

## Message from the Chair

by Joseph F. Menschik, CPCU



**Joseph F. Menschik, CPCU**, is the owner of Menschik Insurance Services, in Blauvelt, N.Y. Menschik received a bachelor of business administration in insurance from the City College of New York in 1965 and his CPCU designation in 1975. An active member of the CPCU Society, Menschik has served as a governor, a chapter president and a committee member.

I open my column by expressing my sincere appreciation to **Ellen M. Clements, CPCU, ARM, CIC, CPIW**, who, after many years of producing excellent newsletters for the Agent & Broker Interest Group, is stepping down as newsletter editor. I am pleased to share, however, that Ellen will continue to serve as a committee member. Taking over as editor is **Carolyn "Cal" J. Durland, CPCU**, a new member of our committee, who I'm certain will bring with her some exciting new ideas and contacts.

We have several other new members coming onboard, too, and we look forward to everyone's fresh perspectives. If any of you are considering Society service, please download an application from [www.cpcusociety.org](http://www.cpcusociety.org). We welcome as many members as possible, especially from the Western part of the country.

At the CPCU Society Leadership Summit in Phoenix, our search committee selected **Manus C. "Chris" O'Donnell, CPCU, ARM, AMIM, MBA**, as my successor. He will serve as co-chair until officially taking over after the Annual Meeting and Seminars in Orlando. Chris previously served on our committee as newsletter editor and on the Board of Governors for a three-year term.

We invite your suggestions for new activities and seminars. Please post them either on our new LinkedIn page or on our website. And while you're on our website, you may want to review the minutes of our committee meeting in Phoenix, which was very interesting and productive.

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# Message from the Chair

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You soon will be hearing more about our new Agent & Broker Interest Group breakfast seminar, scheduled for Saturday morning, Sept. 25, at the Annual Meeting and Seminars in Orlando. The topic is "Health Care Reform as It Stands Today." The seminar will focus on news and updates to date (that is, up to Sept. 25), and we hope to stream the presentation live over the Internet for those of you who cannot attend.

In Orlando, space constraints limit us to 75 people at this live, invitation-only breakfast seminar, so if you will be attending the Annual Meeting and Seminars and want to be there, please let us know. Thanks to the generosity of several sponsors, this will be a free event. It is not part of the general registration process.

Another special Agent & Broker Interest Group activity we have planned for Orlando is a networking program, entitled "Meet Market," and dinner with the International Insurance and Personal Lines Interest Groups on Sept. 27. We will match producers with markets and open a dialogue to pave the way for future business dealings. Tickets are required.

2010 will continue to be a challenging year for agents and brokers. Given the economy and the proliferation of the soft market, agencies are finding it difficult to maintain and grow revenues. To stay on the cutting edge of what is going on in the industry and marketplace, it is important to be active at the Society and the local levels. Involve yourselves in your chapters and give input to our interest group.

We are looking for topics for 2011. What would you like us to address in seminars, possible research projects and in our newsletters? We need to know your concerns and hopefully receive your input. When you put two good CPCUs together, one plus one equals more than two. Please visit our website and post your comments on our bulletin board, or post them on our new LinkedIn page. You may also e-mail me at [joe@menschik.com](mailto:joe@menschik.com).

Agent and broker membership as a percentage of our overall Society base has been declining for more than the last 10 years, and a lot of this has to do with producers opting to go the National Alliance's CIC designation route rather than The Institutes, more difficult CPCU designation program. I am sure that you know many of these agents/brokers. The two designations are not the same. There is some overlap in education, but the two designations meet different needs.

I applaud anything that brings more professionalism to the insurance industry. Yes, the CIC designation does that, but there are aspects of the CPCU program that do much more. I urge you to approach colleagues whom you know have taken the CIC track and encourage them to take a look at what the CPCU program has to offer beyond that. A number of members on our governing committee who hold both designations

have done a study on the similarities and differences of the two designations. We are posting a synopsis on our website.

Success in insurance demands constant personal growth. Become a recruiter for the Society and encourage people you know to continue their personal growth in our direction. The two designations are not mutually exclusive. In fact, many CIC instructors also hold the CPCU designation. One of the events we offer that the National Alliance does not is participation in the Annual Meeting and Seminars — an opportunity to bring insurance professionals together in one place for educational programming that runs the spectrum of the industry, global networking and understanding the marketplace's concerns and needs. And remember, professional development is a continuous process that active involvement in the CPCU Society fosters. ■

## Agent & Broker Interest Group Breakfast Seminar

**Saturday, Sept. 25, 2010 • Orlando, Fla.**  
**8:30–11:30 a.m. EDT**

**Breakfast** — 8:30–9:30 a.m.

**Seminar** — 9:45–11:30 a.m.  
"Health Care Reform as It Stands Today"

**Register for this complimentary** breakfast and seminar at  
[www.zoomerang.com/Survey/WEB22ARTJ4KJZW](http://www.zoomerang.com/Survey/WEB22ARTJ4KJZW)

### **Moderator**

Manus C. "Chris" O'Donnell  
CPCU, ARM, AMIM, MBA

### **Speakers**

Anne M. Buckley, Esq.  
James P. Gelfand  
Velma R. Hart, CAE  
David P. Kalm, Esq.



# Message from the Editor

by Carolyn "Cal" J. Durland, CPCU



**Carolyn "Cal" J. Durland, CPCU**, is market development manager, PCS, and AUGIE facilitator for ACORD. With 30 years' experience in the insurance industry, she currently works with ACORD members to ensure that they have a personal connection with the organization and are securing the benefits entitled to their respective organizations. As the facilitator for ACORD User Group Information Exchange (AUGIE), Durland works with the various management system user groups, independent agents, carriers and vendors to address technology and workflow opportunities, and to educate the industry on the business value of working with ACORD data standards and forms.

Welcome to the latest edition of the Agent & Broker Interest Group newsletter. First, thank you to my predecessor, **Ellen M. Clements, CPCU, ARM, CIC, CPIW**, for her excellent service as editor. The time she has dedicated to volunteering for this interest group and the overall Society is commendable.

As your new editor, I'll continue to build on Ellen's work, message and vision. I've been involved in the industry for many years and know the value provided by agents and brokers. I also know that as an industry we're facing some tough times and unique challenges as the economy impacts us all. Yet, throughout the recession, agents and brokers continue to provide service to their customers, even as their revenue base has declined.

Please be aware of a very special breakfast seminar the Agent & Broker Interest Group will present on Saturday morning, Sept. 25, 9:45–11:30 a.m. (free breakfast 8:30–9:30 a.m.), at the Annual Meeting and Seminars in Orlando. Entitled "Health Care Reform as It Stands Today," the seminar will provide an overview on a timely topic, health care, which is impacting, or will soon be impacting, many agents and brokers. Space is limited. Register at [www.zoomerang.com/Survey/WEB22ARTJ4KJZW](http://www.zoomerang.com/Survey/WEB22ARTJ4KJZW).

