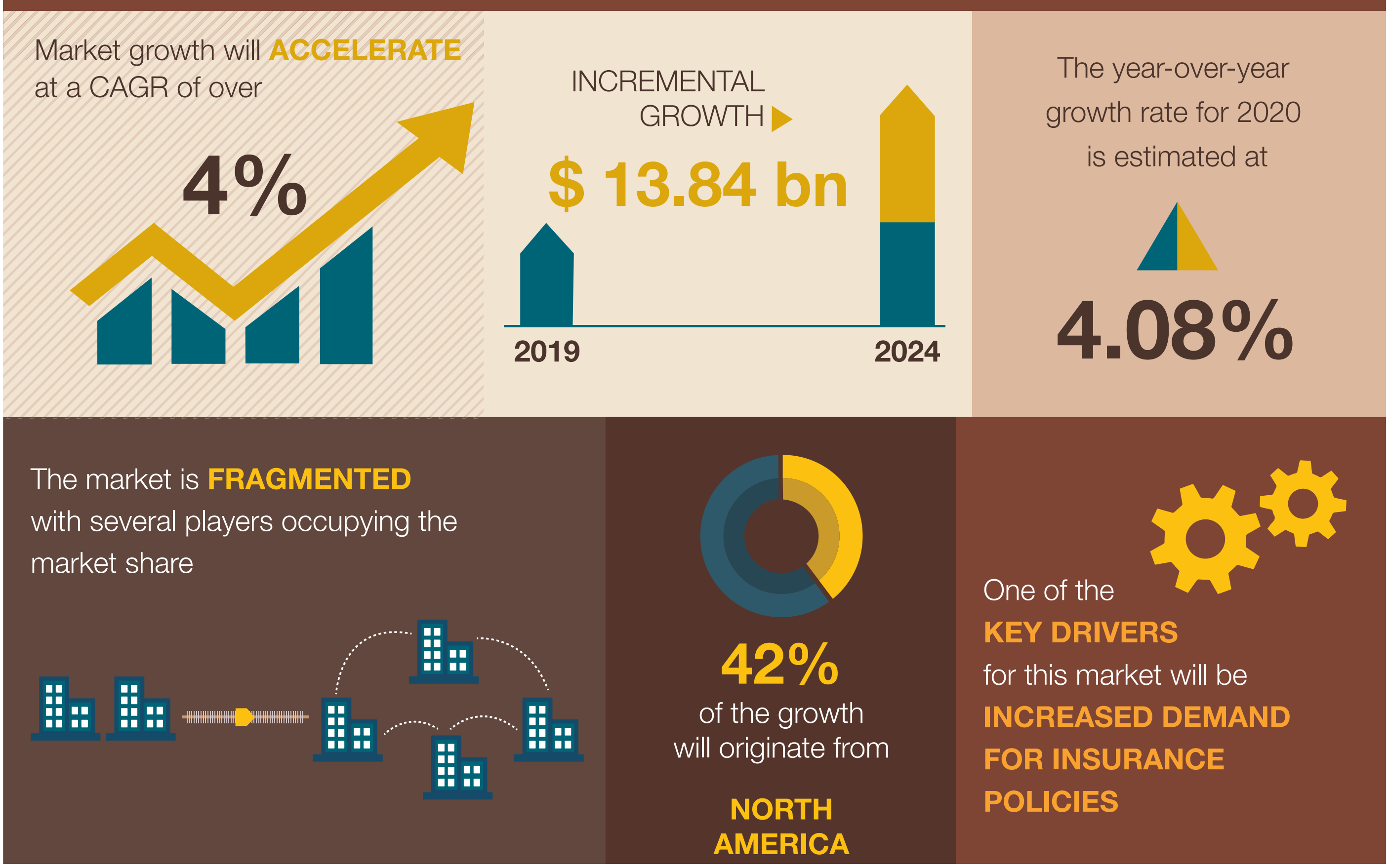
THE DOCTOR WAS OUT

Another industry that was disproportionately impacted by the government-mandated shutdowns was healthcare. This category includes all medical, dental, or veterinary voluntary or elective surgeries and procedures. Nearly all health and dental appointments and "elective" surgeries were postponed until after the non-essential business bans were lifted. Due to these closures, those businesses suffered losses. Consider the following three cases:

Plastic Surgeons of Lexington, PLLC v. Liberty Mutual Insurance and Ohio Security Insurance Co.

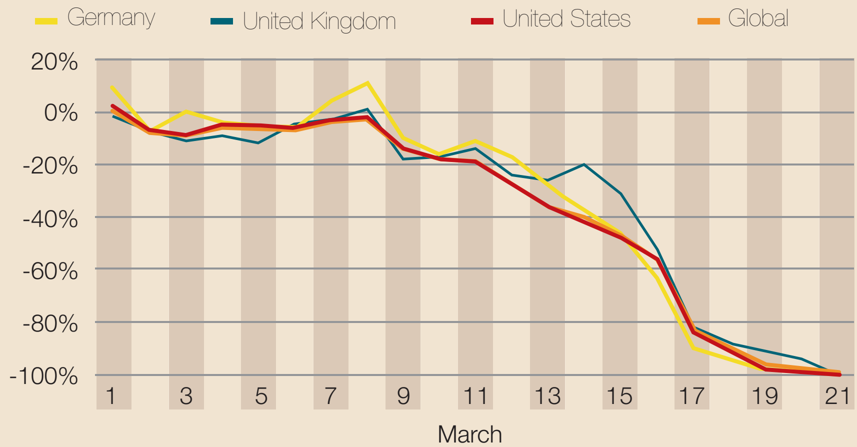
HOW WILL THE INSURANCE INDUSTRY FARE?

TechNavio, the global market research firm, arrived at the insurance-industry conclusions outlined below while compiling the report, "Global Insurance Brokerage Market 2020-2024."



RESTAURANT INDUSTRY COLLAPSES DUE TO WIDESPREAD SHUTDOWNS

Year-over-year change in seated diners at restaurants on the OpenTable network*



*Incl. online reservations, phone reservations, and walk-ins. For year-over-year comparisons, OpenTable compared each day to the same day of the week from the same week in 2019.