In this issue, we will show how and why some agents and brokers survive, even during a changing economy. You'll learn about their successes and their techniques. After all, agents and brokers are service oriented and want to improve their processes to streamline their costs. They are sales and relationship focused, and most important, they are professionals.

In this issue, we present the following articles:

- **William C. Wilson Jr., CPCU, ARM, AIM, AAM**, shares his ideas on why the CPCU designation is an asset to those who achieve it. Hear why you want to be recognized as an insurance professional.

- **Ellen D. Kiehl, Ph.D.**, interviews the current presidents of the Professional Insurance Agents serving Connecticut, New Hampshire, New Jersey and New York. Hear how the bad economy has shaped their outlooks and business practices.
- **Karen S. Youngman, CPCU**, explains how saving time equals saving money and making time equals making money. Agents and brokers need to provide immediate answers to client questions, eliminating needless back-and-forth communication.
- **Nancy Doucette** describes the importance for agents to be involved in the resolution of a claim and the solutions available today to enhance their workflow to get the job done.
- **Alan Shulman, CPCU**, emphasizes the value of teaming up property-casualty producers as sales partners to increase the odds of sales success.
- **John R. Graham** provides information on 20 customer-care actions that will help enhance customer satisfaction.
- **Jerome "Jerry" Trupin, CPCU, CLU, ChFC**, provides an update on the use of appraisals to resolve disputes. The appraisal provision has been in property policies for years, and insureds should consider an appraisal to break a deadlock over loss valuation.

If you would like more information on our interest group, please join us on LinkedIn. Also, visit our website at <http://agentbroker.cpcusociety.org/>. ■

# Forty Hours and I'm an Insurance Agent

by William C. Wilson Jr., CPCU, ARM, AIM, AAM



**William C. Wilson Jr., CPCU, ARM, AIM, AAM**, is the associate vice president of education and research and the director of the Big "I" Virtual University for the Independent Insurance Agents & Brokers of America.

I read an article last fall in *The Toronto Star* that struck home. It was entitled, "\$80 and I'm a Security Guard." The author tells the story of how he dropped by the Ministry of Community Safety and Correctional Services with a passport photo, completed a security guard application and gave the clerk \$80. The clerk asked him if he'd also like a private investigator's license. What did that take? Another \$80. Two weeks later, his security guard and private investigator licenses materialized in his mailbox. As he put it, "I'm now fully licensed for two jobs I have no idea how to perform." Sound familiar?

When I conducted agent licensing schools, I used to show completers at the end of their three-day classroom training a photo of a manicurist with the caption, "What do you have in common with this woman?" The answer was, "Nothing ... this woman has 15 times as much education in her field than you have in yours." In our state, a manicurist had to complete 600 hours of classroom and supervised work experience prior to being licensed (a beautician required 1,500 hours). An insurance agent? Put in

40 hours — 24 in the classroom and 16 outside — and you could be licensed to bid on General Motors' account in the morning and Microsoft's in the afternoon.

Insurance policies are contracts. While attorneys focusing on contract law typically spend at least seven years preparing for their careers, insurance agents often spend ... a week. Attorneys take a rigorous bar exam. Many of them don't pass it the first time. Some of them never pass it. Insurance agents who were working at a convenience store last week take exams that sometimes have passing rates in excess of 90 percent. Attorney continuing legal education (CLE) may be governed by the state Supreme Court, which restricts who can deliver CLE and what must qualify. The educational comprehension level of agent training and testing material is often at a fifth- and sixth-grade level.

Insurance agent continuing education (CE) all too often consists of a self-study provider with a 12-hour course called Insurance Terms A-L or three hours at an auto glass company rubber chicken luncheon learning how to steer customers to their business. For online education, most insurance departments grant credit hours based on a word count. As a result, some providers pad courses with verbiage from marketing brochures just to elevate the word count. Continuing education as an industry has become an end in and of itself, rather than a means to an end. But that's a rant for another day.

In the late 1940s, linguist **Rudolf Flesch** developed a scoring method based on a combination of sentence length and use of syllables to determine the degree of ease or difficulty for reading material. Insurance policies are complex contracts. With state insurance departments requiring minimum Flesch test scores, policies must be "easy to read" but are often not "easy to understand." In a Flesch test, the higher the score, the easier the material is to read. In one insurance department study, the Bible

scored a Flesch rating of 66.97, while Einstein's Theory of Special Relativity scored only 17.72. Sadly, a personal automobile policy scored just 10.31.

Many insurance practitioners lack the requisite skills and knowledge to fully understand (much less explain) the products they're selling. Too often, underwriters and adjusters don't either. Here is a deposition excerpt where an agency owner was asked to explain coinsurance:

"I could give you the wrong thing, and I can stand to be corrected. But on coinsurance if you've got, like, a million dollars worth of coverage and if a person has an 80 percent coinsurance factor, all right, that means that it's going to have to be sure that it is insured up to 80 percent of the value. That comes into play when it's a partial claim is one thing that it will come into play. If a person is only insured up to 50 percent of the value instead of 80 percent, then it would be stated on the policy. Then there would be probably a 30 percent depreciation taken off the policy. So, the 80 percent is really better than a 90 percent coinsured or the coinsurance being 100 percent. And so that's on that particular incident now."

Consultant **James R. Mahurin, CPCU, ARM**, has performed expert witness and litigation support since 1993 and has been involved in litigation arising out of Hurricane Katrina for almost five years. He has observed that agents with academic credentials in the form of substantive designations, especially CPCU, are (a) rarely the subject of lawsuits, and (b) far more successful in defending themselves. He believes there is a strong correlation between the quality and extent of educational background and work quality, and in deposition performance.

According to Mahurin, "A substantial number of insurance agents hold CPCU designations. A smaller number hold CPA certificates, MBA and law degrees.



These men and women are involved in many of the most complex insurance programs in the United States and internationally. This group of agents is much less frequently subject to agent litigation. Their performance in deposition and trial testimony is far, far superior to the average agent.”

Education and articulation are key elements in successfully defending an E&O lawsuit. Mahurin cites a national conference he attended where an attorney from a prominent plaintiff’s law firm said (paraphrased), “If insurance industry personnel were required to take basic college-level courses about the business of insurance, our law firm would have to find something else to do. We are successful as a law firm because the insurance industry doesn’t train their people.”

One area where this is evident is certificate of insurance processing. This function over the years has been pushed down to lesser skilled and trained staff in agencies. Demands are being made on agents today for more detailed certificates, compliance checklists and “agent affidavits” that may require the review of lengthy and complex construction contracts; however, document completion is delegated to staff members with little or no formal training in the subject matter.

As a result, one of the largest agents’ E&O insurers in the country has seen a dramatic escalation in E&O claims involving certificates and additional insured requests.

More important than processing issues as they relate to education level is the fact that the vast majority of E&O claims arise from a lack of coverage. We all make mistakes, but it is the combination of education and experience that teaches us what we don’t know. The industry’s emphasis on process and procedures as a means of reducing litigation is only minimally effective when the practitioners do not understand what they don’t know. And the E&O implications are only one side of the education coin. Proper training and education can dramatically impact the bottom line from the standpoint of improved effectiveness and greater production and account retention.

Unfortunately, during hard times, training and education are usually the first budget items to be cut in a hard market, despite the evidence that a knowledgeable staff is a more efficient and productive staff. One insurer’s study showed a close correlation between levels of professional education and production success, determining that production

increased by up to 54 percent while staff members were taking The American College’s LUTCF classes and up to 80 percent following completion of the designation. Insurance agencies typically spend from 0.4 percent to 1.1 percent of revenue on employee education. The U.S. Department of Labor suggests that five to 12 times as much should be invested in training and education.

Licensed agents spend 12 to 20 hours per year, when 100 is recommended. A housekeeper at a Ritz-Carlton hotel receives a minimum of 120 hours of customer service training before interacting with guests. How many of your agency customer service representatives have three weeks of customer service training? Did you know that if you invested only 15 minutes per workday studying policy forms or reading coverage reference manuals, you’d amass more than 60 hours of learning each year?

In the 1970s, a new company underwriter or adjuster typically spent up to a year in formal training followed by a year of supervised work experience before he or she was unleashed on an unassuming public. Several insurer training schools rivaled college graduate schools in the comprehensiveness and difficulty of the subject matter. Agents often came from these ranks. The CPCU designation was actively promoted and supported by both companies and agencies. More than one carrier insisted that rising stars in the organization with management destinations actively pursue the CPCU designation. The time has come for each of us to step up and speak out about the relevance and importance of CPCU and other Institutes programs.

So, what are we, insurance professionals or security guards? We’d like to hear your thoughts on agent and industry education and training. Visit our CPCU Society Agent & Broker Interest Group LinkedIn group ([http://www.linkedin.com/groups?gid=3009474&trk=myg\\_ugrp\\_ovr](http://www.linkedin.com/groups?gid=3009474&trk=myg_ugrp_ovr)) and tell us what you think. ■

# Backs against the Wall — Crafting Your Value Proposition for Adverse Times

An interview conducted by Ellen D. Kiehl, Ph.D.



**Ellen D. Kiehl, Ph.D.**, senior research analyst, Professional Insurance Agents® (PIA). Kiehl has helped and advocated for PIA members since 1976, specializing in the government/industry affairs and member information services PIA provides. Her current focus includes research, special projects and agency technology

**Editor's note:** The following interview was conducted and edited by Ellen D. Kiehl, Ph.D., and is reprinted here with permission.

**I**n this group interview, current presidents of the Professional Insurance Agents associations serving Connecticut, New Hampshire, New Jersey and New York discuss how the bad economy has shaped their outlook and business practices. Contributing to this article are **Donna Cunningham, CPIA, ADP**, Statewide Insurance Agency, Cedar Knolls, N.J.; **Howard Olderman**, Olderman & Hallihan Agency, Ansonia, Conn.; **Stanley Pollack, CIC**, Pollack Insurance Agency, Londonderry, N.H.; and **Kevin Ryan, CIC, CPIA**, Valley Group Inc., Kingston, N.Y.

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## *What has the recent terrible economy meant for insurance agents and brokers?*

**Ryan:** Adversity is the father of invention. When our backs are against the wall, some of us finally come to the realization that changes need to be made within our organizations. Agents and brokers' survival skills are much more tested during challenging economic times.

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## *How has the economy affected your agency?*

**Cunningham:** Paying attention to retention is the key — it wasn't long ago we were not so hands-on with personal lines renewals.

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## *What's the biggest factor in your agency's success during hard times?*

**Olderman:** The single most important factor in our business is personnel. The people we have are true professionals, who over time have formed a wonderful working relationship with our insureds. These employees are the reason our insureds allow us to continue writing their insurance.

**Pollack:** Our staff is dedicated and professional. Over the years we have cultivated strong personal relationships with our customers. Each client is made

to feel important, and their insurance needs are being met.

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## *Are there other secrets to success?*

**Pollack:** It is very important to provide prompt and efficient service. I believe that the principal of the agency has to be available to see current and new clients. Convenient hours of operation are necessary, since (some competitors) are available 24/7.

**Cunningham:** With the onset of the competitive market, we have had to learn to continue fostering strong relationships with our clients, rounding accounts anywhere we can. Real time retention reports allow us to keep on top of these issues.

**Ryan:** The organization that is not focused on long-term profitable growth will continue to struggle. The ability to cross-sell and round-off accounts is the cornerstone of my agency.

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## *How do independent agents and brokers differentiate themselves from other channels?*

**Ryan:** We offer our clients choices. That in itself brings greater value to the conversation we have with our clients and prospects.

**Pollack:** When a risk is difficult to place, we go one step further to find a market that satisfies the customer's needs.

**Cunningham:** We cultivate relationships in a number of ways. First and most important is personal contact whenever possible. The strongest retention tool is personal contact and making sure our insureds know we are interested in their needs.

**Olderman:** Direct writers and Internet-provided policies do not afford the understanding and familiarity with

the insureds that we can provide. The opportunity for our insureds to sit with us face-to-face is something these direct writers cannot offer. And it's this dedication to the insured and their well-being that we as independent agents provide better than anyone else.

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***Are strong personal relationships the whole answer?***

**Ryan:** No. While relationships are vital in the sales process, they must be coupled with a greater value proposition. Relationships alone only go so far. If you are truly delivering increased value to your clients and prospects and you are able to effectively communicate that message, then you will be successful more often than not.

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***Is your value proposition wholly dependent on the agency?***

**Cunningham:** No. We think it is important to let our clients know the company/agency team is available to them. Value-added service starts at the prospect level and can include bringing company underwriters to the client to



help underwrite the risk, having loss control meet with clients and introducing them to claims people — before a claim occurs. The better the relationship we have with our carriers, the more we have to offer clients.

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***How can agents gain greater efficiency and drive out costs?***

**Olderman:** Improved technology provides more convenient access for us as agents and for our insureds. Immediate access to billing, claim and policy information allows for better service.

**Pollack:** Companies' proprietary systems, as well as rating systems, have enabled us to give prompt and accurate quotations, improving the sales process.

**Cunningham:** We keep on top of service by utilizing service centers wherever possible to handle mundane transactions, e.g., mortgagee changes, billing calls, address changes. This allows us to reach out to our insureds to discuss renewal reviews and other important issues.

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***What issues are uppermost in these times of economic uncertainty?***

**Olderman:** Once you realize that the service you provide your clients is that of financial stability and protection, you are better able to help them.