Source: OpenTable and Statista

Plastic Surgeons of Lexington sued Liberty Mutual in Kentucky state court, seeking coverage for business losses resulting from COVID-19 related closure orders. The complaint alleges that the surgery center's operations were halted, as the majority of its business came from elective surgeries that were prohibited under government orders that issued in March 2020.

The complaint asserted that the surgery center sustained losses that were covered under the business income expense and civil authority provisions of the policy, and that the virus exclusion was not applicable to the claim. The claim was denied.

BA Ventures LLC, Pacific Clearvision Institute, PC. v. Farmers Insurance Exchange

Similar to the previous case, the Pacific Clearvision Institute ophthalmology clinic sued Farmers in Oregon state court for wrongful denial of its claim for business interruption losses that occurred because of executive orders issued by Oregon Governor Kate Brown.

In the complaint, the eye clinic stated that the majority of its business came from procedures and appointments that were considered "non-urgent" and thus had to be canceled, as they were prohibited under the governor's orders.

In short, the eye clinic claims it was unable to conduct normal procedures, which resulted in losses that should have been covered under the business income and extra expense provisions of their insurance policy.

Back2Health Chiropractic Center, LLC, v. The Hartford Financial Services Group, Inc.

In this case, the chiropractic center sued Sentinel Insurance Co. in federal court in New Jersey in a class-action lawsuit for business interruption losses related to the COVID-19 civil authority closures. The chiropractic center alleged that the all-risk commercial property policy that it had in place provided coverage for business interruption and extra expense, and coverage for the actions of civil authorities. This complaint also alleges that the virus exclusion does not apply in the context of a global pandemic.

SHOPOHOLICS WOES

Brick-and-mortar shopping virtually ceased when coronavirus non-essential closures took effect. Only grocery stores and pharmacies avoided shuttering.

Thousands of shops closed, and many will not return. Here are some of the resulting insurance lawsuits.

Daneli Shoe Co. DBA Footwear Etc., v. Valley Forge Insurance Co.

Daneli is a retail shoe company that sued its insurer, Valley Forge Insurance Co., in California state court, alleging that Valley Forge wrongfully denied its claims for business interruption losses due to state closures spurred by COVID-19.

The complaint alleges that even though the company is able to maintain sales of footwear online, the state-mandated closure of its 11 brick-and-mortar stores caused a substantial loss in business income that will continue into the foreseeable future.

Mayssami Diamond, Inc. v. Travelers Casualty Insurance Co. of America

Mayssami Diamond, Inc. sued its insurer in California state court, alleging that Travelers wrongfully denied its claim for business interruption losses after California closed non-essential businesses due to COVID-19. The complaint alleges that the policy specifically includes fungi, bacteria, and virus coverage, and that the property loss suffered was due to the closure orders and the theory that infectious virus droplets could be present on surfaces and objects around the jewelry shop.

The complaint also alleged every surface and object in the store was implicated.

Mudpie v. Travelers Casualty Insurance

Mudpie Inc, a family-run children's boutique and gift shop in San Francisco, filed a class-action lawsuit against its insurer for failing to pay COVID-19 business interruption claims. The store had to shift to solely online sales and curbside offerings. Mudpie had comprehensive commercial liability and property insurance from Travelers to insure against risks that the business might face. Mudpie's owners filed a claim with Travelers to recover losses suffered due to business interruption, but the claim was denied. Travelers noted that the policies contained very specific virus and bacteria exclusions.

UNCOIFFED, UNPOLISHED

Salons and barbershops also shut down nationwide to mitigate the the spread of the coronavirus. Despite changes to unemployment procedures allowing stylists and the like to collect enhanced unemployment during the pandemic, the shutdowns kickstarted illegal, in-home beauty services.

Such defiance of salon closures led to arrests, fines, and license revocations. Some salon owners still relied on their insurance policies to provide coverage for the income lost due to coronavirus closures.

What follows are a few examples.

Barbara Lane Snowden, DBA Hair Goals Club v. Twin City Fire Insurance Co.

Although not a salon or barbershop, Hair Goals Club is a wig shop intended to help women who lose their hair during chemotherapy. Wigs improve cancer patients' quality of life, but getting a wig requires spending time in the store to make and fit the hairpiece, a process not unlike a salon service. Barbara Snowdon opened Hair Goals Club in November 2019, just to turn around and shut the doors in March 2020 after local officials ordered all non-official services to close. Snowdon had purchased an insurance policy covering unexpected losses, but quickly received a denial of the claim from her insurer, citing lack of physical damage.

Forfex LLC dba Supercuts, v. Hartford Underwriters Insurance Co.

The owner of a few Supercuts hair salon franchises sued Hartford Underwriters in federal court for wrongful denial of its claim for business interruption losses due to COVID-19 closure orders in Arizona. The complaint contains allegations that Hartford accepted policy premiums with no intention of providing any coverage for business losses or the civil authority extension due to a loss and shutdown of the business. The complaint also argued that the virus exclusion provision in the policy did not apply to the pandemic.

VACATION, ALL WE EVER WANTED

The leisure and hospitality industry suffered substantial losses in revenue in the wake of coronavirus and continues to weather economic uncertainty in the months ahead. According to the American Hotel and Lodging Association, since the beginning of the pandemic, thousands of hotels have closed for good. The hospitality industry reportedly lost more than $40 billion in room revenue between February and August. The impact of COVID-19 to the travel industry is predicted to be 9 times worse than 9/11.

Nola Group Hotel v. Starr Surplus Lines Insurance Co.