**Ryan:** As insurance professionals, we are the resource in our communities that will guide our clients on the path to properly protect their assets. It is a duty we owe them and a service we can be proud to provide, especially during these economic times when they need our advice more than ever. ■

**The Institutes Announce  
New Elective Component  
for CPCU Program**

Working in close cooperation with industry professionals, designees, training experts and the CPCU Society, The Institutes announced on July 7 that they have modified the CPCU program to ensure that it continues to meet the industry's needs in an ever-changing and competitive marketplace.

Effective immediately, the CPCU program will include an elective component as a part of its education requirement, which consists of four foundation courses, one elective course and three concentration courses (personal or commercial).

Individuals pursuing the CPCU designation will select one elective course from among 10 options in seven functional areas. The elective choices are as follows:

- AAI 83 — Agency Operations and Sales Management.
- AIC 34 — Workers Compensation and Managing Bodily Injury Claims.
- AIC 35 — Property Loss Adjusting.
- AIC 36 — Liability Claim Practices.
- ARe 144 — Reinsurance Principles and Practices.
- ARM 56 — Risk Financing.
- AU 65 — Commercial Underwriting: Principles and Property.
- AU 66 — Commercial Underwriting: Liability and Advanced Techniques.
- CPCU 560 — Financial Services Institutions.
- ERM 57 — Enterprise-Wide Risk Management: Developing and Implementing.

# Automation Helps Agencies Cut Costs, Boost Revenues

by Karen S. Youngman, CPCU

**Karen S. Youngman, CPCU**, is personal lines manager at Don Allen Agency Inc., in Rochester, N.Y., and volunteer co-chair of the industry wide Real Time/Download Campaign ([www.getrealtime.org](http://www.getrealtime.org)).

**Editor's note:** Real Time is a group of agents and brokers, carriers, technology providers, user groups, and agent and industry associations united to advocate implementation of Real Time and Download interface applications by independent agents and companies.

**T**ime equals money. Apply the equivalence property of management algebra to that statement, and you realize that saving time equals saving money and making time equals making money.

Of course, agents and brokers realize that in today's marketplace, it is increasingly difficult to make or save time. One area this is happening involves the effective use of agency automation.

A recent survey conducted by the industry wide Real Time/Download Campaign ([www.getrealtime.org](http://www.getrealtime.org)) found that agencies save up to an hour per employee per day using Real Time tools for sales and service transactions. Eighty-nine percent of users indicated that use of the tools save their agencies time. According to survey results, operations that save time report an average of just over 60 minutes saved by personal lines staff and 45 minutes by commercial lines.

The effective use of agency technology is far-reaching. More than two-thirds of surveyed agencies use Real Time, which is the ability to click on a button from a client file in your agency management system or comparative rater for immediate access to carrier information on that client, to start inquiry and service

transactions. This is up 30 percent from a year earlier.

Some 57 percent use a real-time rating tool for personal lines policies — a jump of more than 32 percent over 2009. For commercial lines, the use of real-time rating tools is close to 22 percent, up 20 percent from last year. It is encouraging to see this growth — not just for growth's sake, but for the benefits Real Time brings.

## Saving and Making

Agents and brokers find that with Real Time, they can provide immediate answers to client questions, eliminating needless back-and-forth communication. They can reach more markets more quickly, allowing greater coverage and price options they can present to prospects and clients. By dealing with data once — through their existing agency technology — they reduce the need to correct errors that often result from redundant data entry. In addition, because Real Time generally operates in a single, consistent workflow, agencies are able to reduce staff training time.

All of these factors save agency staff time. Some principals are finding they can get the same amount of work done with

fewer employees. As a result, if someone resigns or retires, the agency has the option of not replacing the employee, which translates into a direct cost savings.

Other agencies approach it differently. Rather than reducing staff as efficiencies grow, they are refocusing employees. They are teaching service staff to talk about rounding accounts — a key element of service that can translate into more sales. Many are actually training customer service professionals to be more comfortable in sales — and rewarding them based on increased revenue or higher policy-per-account ratios. Many are driving growth by using strategies and ideas found at Real Time ([www.getrealtime.org/active/GROWTH.asp](http://www.getrealtime.org/active/GROWTH.asp)).

## Capturing Time

Many agents and brokers find it easier than they expected to start reaping the benefits of Real Time. Quite often, the technology exists within their existing agency systems. It just needs to be turned on — and then used. Don't worry — the vast majority of users who took part in the survey described the tools as "easy to use."

A wealth of information exists about Real Time and its use. A good starting point for agents and brokers is the Campaign's *Real Time Implementation Guide*, which is available at [www.getrealtime.org/active/RealTimeGuide.asp](http://www.getrealtime.org/active/RealTimeGuide.asp). Management system and comparative rater vendors have information, as well, as do agent associations and management system user groups.

With a basic understanding, a good next step is to pull out — or click through to — your agency technology vendor's implementation guide. If it is dust-covered, it might make sense to request an updated version. Use the guide or other vendor resources to find out which of the contracted carriers offer real-time functionality for what transactions. Many





vendors post this information on their websites and update the lists frequently.

To get the most out of real-time functionality, it is often important to be current — or close to current — with system upgrades. This is a good idea for a number of other reasons, of course. Maximizing benefits of Real Time is among the most important. Talk to your vendor to find out what to do to enable Real Time and then flip the switch.

Specific, step-by-step ideas for making Real Time an agency habit are available at [www.getrealtime.org/21DC](http://www.getrealtime.org/21DC). Many agencies start small — often with basic inquiry transactions — and then build on that. Once employees see the benefits, they are often eager to do more.

The key is to start somewhere. To not make use of available tools wastes precious staff time. And time wasted is money wasted. ■

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### Have questions?

Contact Dick Vanderbosch, CPCU, at (970) 663-3357 or [rbosch@aol.com](mailto:rbosch@aol.com)

# In the Loop

by Nancy Doucette

**Nancy Doucette** is senior editor for *Rough Notes* magazine and has been associated with the insurance industry for more than 35 years. She writes extensively on technology issues.

**Editor's note:** This article originally appeared in the May 2010 issue of *Rough Notes* magazine. Reprinted with permission. © The Rough Notes Company. All rights reserved.

**C**laims download enables agents and carriers to better serve their mutual client while increasing efficiencies and reducing expenses.

When your client has a claim, that's your opportunity to deliver on the promise you sold, isn't it?

But if the client reports the loss directly to the carrier, you might not know about that claim for several days. That could prove embarrassing if your agency calls the client to discuss the upcoming renewal of the family auto policy, only to learn that one of the vehicles was totaled days earlier, leaving the client's teenage son seriously injured and in the hospital.

A growing number of carriers are working to speed up delivery of vital claim information to agents by offering claims download. Since the capability was unveiled in late 2007, more vendors are making it available as well.

Applied Systems was the first vendor to offer it to users of its TAM system. (See "Ready Answers" in the May 2008 issue of *Rough Notes*.) It is now available to users of Applied's Epic system as well as users of the North American Software Associates (NASA) management system. Vertafore expects to deliver it to users of AMS 360 and Sagitta in the first half of 2011.