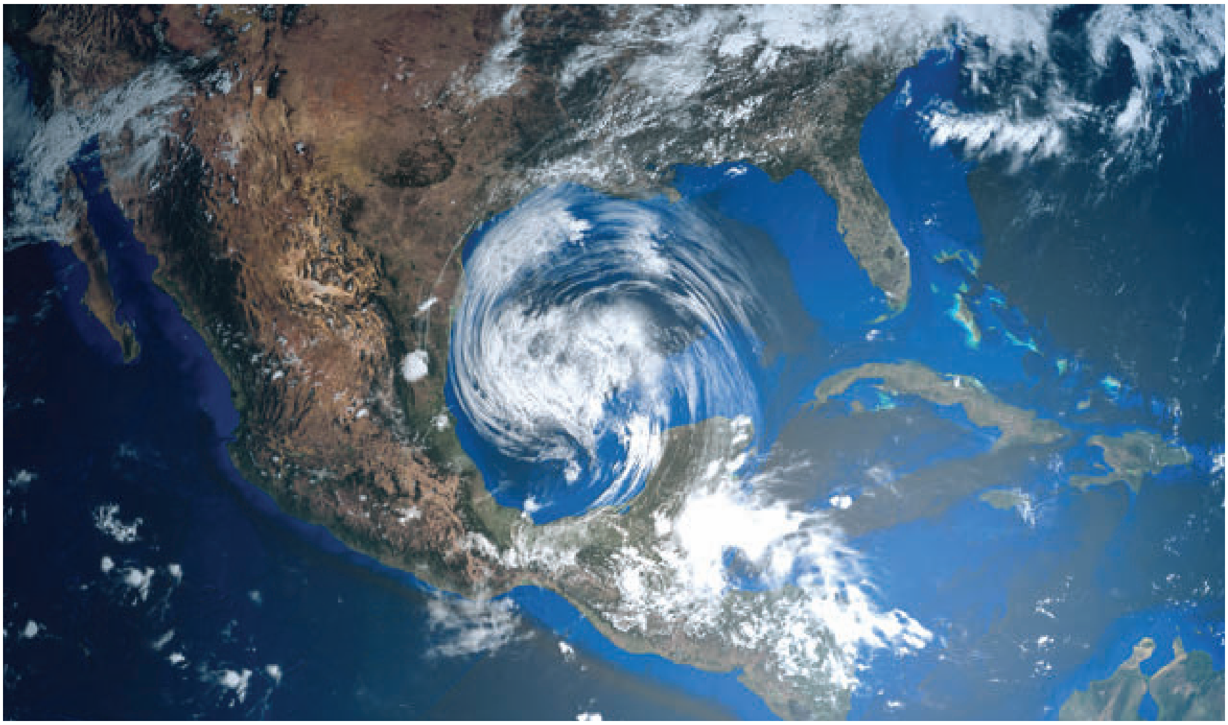
Here, the policyholder, Nola Group, operates six hotels in New Orleans. The suit, filed in federal court in New Orleans, argues that government-imposed restrictions intended to limit the spread of COVID-19 caused Nola Group to suffer direct physical damage. The group had an all-risk policy that provided coverage unless the risk was specifically limited or excluded.

STAY TUNED

Although these claims cover a wide range of industries, the dominant conflict is the same. Companies believed they were paying premiums for insurance that would provide them coverage when a loss occurred, which includes an unforeseen catastrophe like the pandemic. So far, courts have ruled in favor of insurers in cases of business interruption coverage vs. COVID-19. But the vast majority of these cases are still yet to be seen. NU

Hannah E. Smith, J.D. and CPCU candidate, is editor for the Insurance Coverage Law Center. She can be reached by sending an email to hsmith@alm.com.

Karen Griswold
@chubb



Hurricane Season Headaches

CARGO OWNERS AND THEIR RISK MANAGERS CONTINUE TO WRESTLE WITH SUPPLY CHAIN DISRUPTIONS DUE TO THE GLOBAL PANDEMIC.

Tropical storms and hurricanes are perennial occurrences, but the 2020 season is unique as it arrives during a global pandemic that has widely impacted the world's population and disrupted supply chains everywhere.

Researchers recently revised their forecast for the 2020 Atlantic hurricane season and are now predicting up to 25 named storms.

As many as 11 of them are predicted to be hurricanes, with three to six packing winds of at least 111 miles per hour, the National Oceanic and Atmospheric Administration says. And as markets re-open from pandemic closures, expect higher volumes of goods in transit.

Brent Moritz, associate professor of Supply Chain Management at Penn State Smeal College of Business explains that with COVID-19, unlike a hurricane, supply chain disruption is unique in its global scope and impact.

In addition, the ultimate size and duration of the impacts of COVID-19 on the supply chain are not yet clear.

Severe storms generally strike one place at a time and for a relatively limited duration, according to the trade publication Modern Materials Handling. As risk managers consider mitigating cargo risk during this hurricane season, they must consider it against a holistic backdrop of ongoing threats to the global supply chain.

THE CHALLENGE OF PROTECTING CARGO

What follows are some timely tips that cargo owners whose goods are transported through or stored in hurricane-prone areas should consider as they forge their way through the disruptions of a pandemic, while bracing for the likelihood of major storms.

- **Expand your vendor universe.** To keep your supply chain viable during COVID-19

Supply Chain Mapping: A Practical Loss Mitigation Practice
A useful exercise for cargo owners trying to wrap their heads around the full extent of their exposures is supply chain mapping, which would include charting both upstream and downstream routes. Optimally, this allows cargo owners to identify the locations of their main suppliers' facilities as well as locations of Tier II and Tier III providers that support them. Cargo owners can then overlay locations of ports, warehouses and distribution centers and assess exposure to storm-related shutdowns and disruptions. This data provides a way to rethink traditional practices and potentially align with new vendors that present less risk.

and hurricane season, flexibility is key. Expanding your ability to respond to evolving situations also is critical. For example, you may want to consider lining up trucking and rail capacity to give your company a better chance of accessing inland transit when a storm is imminent or normal options may be backlogged or unavailable.