Claims download can do more than prevent embarrassing situations such as the one mentioned earlier. Like

other real time and download capabilities, claims download can boost an agency's efficiency and productivity, while enhancing customer service.

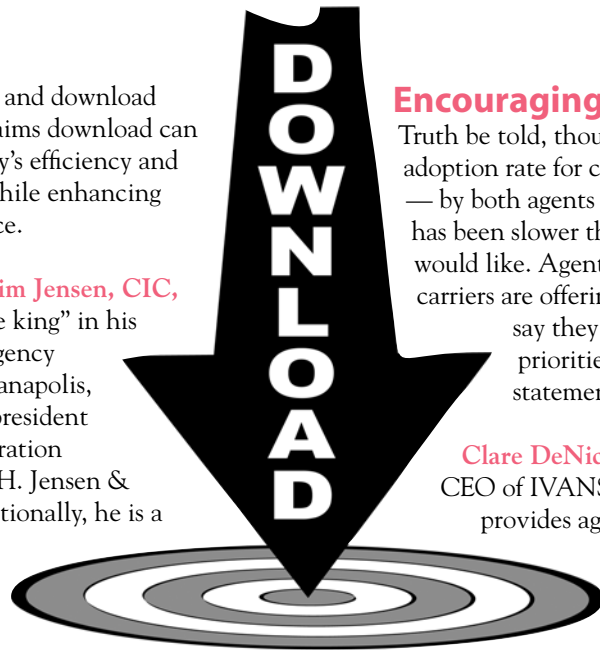
According to **Jim Jensen, CIC**, "efficiencies are king" in his three-person agency located in Indianapolis, Ind. Jensen is president and third-generation principal of A.H. Jensen & Sons Inc. Additionally, he is a member of the Download Committee for ASCnet (Applied Systems Client Network) and participates in several ACORD working groups.

"We started using claims download as soon as Applied Systems made it available," he recalls.

Currently, Indiana Insurance (a member of the Liberty Mutual Group) and Auto-Owners Insurance provide claims download to Jensen's agency. "Of the five carriers we represent, they are two of our largest carriers," he notes. The agency also just started piloting claims download for Pekin Insurance Company.

In terms of efficiencies, he says there is much less manual work for his staff thanks to claims download. The day after the carrier receives notification of the loss, Jensen's TAM system is automatically updated with a description of the loss, the claim number and adjuster assignment.

Claim payments and reserves are also reported via claims download, he says. In the past, the agency would receive a copy of the check and staff would have to manually enter the line, the amount and the payee. "Getting the payment detail via download is a real time savings," Jensen says.



## Encouraging Signs

Truth be told, though, the adoption rate for claims download — by both agents and carriers — has been slower than both factions would like. Agents say too few carriers are offering it. Carriers say they have competing priorities. Both statements are accurate.

**Clare DeNicola**, president/CEO of IVANS, which provides agency-company interface solutions to the property-casualty industry, says there

are trends which suggest that's about to change.

Throughout the year, IVANS surveys its 350 P-C carrier customers as well as its 30,000 independent agent customers. In its "Carrier Automation Trends for 2010," IVANS reported three near-term goals for carriers: cut expenses, do more with less and increase efficiencies.

"Carriers are telling us that they are increasing their investments in technology initiatives that serve those needs," she reports.

Some of those investments are being made in the area of claims download. In a recent six-week period, 12 more carriers began offering the capability. "Carrier adoption of claims download has been a steady build in the last six to eight months," DeNicola says.

That aside, carriers have to decide which transactions to roll out, and when, she notes. "A lot relies on agent demand in a particular carrier base. It changes from carrier to carrier. Agents need to speak to their carriers about moving claims download closer to the top of the priorities list."

DeNicola observes that agents share the same near-term goals as the carriers and,

therefore, more are implementing claims download as well. She says that about 50 agents begin using it each month. "There is no better time for an agency to enhance its relationship with a customer than at the time of a claim. Having claim information readily available in the management system is an important first step in the effort."

She credits the industry's Real Time/Download Campaign with raising agent awareness of the capabilities that are already part of their management systems, and the importance of taking advantage of those capabilities to service their customers better. But using these new capabilities requires change, and change isn't always readily embraced by staff.

For its part, IVANS has a menu of services available to carriers that want help in implementing claims download. "We can do the whole project for a carrier, which includes data translation, consulting services and use of our e-commerce server that allows data to flow from the carrier systems to the agency management system," she explains.

"Or if the carrier prefers to do its own translation, we would still operate as the hub in the middle," she adds.

Overall, she reiterates, "The carriers that we're working with have definite long-term plans to improve the electronic flow of information with their distribution channels."

## Plenty of Resources

This is music to the ears of **Donna Barr, AIT**, who was instrumental in getting an ACORD standard in place for vendors and carriers to use in their claims download development efforts. Barr owns Premier Insurance Consultants of the Treasure Coast in Palm City, Fla. She also offers insurance technology consulting and is chair of the ASCnet Download Committee.

"Claims download is my baby," she admits. "I spearheaded it through the

industry from the time it was just a dream of mine to seeing Applied implement it in August 2007."

A 25-year industry veteran, Barr has been active in a variety of interface initiatives. As with policy download, claims download should be adopted by agencies as soon as their carriers make it available, she recommends.

"It's one of those transactions that offers immediate efficiency benefits, even if you have only one carrier sending it," she points out. "It's one less carrier that you need to follow up on or go to their website and pull information. Everything flows right into your Applied or NASA management system."

To find out which carriers are offering claims download, Barr suggests that interested agents contact their vendor.

She notes that there are also efficiency gains for carriers that offer claims download. "They aren't getting as many inquiry or follow-up calls from agents; they aren't processing and mailing claims-related paper," Barr says.

Barr says there are plenty of resources available for agents who are considering claims download. The "ACORD Claims Workflow Implementation Guide" is a 26-page PDF available at the ACORD website that goes through all the scenarios of a claim — whether the insured calls the carrier directly or the insured reports the claim to the agency. "It's two different workflows," she indicates, which means that the download that the carrier initiates is based on how the claim was received.

If the insured reports the claim to the agency, the agent keys in the claim detail to the agency management system. The agency either faxes, e-mails, phones or sends the loss report via real time to the carrier. The claims download would reflect only information that has changed.

If the insured reports the loss to the carrier directly and the agent is not involved, the download creates the claim in the agency management system. The agency receives a download report each morning which reflects policy and claims download activity. The report will specify the type of claim activity: claim notification, adjuster assignment, payment or closing of a claim.

Barr says the ASCnet Industry Solutions Download Subcommittee is another good resource for TAM or Epic users. "Agents can send questions to [download@ascnet.org](mailto:download@ascnet.org)," she explains. "Committee members will review the questions and respond."