- **Leverage real-time information.** In addition to monitoring long-range weather forecasts from NOAA, local media and private services, companies should consider partnering with tech vendors that combine artificial intelligence, machine learning, and Internet of Things (IOT) sensors to detect and monitor the impact of events in real time (for example, if flooding is threatening warehoused goods). When a storm is imminent, and with the ongoing unpredictability of the pandemic, companies should also keep current on available data from port websites and freight forwarders as well as industry bulletins and alerts that describe congestion and clearance backlogs that could delay shipment or release of goods and possibly create the need for alternative storage locations.
- **Plan to circumvent hurricane season.** Severe storms can close ports, suspend maritime cargo movement, reduce truck transport hours and ground airplanes. Given that, importers and exporters may want to rethink logistics and, for example, begin storing critical items in a centralized location away from traditional storm paths, and staging lower cost goods in locations that can serve local markets more efficiently and inexpensively.
- **Assess cost-benefits of different transportation modes.** For example, is switching from longer ocean voyages to next-day airfreight worth the substantial extra expense? One COVID-related caveat to keep in mind is that certain express shipments may be delayed to make way for deliveries of essential goods. Similarly, during hurricane season, rail and trucking companies may be tasked to prioritize transport of building materials. Another alternative is to partner with ocean carriers and intermediaries, such as freight forwarders with dynamic routing capabilities — those nimble enough to discharge your cargo at an earlier or later port of call to dodge an approaching storm.
- **Monitor accumulation exposure.** Companies should carefully consider their accumulation exposure at warehouses, distribution centers, marine terminals and ports in vulnerable, low-lying areas and in other locations, too. Recent storms have underscored the unexpected but very real danger of inland flooding outside of traditional flood zones.
- **Keep up to date on readiness all along the line.** Cargo owners should ensure that their logistics partners are suitably prepared. Specifically, be sure that facilities with the care, custody and control of your cargo have viable plans and practices in place.
- **Conduct a thorough checkup of property and cargo insurance.** Coverage should be carefully reviewed to ensure it encompasses all desired storm perils — from flood and windstorm to hail, and that it has adequate limits for your exposure. Business interruption coverage is typically not included in ocean cargo or marine policies, but you should review the business interruption insurance provided under your property policy in the context of storm season. Work closely with your insurance brokers to understand what's covered and what's not, and adjust accordingly.

TODAY MORE THAN EVER...

We see how unpredictable the world can be. While cargo owners can't control Mother Nature, they can develop preparedness and contingency plans to minimize supply chain disruptions due to damaged or delayed shipments.

For those that do it best, sustainable planning can be a competitive advantage throughout all four seasons. NU

Karen Griswold (kgriswold@chubb.com) is senior vice president of Underwriting, NA Property & Specialty, Chubb.

Bryan Falchuk
@bryanfalchuk

How to Succeed — Right Now

LEADERS AT SEVERAL INSURANCE COMPANIES SHARE WHAT THEY'VE LEARNED ABOUT THE PATH TO INNOVATION AND HOW TO KEEP MOVING FORWARD.

In my new book, "The Future of Insurance: From Disruption to Evolution," I share case studies from seven carriers — CSAA, CNA, The State Compensation Insurance Fund (SCIF), Ohio Mutual, EMPLOYERS, AXA XL and USAA — that have found a path to innovate and evolve to meet or exceed customer expectations and keep up with new entrants.

The following seven key lessons emerge.

THE WAY FORWARD

Customers hold the answers, so ask them. Firsthand feedback from insureds is invaluable. This can be hard if you have distribution partners, as they may be concerned about you directly engaging their customers, or they may be interpreting what they hear and passing it to you through their lens.

Even direct writers, however, can miss what customers are genuinely asking for. It is crucial to engage customers on what they want from you and how they want it. Stay focused on that rather than what you think they want.

Engage your people in your efforts. People in all positions and at all levels have firsthand knowledge of what is and isn't working well, what customers are thinking or could benefit from, and how to help the company run better.

Unfortunately, most of these thoughts go unheard or unheeded. Instead, engage your entire organization in the quest to make things better, and grab the opportunities in front of you.

This has to be more than lip service. Staff need to be the ones doing the innovative work, and their ideas need to come to fruition.

Celebrate your failures, and learn for next time. Not every idea, whether from customers, employees or others, will work out. And that's ok. It is as important to celebrate your failures as it is to recognize your wins.

These Days, Customer Experience is Everything

Customers are demanding a different experience from every company they do business with. For years, insurance was behind the curve in meeting these demands. Customers simply dealt with it.

That has changed — and changed rapidly. As more of their lives are on-demand, digital and flexible, customers' willingness to accept an experience that is not those things is evaporating.

At the same time, a new generation of carriers has emerged, enabled by technology to be free of some of the constraints that have prevented the industry from meeting changing customer expectations.

People need to know it's ok to raise their hands, to speak up and to try.

All too often, we try to sweep failures under the rug and avoid talking about them when analyzing what went well, what didn't, and what we can learn for next time can be just as impactful as the idea that moved ahead.

In the SCIF case, employees came up with dozens of innovative ideas. Eighteen of them moved forward. But the 12-plus that didn't also were important and got recognition.

Age is not an indication of quality. While working at an InsurTech, I heard several carriers say they can't work with any company less than X years old because there's a lot of snake oil being sold by these unproven companies.

The age of a company is not a proxy for quality, nor does it mean you don't need to do your due diligence and make sure a solution is what it's said to be.

Today's modern tools can be used to build solutions much faster than before, while plenty of decades-old companies still struggle to deliver on their promises. Instead, dig into their solution.

Test it out with pilots or test deployments. Talk to other customers. You wouldn't promote someone because of how long they've been in a role, but because their ability to deliver in the new role warrants it. Select your providers on the same basis.

"This is how we've always done it" is a radar signal of where to focus your change efforts. For some carriers, progress can be stalled when they hit changes to the way they've always worked.

Often, there is no rational explanation for working this way beyond the history of doing so. When you come up against one of these moments where the only real push back to a new idea is that "we have always done it this way," use that as a marker for an area that needs further investigation and challenge.

Not every idea, whether from customers, employees or others, will work out. And that's ok.

Breaking through in these spots can be the impetus for unlocking growth in an organization.

"We don't understand" should not be a reason to say "no" to an idea. New approaches and solutions often include things companies have never done before. That can create discomfort and fear.

A natural response to something we don't understand can be to say, "no," and move onto the next stack of to-do items. I have seen this especially in the context of internal risk assessment, compliance and legal reviews.