She also encourages agencies that are having difficulties with any of their download activities to communicate those concerns to the Industry Solutions Download Subcommittee. "If there are issues or problems, we want to know about them so we can address them with Applied or the carrier," Barr says.

## Steady Progress

"We're chipping away at a big iceberg," quips **Angelyn Treutel, CPA**. She is vice president for Treutel Insurance Agency Inc., in Bay St. Louis, Miss., and reports that the eight-person agency is gradually building the number of carriers that send claims download. She says the agency began using claims download as soon as Safeco (a member of the Liberty Mutual Group) made it available.

Since then Travelers has begun sending claims download to her agency and, she says, Progressive "is close."

Treutel adds: "Even if there's only one carrier in your agency that is offering claims download, that's a good way to start. It's a good test case. You can grow into the other carriers. And when you can see the results and the benefits of having the information automatically loaded into your system, you're better able

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## In the Loop

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to demonstrate it when the next carrier rep visits.”

As chair of ACT (the Agents Council for Technology) and a member of the ASCnet Download Committee,

Treutel is passionate about the need for greater adoption of claims download.

“We agents absolutely must have this information downloaded into our systems. Some carriers will say: ‘We have the information at our website.’ Since independent agents write with multiple

carriers, we shouldn’t have to go looking for this information. Our carrier partners should send us the information for storage in our agency systems, without our needing to re-key the data.

“We inform the carriers when we receive a claim,” she points out. “The carriers need to inform us when they receive a claim directly. This helps us both serve our mutual client.” ■

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# Grow Your Agency by Teaming Up P-C Producers as Sales Partners

by Alan Shulman, CPCU



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**T**eam up two agents to identify more prospects and to close more sales.

When an agency has multiple P-C producers, it increases its odds of sales success. However, problems can develop when the agents compete against each other rather than cooperate. Internal friction and out-of-control rivalries limit an agency's ability to grow its book. That's why it's logical to explore avenues where producers collaborate — for their employer's benefit as well as their own. Pairing up agents as sales buddies, much like police partners, is a possible approach (based on my years of watching all those TV cop shows).

## Team Up for Extra Sales

Team selling is popular in many industries; particularly those that involve big ticket items. It's also employed by some larger agencies — yet it's seldom used in the rank and file insurance office. That's because the act of selling policies has historically been a solitary one, with lone wolf producers prowling around for prospects and appointments. Pairing up a couple of agents changes the dynamics of the job and increases the odds of success. This is particularly the case when each person brings different sales strengths to the partnership. The two agents can be rookie and veteran, two compatible veterans or even two rookies who learn the job together.

Consider the following eight reasons for producer pairings and add a few of your own. If you have multiple agents and they aren't working in tandem on one level or another, then future trouble could be looming. Intra-office competition is great, but only when it's healthy. Pair-ups allow agents to strut their egos and compete for the alpha position within the partnership while still cooperating with each other.

- (1) **New producer training.** This is the most obvious benefit. Hooking up a rookie with a

grizzled veteran is regularly done in police dramas, so why not in your office? The advantages include on-the-job training and a youthful enthusiasm reawakened in the seasoned pro. Caution: This pairing won't work if the vet resents "babysitting," lacks the necessary level of patience to train or displays poor work ethics. There is also a problem if the old pro has the newbie do all of the tough work and simply rides on his or her efforts. Such "training" should be nipped early in the bud.

- (2) **Better basics.** Each agent has his or her own sales experiences from which to draw. Exchanging this knowledge with his or her partner when reviewing leads, preparing quotes, delivering proposals, requesting referrals, etc., helps both producers to advance their basic skill set, which in turn, benefits the agency.
- (3) **Team prospecting.** Uncovering fresh, salable leads can be a lonely endeavor, one that's frequently put off until the producer's pipeline echoes with emptiness. Performing this activity in tandem makes it more tolerable, helping to stock the duo with a steady supply of potential buyers.
- (4) **Extended client relationships.** Buying policies from a pair of producers helps assure new business clients that they'll always have a second contact person beyond their service rep. Furthermore, in the event that one of the pair retires or otherwise departs, the insured (and the agency) has an instant backup who is familiar with the shared accounts.

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# Grow Your Agency by Teaming Up P-C Producers as Sales Partners

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## (5) Multiple areas of interest.

Producers enjoy selling to individuals and business executives who share at least one common interest. (It's why many agents who fly private planes insure them for others.) These interests, multiplied by two, make it easier to identify and solicit fresh business leads with the sales enthusiasm that's needed to succeed.

## (6) Costly personality conflicts.

Agencies occasionally lose existing accounts and prospective sales because the producer and business buyer don't get along. Mathematically, the odds of this happening are halved when producers pair up and the more compatible agent of the two becomes the account's lead contact person.

## (7) Ups and downs.

The job of selling involves a series of highs and lows. Through careful producer pairings, any extreme euphoria or depression is leveled off. When one person is down, the other acts to keep the relationship

productive, similar to what happens in a successful marriage.

## (8) Different networks.

Every person maintains contact with different sets of people. Pair-ups give a producer the chance to enter his or her partner's sphere of influence for the benefit of both individuals. That's because the addition of a fresh face into a semi-closed group often stimulates fresh relationships and reinvigorates stale business opportunities.

Some producers will never agree to team up with anyone, under any circumstances. And that's OK, as long as you are satisfied with their production. Others will go along only if they enjoy the company of the other person. But, most will give it a try as long as there is the potential for additional income. Money is a strong motivator in this instance, so reward and encourage pair-ups with special bonuses that the partners share after they achieve pre-set goals.

Start by identifying the target markets that the producers will solicit. Then create one set of team goals for

prospecting and another for sales, and track them on a regular basis. Essentially, treat both agents as one. While the pair-up is in place, managers should formally meet with the producers only as a team and not individually. When discussing this idea with potential partners, point out that their common efforts will involve most aspects of marketing and selling insurance, ranging from prospecting to closing. Still, this doesn't mean that they have to do everything together. It's up to them to decide who does what and when. Plus, you can allow the agents to spend 80 percent of their selling time on agreed activities and 20 percent going after whatever leads they want.

As for the commissions that the partners receive, assuming that you pay your producers that way, let them decide how to split the dollars they earn as a team.

Lastly, you don't have to make these pairings permanent, as the arrangement may get stale. However, if the duo enjoys working together and the bottom line shows it, keep it going for as long as you can. ■

# Twenty Customer Care Actions That Build Sales

by John R. Graham



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**I**t's easy for just about anyone in business — including companies, salespeople and marketers — to fall into a “pattern” when dealing with customers. We all develop shortcuts and “templates” to help simplify our daily routines, which also make it easier to manage the workload. With more to do and less time to do it, a smoother routine is appealing.

While such an approach may help us get through the day, it can also be dangerous, particularly when the competition is waiting for even the slightest opening that may get them through the door.

Customers don't want to be taken for granted or receive attention only when we want to sell them something. They respond positively to the signals that say, “We really appreciate having you as a customer.”

Here are 20 customer care actions that will help to enhance customer satisfaction and will build sales:

- (1) **Contact customers when it's not necessary.** Apple consultant Craig Batt of MacShaman checks with clients a week or so after doing a job. Not only does he ask for feedback on what he did, but he passes along helpful information that's not directly related to his work. It sends the message that he is not only appreciates the work, but the relationship as well.
- (2) **Let them know how much you like working with them.** Why take a chance or why assume that they do know? Letting them know in writing why you like working with them puts it squarely on the record. And it usually winds up in a frame hanging on the wall in the customer's office. If you don't tell them, how will they know?
- (3) **Ask them what you could do to make working with you easier.** Even when you have a good working relationship with a customer, there still may be something that bothers them. While it may not be a relationship breaker, it can still be a burr under the saddle. It's always good to uncover the issue and get rid of it.
- (4) **Tell their story to others.** Word-of-mouth has power, perhaps more than ever. So, when it's appropriate and you have the opportunity, speak up about your clients. “I know that company and they're good people. They've always treated me fairly.” Such words carry weight.
- (5) **Pass along leads.** A good lead may be the greatest gift you can give anyone. A customer will appreciate it far more than tickets to a game or a round of golf. Although a lead is free, it has tremendous value for the recipient. It also shows that you care.
- (6) **Do something a little extra.** Bill Donahue, the owner of Crown Supply, an electrical and fire alarm wholesaler in Providence, R.I., always thanks his customers for doing business with him. Then, he realized that it's the people in the field who call and actually place the orders. It's their loyalty that makes the difference. Bill knows they can call other supply houses. He sends a personal thank you to them several times a year, along with a gift card.
- (7) **Make suggestions for improving their operation.** Your knowledge base is unique and your experience can complement that of your customers. Your helpful

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# Twenty Customer Care Actions That Build Sales

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suggestions give meaning to being a partner.

**(8) Pass along helpful information.**

Customers will view you as a resource if you pass along useful information. Whether it's an article or an idea, it lets them know that you are thinking of them.

**(9) Lend a hand.** Every customer has a crisis or some time when they need help. Ed Testa of Champion Capital, an equipment leasing company, spends a lot of time at trade shows, but not where you might expect. You won't find him at a Champion Capital booth. He'll be busy working a client's booth. "They're always short-handed," he says, "and they appreciate the extra help." He also writes a lot of business that way.

**(10) Utilize the power of recognition.** Whether it's recommending a customer for an award or suggesting them for a news story, you can play a role in helping to bring them well-deserved recognition.

**(11) Be candid when asked for your opinion.** It's a pivotal moment

when a customer asks your opinion. Will you be a wimp, or will you be candid? Candor creates respect, even though someone might not agree with you.

**(12) Show your loyalty.** After doing a good job for a customer, that's when one of their competitors wants to give you their business. You may be flattered, but think twice before compromising your loyalty.

**(13) Don't cut corners.** When a customer has been around for awhile, there's a tendency to put them in overdrive. Doing what's necessary, but also coasting. If the customer doesn't figure it out first, a competitor won't be far behind to move right in.

**(14) Come to a customer's defense when you hear criticism.** There may be times when "silence is golden," but not when someone's criticizing a customer. That's when it's the right time to make known your experience.

**(15) When something hasn't gone well, let them know what you would like to do about it.** Yes, things go wrong, no matter how

hard we try. When this happens, jump on it quickly and tell the customer what you've going to do to solve it.

**(16) Respond reliably.** A recent survey of buyers found that getting back to them is a top priority. A highly successful life insurance salesperson serving wealthy clients credits part of his success to returning every telephone call and answering every e-mail the day they are received.

**(17) Leverage the power of "free."** Insurance agent Mark Rosenthal has a free offer for a helpful tool he prepared. It's called "Organizing Your Personal Affairs," and it's about getting important information together. Others make reports, survey results and articles available without charge. But remember, free means free — no strings attached.

**(18) Take the initiative.** Step up to the plate and act before you're asked. Initiative shows you have ideas and are capable of undertaking new and challenging tasks. Showing initiative may be the best way to be viewed as outstanding.

**(19) Keep your word.** If you say you're going to do it, do it. If for some reason you can't, then explain why and do it quickly. It's easy to get a bad rep — and it's difficult to get rid of it.

**(20) Show respect.** Getting too friendly with some customers can undermine the customer-salesperson relationship. There should always be some distance as a way of showing respect.

Individually, each of these customer care actions has value, but when taken together, their impact can be enormous, even transformative. ■



# Appraisal — An Old Dog Learns New Tricks

by Jerome “Jerry” Trupin, CPCU, CLU, ChFC



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**T**he appraisal provision has been mandated for property policies by standard fire policy laws for more than a century. It has been relatively unchanged in all that time, but in the past year, two state legislatures have passed laws that affect the provision.

## New York Legislature Closes a Gap

**Thomas Fahrenholz’s** home was badly damaged by fire, but he and the insurance company could not agree on the amount of the damages. Fahrenholz demanded an appraisal, expecting that this would expedite the settlement and would be less expensive and quicker than a lawsuit. The insurance company, however, refused the request for an appraisal. In the court actions that followed, it argued that it was not compelled to participate in an appraisal; a lawsuit to settle the dispute was Fahrenholz’s proper recourse. The court agreed with the insurance company.<sup>1</sup>

The appraisal provision is a short provision that has changed very little from its formulation in the 165-line standard fire policy.<sup>2</sup> The current ISO Business and Personal Property (BPP) form appraisal provision reads as follows:

### Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

There are a number of key points worth noting:

- Both the insurance company and the insured have the right to demand appraisal.
- Appraisal only applies to a disagreement over the value of the property or the amount of the loss. It cannot be used to resolve coverage disputes.
- Each party selects and pays its own appraiser. The appraisers select an umpire. If they cannot agree on an umpire, either the insurance company or the insured may ask for a court-selected umpire. The costs of the umpire and other appraisal expenses are divided equally.
- The appraisers separately state the value of the property and the amount of loss. If they agree, the amounts they have agreed upon are binding on the insurance company and the insured. If they disagree, they submit their differences to the umpire. A decision agreed to by any two is binding.
- The last sentence, “If there is an appraisal, we will still retain our right to deny the claim,” does not appear in the standard fire policy (SFP) version. It reinforces the position that appraisal does not serve to settle a coverage issue.

When the insured and the insurer are at loggerheads as to the value of the property or the amount of the loss, the appraisal procedure can be quicker and less expensive than a lawsuit. For many years it was used infrequently in New York because the courts would not compel an insurance company to participate in the appraisal process. In most states, courts will compel the parties to go to appraisal if the insured or insurer demands it.<sup>3</sup> In New York, if the insurer would not participate in the appraisal, the courts

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# Appraisal — An Old Dog Learns New Tricks

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ruled that the insured should commence a lawsuit for breach of contract rather than going through appraisal.