If we don't know, we need to get more comfortable saying so, and then learn more so that we can understand more. The answer may still be that you can't do that particular thing, but at least you will know why and may discover an alternative solution that does work.

Seek partners with empathy, not hubris. Many new insurance-industry providers and carriers often start their ventures with the premise that insurance is broken and they know how to fix it.

And, generally, they believe those in the industry today are not capable of solving these issues themselves. This is a recipe for missing what matters along with complications that may exist under the surface.

When selecting partners, look for those who want to understand the insurance industry and what life is like for those they are helping.

For example, if you're evaluating a solution to help claims adjusters, if no one in the company has experience adjusting claims, they may be missing the real depth and nuances of the job. NU

Bryan Falchuk (bryan@insurance-evolution.com) is the managing partner of Insurance Evolution Partners and the author of "The Future of Insurance: From Disruption to Evolution." This article is reprinted from insurance-evolution.com with permission.

Jessica Scelzi
@TheZebraCo

How to Sooth Worried Insureds

A RECENT SURVEY FOUND THAT ANXIETY ABOUT SEVERE WEATHER IS ON THE RISE. HOW CAN INSURERS COMFORT THEIR POLICYHOLDERS?

In an industry built on predicting risk, not even the most sophisticated tech can help forecast big weather events with 100% certainty. It follows that insureds are anxious about the damage they could sustain in a natural disaster.

At The Zebra, we recently conducted a survey to gauge consumer sentiment regarding weather events and insurance. We found that people are uninformed, underprepared and worried about their ability to recover.

As we head into what could be a rougher-than-normal hurricane season, paired with ongoing economic uncertainty, insurers face a mounting opportunity to provide consumer education that can help close the knowledge gap and at the same time reduce anxiety.

WORRIED ABOUT BELONGINGS

Seventy-five percent of respondents told us that they fear their homes, cars or other belongings could be damaged by a natural disaster in the next year. Adding to their anxiety, many people remain unsure about their insurance coverage.

Only one in four respondents was able to identify which disasters their insurance policies covered. Almost half (42.5%) of them said they were worried they had inadequate or incorrect insurance to protect themselves in case of a natural disaster. Twenty-nine percent admitted they didn't exactly know what their car insurance covers.

INSURANCE LEARNING CURVE

This isn't new, but these findings do illuminate the opportunity that insurance professionals have to better equip policyholders to become less nervous about, and better prepared for, disasters if and when they do hit.

Here are some ways that insurance professionals can better aid their insureds:

> Our survey found that in the western United States, earthquakes are a chief concern. In the Midwest, it's tornadoes, hurricanes in the South, and severe thunderstorms in the Northeast.

Identify specific pain points. Our survey found that in the western United States, earthquakes are a chief concern. In the Midwest, it's tornadoes, hurricanes in the South, and severe thunderstorms in the Northeast.

There are misconceptions nationwide about flood insurance. While 28% of respondents believed their property was covered, only 12% of condo owners and 18% of homeowners had purchased flood insurance.

Focus on what concerns policyholders. This is not only the most common or headline-grabbing events. Knowing what's making your customers most anxious — and then offering them resources that can help them better understand these issues, how to prepare and what their policies cover — could go a long way in making them feel better prepared.

Encourage incremental fixes. Thinking about disasters can be overwhelming. It can cause some people so much anxiety that they're rendered inactive. One in five survey respondents reported that they'd taken no steps to prepare for a severe storm or natural disaster. Another 20% reported having no emergency fund to help them recover.

Sometimes even the smallest of moves toward preparing for something as potentially damaging as a natural disaster — creating an emergency preparedness kit, socking away a few dollars per paycheck — can make people feel much more prepared to face the uncertain, and empowered to do even more to protect themselves. Share tips for how to make simple, manageable changes.

Meet people where they are. Provide "always-on" educational content that can help consumers learn more about their coverage before disaster strikes. You already know the importance of offering these materials in clear, easy-to-understand language, but make sure you're also sharing it via a variety of media. Some people prefer to learn from video; others, printed materials; some may find it helpful to listen to a breakdown of common weather prep tips via podcast during their commute. Use multiple touchpoints all year long, not just during a particular season.

Let your human element shine during (and after) a disaster. Education isn't just about prep work. And losing property or belongings during a weather event is, for the majority of those who experience it, largely uncharted territory; be sure you're providing resources and support when people need them most. How might your claims department share more information to aid those affected through a difficult time? Is it providing a list of local organizations, beyond your own, that can help immediately? Offering support as people rebuild in the immediate aftermath? Providing advice for how people can look toward the future? Resist the urge to flip to "all business" mode; a little humanity can go a long way.

BASIC PREPAREDNESS INFORMATION

While there's no way to be severe-weather proof, insureds can prepare themselves ahead of time so when the next big weather event occurs, they might minimize the impact as much as possible. Here are five tips from The Zebra for riding out the next extreme weather event:

Familiarize yourself with weather trends. Simple research will get you up to speed quickly.

Sign up for weather alerts. There are a few main alert systems used by public safety officials to notify people about imminent severe weather.

Check your stuff. Don't wait until a storm hits to assess your assets.

Give your family the 411. Make sure you're on the same page with family members when it comes to a severe weather game plan.

Are you properly insured? What may not be covered? Events such as interior water damage from a storm aren't covered under standard policies. Damage from floods or earth movement won't be covered, either. Who better to provide such education than trained insurance professionals? NU

The Upshot

Eighty-one percent of survey respondents said they'd taken at least one step to prepare for a disaster — whether that was putting money aside to pay for repairs, assembling an emergency kit or making home improvements to better protect their belongings. To me, this demonstrates a willingness to act on the anxiety about severe weather, by learning more about what policies cover and how to best prepare.

Jessica Scelzi is chief commercialization officer at The Zebra. To reach her, send email to press@thezebra.com.

Heather Turner
@PC360_AandB

Specialization Equals Success

INSURANCE AGENTS AND BROKERS WITH SPECIAL EXPERTISE HAVE THE POWER TO REVOLUTIONIZE THE POLICYHOLDER EXPERIENCE.