Insureds and their representatives petitioned the legislature to correct this interpretation. In 1990 the legislature enacted a law providing that the appraisal provision was binding on both the insurer and the insured. Thereafter, most insurance companies agreed to participate in appraisal proceedings, which led to a marked increase in the number of claims that went to the appraisal. However, in the case involving Thomas Fahrenholz in 2002 mentioned at the start of this article, the court ruled that the 1990 change did not give the insured the right to require specific performance of the appraisal process by the insurer, in essence returning to the pre-1990 situation.

This spring, the New York Legislature passed Senate Bill 2088-A, giving either party the right to compel the other to participate in appraisal. It took effect when New York Governor **David Paterson** signed the bill on March 30, 2010. The portion of the bill most pertinent to this discussion, reads as follows:

“[I]n the event of a covered loss, whenever an insured or insurer fails to proceed with an appraisal upon demand of the other, either party may apply to the court in the manner provided in subsection (a) of this section for an order directing the other to comply with such demand. If an appraisal is so ordered, it shall be limited to a determination of actual cash value and/or replacement cost, or the amount of loss which shall be determined as specified in the policy and shall proceed pursuant to the terms of the applicable appraisal clause of the insurance policy and not as an arbitration.”

The legislative summary that accompanies the bill reads as follows: “[A]llows court to compel the parties to submit to the appraisal process as set out in a standard fire policy regardless of any dispute raised concerning scope of coverage or scope of loss.” (Legislative

summaries are intended to provide a general overview. They are not relied on as a substitute for the actual bill language, but they do provide courts with an insight into the legislative intent when the court is faced with interpreting a law.)

Although either party may compel the other to participate in the appraisal, as a practical matter, insurance companies will most likely just refuse payment if the insured does not respond to its request for an appraisal. If the insured commences a legal action, the insurer can respond by then requiring the appraisal. If no action is commenced within the two-year statute of limitations, the claim will be extinguished.

For insureds and their advisers, the new law provides an efficient way to resolve disputes over value. It is not, however, fail-safe. I know one insurance practitioner who is involved in a dispute between an insured and its insurer for a claim that occurred in August 2001. Two years ago, the insurer demanded an appraisal, which is still going on. The appraisal process has been time consuming and expensive — my friend’s guess is that the insured’s costs for the appraisal will exceed \$250,000. Nevertheless, insureds

should consider an appraisal to break a deadlock over loss valuation.

The advantages of the appraisal process from the insured’s point of view are as follows:

- Offers a generally less expensive way to resolve a valuation dispute.
- No attorney is required to commence appraisal proceedings — although an insured should probably retain counsel if it is necessary to go to court to have an umpire named. Insureds may want to consult an attorney in any event. If they do, they should look for one with property-insurance law expertise.
- Experienced appraisers and umpires can often quickly iron out disputes that involve differences concerning the cost of materials or the interpretation of construction plans.

The disadvantages from the insured’s point of view are as follows:

- Insureds often have difficulty in finding qualified and reasonably-priced appraisers. (Insurers regularly employ contractors who estimate losses giving them a ready source of appraisers.)



- Appraisals can sometimes be as time-consuming and expensive as a lawsuit.
- Appraisers sometime exceed their authority and deal with coverage issues even though that is beyond the scope of an appraisal.<sup>4</sup>

The learning points for us are:

- Tell insureds about the availability of the appraisal provision as a way to resolve value disputes.
- Point out to them the advantages that the procedure can offer as well as the possible pitfalls.

## Mediation Added to Appraisal Provision in Florida

ISO has just published a new appraisal endorsement for use in Florida to comply with changes in Florida insurance law. The endorsement is IL 01 12 11 06 [Florida Changes — Mediation Or Appraisal (Commercial Residential Property)]. It is required in all property policies covering commercial residential property. Since that includes condominiums, it's an important change.

The endorsement provides that when the insurer and the insured disagree on the value of the property or the amount of loss, either may request nonbinding mediation in accordance with the rules established by the Florida Department of Financial Services. The cost of the mediation is paid by the insurance company unless the insured fails to appear at the mediation conference. The mediator is assigned from a list of mediators maintained by the Florida Department of Financial Services. The law provides that all communications with the mediator are confidential and all statements made and documents produced at a settlement conference are confidential and inadmissible in any subsequent adversarial proceeding.

The insured can refuse to participate in the mediation and demand appraisal instead. Or the insured may institute suit



on the policy; however, in that event, the insurer can demand appraisal, if it chooses, unless it had previously requested mediation that the insured rejected.

Either party may reject any settlement proposed at the mediation conference; either party may then demand appraisal. The appraisal provision is the same as the one found in almost every commercial property policy with one exception: The insured is not required to submit to appraisal if the insurer requested mediation and either party rejected the mediation result.

Some commentators feel that an insured who represents himself or herself at the mediation will be at a disadvantage because the insurance company representative, usually an adjuster, will most like have been trained in negotiation skills and participated in prior mediations.<sup>5</sup> Nevertheless, I feel that this is an insured-friendly provision that gives the insured the opportunity for nonbinding mediation at no cost. Furthermore, the mediators will be disinterested parties beholden to neither the insured nor the insurer. It's not a bad deal for the insurer either. It's estimated that the average mediation proceeding will not be more than two hours long.<sup>6</sup> If mediation avoids just one lawsuit, the savings in legal fees alone will pay for a

huge number of mediation proceedings. It will be interesting to see how it works in Florida and if other states adopt this procedure. ■

## Endnotes

- (1) *Fahrenheit v. Security Mut. Ins. Co.*, 291 876 (4th Dept. 2002).
- (2) An excellent source of detailed information about appraisal is Jonathan J. Wilkofsky's *The Law and Procedure of Insurance Appraisal*. Ditmas Park Legal Publishing: Nov 2009.
- (3) Florida is permitting insurance companies to eliminate the appraisal clause for property policies written in that state.
- (4) Adapted from "Policyholders Can Win in Appraisal." What's UP. Summer 2006. <http://www.uphelp.org/pdfs/PolicyholdersCanWininAppraisal.pdf>
- (5) See Chip Merlin, "Mediation May Not be the Answer to a Best Alternative Insurance Claim Resolution Process Because it is Subject to Abuse." Posted 1/15/10 at <http://www.propertyinsurancecoveragelaw.com/2010/01/articles/insurance/mediation-may-not-be-the-answer-to-a-best-alternative-insurance-claim-resolution-process-because-it-is-subject-to-abuse/>.
- (6) "Florida Dept. of Financial Services Opens Insurance Mediation Program." Florida Department of Financial Services. [http://www.neighbors4neighbors.org/images/FDoFS\\_MediationProgram.pdf](http://www.neighbors4neighbors.org/images/FDoFS_MediationProgram.pdf)



# Agent & Broker Interest Group

Volume 23 • Number 1 • August 2010

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