Mike Furlong is CEO and co-founder of Indio Technologies, a company that produces a modern solution for insurance application and renewals.

Indio is an InsurTech that believes in the immense value of insurance agencies. Despite this value, agencies are often ill-equipped to provide customers with a modern digital experience.

Furlong is in a unique position to have a window onto the processes, efficiencies and needs of the modern insurance agency. He recently talked with NU about why he sees specialization as key to success for insurance agents and brokers.

NU: For generalist brokers, what are the common reasons they are hesitant or choose not to specialize?

Mike Furlong: For generalist brokers, their mindset is often centered on covering as many industries as possible. They tend to feel that specializing limits their opportunities since they're honing in and focusing on one specific industry instead of a variety. What they overlook is that specialization can in fact greatly improve their business because they're able to form strong industry relationships, increase productivity, reduce competition within their chosen field, and make daily operational tasks more efficient.

NU: How can specializing impact a broker's business in a positive way?

MF: With specialization, we're seeing brokers positively impact and improve their business in a variety of ways. Specialized brokers have the ability to take advantage of new opportunities that enable them to better serve clients.

To start, specializing can help brokers enhance their sales and marketing tactics. Today's clients expect tailored services across industries, including insurance. Brokers who specialize are able to cater to those needs based on their experiences

> "For generalist brokers, their mindset is often centered on covering as many industries as possible."
>
> — Indio Technologies CEO and Co-Founder Mike Furlong

and what they're seeing unfold in the industry. From there, they can foster enduring relationships with clients by catering directly to their needs, ultimately helping increase a client base and improving retention.

Brokers can also develop and strengthen their network by attending industry events and meetups that cater to their specialization. Consider cannabis, autonomous vehicles and cybersecurity. These are just a few growing industries where we're seeing broker specialization.

By attending events and conferences catered to these markets, brokers can build relationships and increase their name recognition, helping generate more business.

Brokers who specialize are also able to develop product expertise in their selected field, leading to increased productivity, workflow, and more efficient operations. In order to be seen as a credible, go-to-source within a specialized field, brokers must really know that industry. By increasing their knowledge on an industry topic, brokers better understand the needs of their clients, providing them with the tools they need to provide unmatched service.

Lastly, specializing provides brokers with the opportunity to focus on a niche that is of interest to them both personally and professionally.

NU: What are the cons to specialization?

MF: Specialization requires brokers to devote a large amount of time and energy to becoming experts in their fields. In order to become credible specialists, they must conduct market research, review trends and news, and stay up to date on all the ways in which their clients can be impacted by their niche industry. While brokers aren't able to become specialized experts overnight, the benefits of offering this type of service to clients is worth the effort.

NU: How do consumers perceive specialists? Are they more likely to use a specialist or are they okay with using a generalist broker?

MF: While choosing a broker comes down to personal preference, consumers who decide to move forward in working with specialists can often find that they're able to take advantage of the benefits that generalist brokers aren't always able to provide. This includes more targeted, direct coverage that is tailored to their area of focus, and a new level of expertise and guidance regarding industry-related risk.

NU: Do you have any advice for new brokers who may want to specialize?

MF: Now more than ever, businesses need specialized insurance assistance in popular and trending markets. Professionals responsible for applying and/or renewing insurance are often unsure of their risk exposure or what coverage they need. Being able to help these businesses by specializing in a particular niche provides brokers with a new opportunity to offer more value and expertise to clients than ever before. If interested in following this path, brokers must do the following:

Carve out your specialty and become an expert in it. Brokers must know the ins and outs of their niche in order to speak with authority on the topic. This is incredibly important in order to be viewed by potential and established clients as a credible advisor.

Follow your market. Brokers need to demonstrate their knowledge and understanding of their area of specialization. Attending conferences, meetups and industry events that are centered around their focus helps increase industry awareness. Brokers must also review trends, news, and changes that might affect their clients and assess risk on a regular basis. This will allow them to provide extraordinary service to clients with their attention to detail and knowledge of the industry.

Utilize technology. Brokers who utilize technology can focus more on developing their specialization capabilities and providing unmatched customer service than wasting time on manual tasks. NU

Working in Insurance: Agents, Brokers and So Much More

The insurance industry is a major U.S. employer, providing some 2.8 million jobs in 2019 that encompass a wide variety of careers, including engineering and data science, human resources, public relations and financial analysts. Some jobs, such as claims adjusters, actuaries and insurance underwriters, are unique to the insurance industry. But other roles are also needed, such as art historians and drone pilots.

— Insurance Information Institute

Heather Turner (hturner@alm.com) is digital managing editor for *NU Property & Casualty* and PropertyCasualty360.com.

Erwann Michel-Kerjan
@McKinsey

Innovation Bolsters Resilience

DIGITAL DISTRIBUTION IS NO LONGER A DIFFERENTIATOR FOR INSURANCE CARRIERS. THIS YEAR HAS PROVEN THAT IT'S A MATTER OF SURVIVAL.

The COVID-19 pandemic has disrupted the P&C operating model and added complications to an already quickly evolving risk landscape. The pandemic also has accelerated the shift to digital channels: Physical distancing measures mean face-to-face interactions between customers and insurers are not feasible in the near term. That trend has intensified the need for insurers to incorporate data and advanced analytics at scale and find new ways to connect with customers.

Increased access to data, analytics and digital technologies was already changing the game in several areas of the insurance value chain, such as underwriting and pricing. Many P&C carriers, however, have yet to tap the full potential of those tools and technologies across their business.

In part, this is because insurance carriers have fared well enough with traditional methods and were slow to make necessary investments. The predominance of legacy IT systems also means many insurance companies must modernize their infrastructure to manage digital interface requirements and increasing data volumes expected via digital distribution — a costly and complex endeavor.

But in the current environment, P&C carriers must speed up digital adoption and take action to develop capabilities and meet increasing customer demand for immediacy and continuity.

Digital distribution, when integrated effectively with established and resilient traditional channels, is no longer just a differentiator but a matter of survival.

Ecosystem distribution is already growing and disrupting traditional distribution models. It is estimated that more than 30% of global personal lines' P&C premiums will be distributed via ecosystems by 2030, particularly via products and markets where ecosystem orchestrators and distributors own the last mile and the brand.

Agents and insurance companies will not vanish, but they must now work together to build the right digital channels and capabilities to keep pace with the distribution disruption.

Even before 2020, the P&C agent model was suffering. According to a McKinsey analysis of personal lines, from 2009 to 2017, direct distribution significantly upped its share in U.S. personal auto insurance, with a moderate increase in penetration among homeowners insurance. At the same time, the independent agent channel has held onto its market share in personal auto and significantly grown in homeowners. In contrast, the captive channel lost seven to nine percentage points of market share in both segments.

Now, COVID-19 is further testing traditional business models. According to a recent McKinsey survey of U.S. agents conducted in May 2020, less than 5% of agents had any in-person conversations with customers, compared with a January 2020 survey finding where nearly 70% of life insurance agents' ongoing customer conversations were conducted in person. These findings highlight the urgent need for digital and remote interaction models, and digital tools that can facilitate customer, agent and carrier communications.

Insurers need to integrate digital solutions and tools in their daily operations while also making those tools available to agents and brokers. In the medium to long term, we also anticipate an accelerated shift toward omni-channel, with more digital interaction between agents and customers despite the fact that new business is slowing.

No Turning Back
The COVID-19 pandemic has accelerated customers' desire to interact with carriers and agents via digital channels. Even after physical distancing measures are lifted, the increased use of digital interactions is likely to endure. The P&C industry now faces an even greater imperative to improve digital distribution capabilities, ultimately creating a better customer experience while retaining top agents.

THREE IMPERATIVES

Carriers that prioritize digital distribution and data and analytics now can increase their resilience and help agents secure their future. To support the move toward digital, P&C carriers need to focus on the following three areas:

Invest in partnerships to acquire data and support sales. Insurers historically spent more than half of any new premiums on customer acquisition via agent commission and overrides. Now, to lessen that financial burden, more insurers are exploring partnerships with digital players as an effective way to reduce the cost of customer acquisition and find ways to distribute new products. Insurers will need to gain privileged access to user behavior data, which will require cultivating the right partnerships and determining what data is essential.

Indeed, amid COVID-19, there is even more pressure on insurers to make sales, which means this is a good time to think about insurance marketing organizations (IMOs) or affinity relationships.

Expanding distribution partnerships could also help sales teams provide products to more customers in need while maintaining sales volume in a time of crisis.

Optimize distribution of products to meet digital demand. Carriers will increasingly face competition from multiple industries that have voice- or remote-control devices used in homes (such as telecom boxes, smart-utility meters, and voice assistants).

However, the contextual data from these devices (accessed via strategic partnerships) can reveal market opportunities and potentially help carriers develop new products and effectively distribute them.

For instance, we know that auto insurance coverage is changing due to the popularity of ride-sharing and less vehicle ownership. As insurers adapt their policies and products, they will need to meet the current needs of the market and customers while also being simple enough to purchase via digital channels.

Build digital capabilities and acquire the right talent. Many insurers and agents do not have the technical skills required to interact productively with customers via direct channels and meet their evolving needs and preferences, so they will need to approach capabilities and skill-building strategically.

Carriers can promote digital channels across all segments of the value chain, from equipping agents with remote capabilities to supporting customer engagement through digital payments, submissions and claims. For instance, carriers might invest in advanced analytics that can help agents better distinguish the right moment to facilitate conversations with customers about a specific insurance offering based on previous responses and behaviors.

Organizations could also focus on hiring agents and employees who have the appropriate technical skills (or can develop them) to interact with customers on their terms via digital channels. This is important because it helps agents and insurers build lasting customer relationships. NU

Erwann Michel-Kerjan (Erwann_Michel-Kerjan@mckinsey.com) is a partner in the Insurance Practice of McKinsey & Company.

Cheri Trites-Versluis
@riskgenius

Renewal Language Scrutiny

COVID-19 LITIGATION IS GENERATING A RESURRECTION OF ARGUMENTS ASSERTED AT THE HEIGHT OF ASBESTOS AND SILICA COVERAGE LITIGATION.

A recent class-action lawsuit filed by the owner of The Crescent Plaza Hotel against Zurich American Insurance Co. in the Northern District of Illinois illustrates the reappearance of an argument litigated numerous times.

The Crescent Plaza Hotel's lawsuit alleges Zurich's addition of a Communicable Disease Endorsement to its commercial property policy at renewal implies that coverage for COVID-19 losses existed prior to the Communicable Disease Endorsement, according to the case filing.

Interestingly, Zurich had not expressly denied the business interruption claim submitted by the Crescent Plaza Hotel at the time the suit was filed. The Crescent Plaza Hotel relied on Zurich's denial of other customers' business interruption claims and statements made by Zurich's CFO, George Quinn, that "Zurich's business interruption coverage 'wording typically includes a virus exclusion [and] more than 99% of [Zurich's] contracts in North America will have that wording.'"

It contends that Zurich's widescale denial of business interruption claims combined with Quinn's public statements create an effective repudiation of coverage under the policy.

EXCLUSION TIMING QUESTIONED

According to the complaint filed by The Crescent Plaza Hotel, the expiring policy contained specific exclusions for microorganisms and biological materials, but not for virus or disease. At renewal, Zurich included a Communicable Disease Endorsement excluding coverage for losses arising out of the transmission of disease.

Does Zurich's inclusion of a Communicable Disease Endorsement at renewal imply coverage for losses arising out of pandemics in its expiring policy?

Courts in several jurisdictions considered a

Why These Decisions Matter

The majority position supports the conclusion that a carrier's addition of a Communicable Disease Exclusion does not imply that coverage for losses arising out of viruses existed prior to the addition of the exclusion. The Crescent Plaza Hotel conveniently ignored that it must establish coverage exists under the Zurich policy before the burden of proving the applicability of exclusion shifts to Zurich. Regardless, pursuant to existing case law, Zurich's addition of the Communicable Disease Endorsement should not render any existing exclusions ambiguous or imply coverage for losses caused by a virus are otherwise covered by the policy.

similar question presented during the widespread asbestos and silica coverage litigation. Specifically, courts considered whether the addition of a specific exclusion endorsement made the absolute pollution exclusion ambiguous.

RELEVANT CASE LAW

In *Above It All Roofing & Construction, Inc. v. Security Nat'l Insurance Co.*, the court considered whether interpreting "pollutant" as including asbestos rendered the addition of an Asbestos Exclusion Endorsement "superfluous." The insured argued that because the policy definition of "pollutant" did not specifically include "asbestos," asbestos did not qualify as a "pollutant" as defined by the policy.

The court rejected the insured's argument, stating that it was "not persuaded that an Oklahoma court would require an insurance policy to include every potential 'pollutant' in its definition of the term."

In reaching its conclusion, the court cited prior decisions rejecting the argument that the existence of a separate exclusion for asbestos created an ambiguity in the absolute pollution exclusion.

Next, consider *RLI Insurance v. Gonzalez*. Here, the court rejected the insured's argument that the inclusion of an Asbestos Exclusion was evidence that the general pollution exclusion did not apply to silica dust claims: "'[S]uperfluous exceptions are commonplace' in insurance contracts and 'have the effect merely of mak[ing] assurance doubly sure.'"

Thus, the court concluded the pollution exclusion barred coverage for the injuries arising out of exposure to asbestos, regardless of the inclusion of an Asbestos Exclusion Endorsement.

> According to the complaint filed by The Crescent Plaza Hotel, the expiring policy contained specific exclusions for microorganisms and biological materials, but not for virus or disease.

Similarly, in *Garamendi v. Golden Eagle Insurance Co.*, the court analyzed whether a carrier appropriately denied coverage for "bodily injury" claims arising out of an employee's inhalation of silica dust. Challenging the denial, the insured argued the absolute pollution exclusion did not preclude coverage for silica claims because the carrier added an endorsement specifically excluding "coverage for claims based on exposure to asbestos, a natural product like silica."

The insured asserted that because there was no comparable endorsement for silica, "a reasonable insured would understand that the pollution exclusion does not apply to claims for exposure to silica."

The court rejected the insured's argument, reasoning, "[i]n light of the widespread asbestos litigation that has been ongoing for approximately a half-century, it is not surprising that an insurer seeking to exclude coverage for asbestos claims would include an explicit provision making that exclusion unmistakably clear."

Thus, the court entered judgment in favor of the carrier finding the absolute pollution exclusion negated coverage for the silica claims.

The case serves as a reminder to carriers to pay close attention to their policy wordings at renewal. Carriers should engage in a comprehensive analysis of policy language in expiring policies to determine whether the included wordings effectuate underwriting intent and seize any opportunity to bolster that intent. NU

Cheri Trites-Versluis (cheri@riskgenius.com) is the director of policy analysis for RiskGenius, makers of an insurance-focused, cloud-based policy research tool.

Now is a Time for Action, Education

INSURANCE PROVIDES MANY BENEFITS TO SOCIETY THAT ARE SOMETIMES OVERLOOKED IN THE WAKE OF THE CURRENT WAVE OF DENIED COVID-19 CLAIMS AND COVERAGE LAWSUITS.

BY ANTHONY NATOLE

The COVID-19 pandemic is proving to be the most severe financial crisis we have seen in the last decade.

Now more than ever, insureds need to understand every business risk they face, take a deep dive into their insurance policies, and understand that insurance is only one factor of risk management.

It also is a time for insurers to identify the risks they are undertaking and make sure that insureds are aware of what is covered, what is excluded, and what can be supplemented with an endorsement.

THE GREATER GOOD

Insurance was historically a benefit to human society. It's getting a bad rap now because of carrier contractual rights, which allow insurers to deny pandemic-related business interruption losses.

Following the 2003 SARS outbreak, insurers added a standard pandemic exclusion to their policies. To trigger such business interruption coverage, there must usually be some aspect of property damage.

How this will apply to coronavirus coverage will most likely be addressed in the courts.

If carriers are now forced to pay the majority of business interruption losses, the effects would be devastating. This scenario could cripple or bankrupt one of the most important industries and a key element to our modern world's global economic infrastructure, resilience and sustainability.

Underwriters have specialized in making a profit by helping insureds protect their property and livelihoods. They're designed to take on risk and pay out when disaster strikes.

Legitimately, insurance companies provide reliable insurance products for a fair market price. The profits they earn go toward paying claims, reserves for other losses, and investment, which ultimately allows them to grow, offer insurance at better rates, enter new markets, and pay dividends to their investors.

Insurers have investors and stakeholders like every other business. Mutual insurance companies such as FM Global are owned by policyholders. These are highly sophisticated organizations that service millions of people around the world.

The industry doesn't deserve a bad rap for effectively doing its intended job. There are plenty of business interruption claims being paid based on existing policy wording, endorsements or ambiguities therein.

DISASTER RECOVERY

Too little credit was given to Hank Greenburg and AIG for being one of the first underwriters to step up and affirm coverage following the events of Sept. 11, 2001, considering many policies at the time had terrorism exclusions.

Can you imagine where we would be nearly 20 years later if it weren't for insurance? Financial firms like Cantor Fitzgerald were nearly wiped out of existence!

Underwriters insure risks that range from common health, auto, homeowners, renters and life insurance policies to more sophisticated lines like cyber, commercial property & casualty, marine, D&O and E&O.

Besides being the backbone and on the frontlines of economic disasters, the industry offers an eclectic array of dynamic, challenging and satisfying work. Risk management and insurance offers countless types of jobs.

According to Statista, there were about 2.69 million people employed in the U.S. insurance sector as of 2018.

When people decide to enter the insurance industry, they can choose to be a broker, insurance agent, claims professional, subrogation specialist, actuary, or any number of other specialists who work in and support the industry.

Whatever the choice, insurance is a noble profession that plays a key role in the global economy. NU

Anthony Natole, CPA, is the managing principal of Risk Accountants LLC. Contact him at anatole@riskaccountants.com.

AD INDEX

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