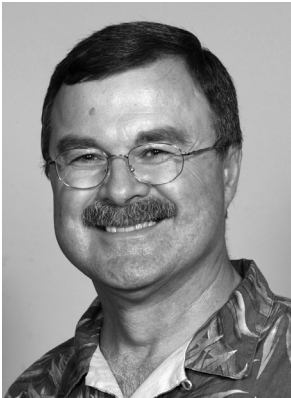


Chairman's Corner: "One Little Thing"

by Robert E. McHenry, CPCU, AIC, AIS



■ **Robert E. McHenry, CPCU, AIC, AIS,** is a claims manager with the Westfield Group in Jacksonville, Florida. He earned a bachelor's degree from the University of Akron in 1973, and has served on the Board of Directors of the CPCU Society's Akron-Canton Chapter. He is currently a member of the North Florida Chapter, and in November 2005 began a three-year term as chairman of the Claims Section Committee.

Two past Chairman's Corners dealt with coaching and personal development plans. This article pairs these management tools. I apologize for being a doting father . . . but this is another true sports analogy using my daughter Mac.

Mac plays fast-pitch softball. Some of the pitchers in her league are throwing 45 miles per hour from 40 feet away. That is about the equivalent of a 90-mile-per-hour major league fastball. She could hit a deep fly ball near, yet not over, the fence. Despite practice and encouragement Mac just couldn't hit one out of the park.

I coach her team in batting and hitting skills. One practice Mac said, "I'll never hit a home run." She has a solid swing but there was one little thing missing. I noticed that the grip on her new bat was nearly worn out. Mac was squeezing the bat so tightly she could not turn her wrists over. By not "breaking" her wrists, she was unable to get the snap power plus her stride, hips, and shoulders into and through the ball. I told her to hold the bat "like you would hold a bird by the neck without hurting it." Although she was skeptical, Mac agreed to try that one little thing. Then I said there was a trip to Disney World if she succeeded.

This is annual performance evaluation time. Many managers and supervisors are going through the process while this article is being written. Your company requires its managers to complete a personal development plan for each employee. This becomes the time for you and your staff member to decide what one little thing or things are needed for their success.

Yet how do you know what each employee needs? Here are a few tips:

- Use the current evaluation to help develop your strategy.
- Look for patterns in your own rating system.
- Consult internal and external resources.
- Study quality assurance and compliance reviews, and look for common themes.
- Use psychological profiles such as "Big Five" or "Lominger 360."

- Read *FYI-For Your Improvement* by Michael Lombardo and Robert Eichinger. This resource will help with specific issues.
- Have several one-on-one meetings. Be ready to talk, yet better still to listen.
- Take responsibility for open and honest feedback.
- Use a template including competencies, action statements, completion dates, and status checks.
- Concentrate on two to three key strengths and two or three weaknesses.
- Review and revise the plan often and as necessary.

Personal development is a partnership between you and your employee. Coaching your valued resources by using their development plan helps them achieve their career goals. It also adds to their job satisfaction. As a bonus, it gives you more worth to the company. Remember if you don't develop your people, another company is more than willing to do so.

Managers hold the key to a long-term sustainable relationship. Plain and simple, managers are also accountable for employee retention. People do not quit companies. They quit managers.

This past October, Mac launched a "no doubt" home run into left field of the adjacent baseball park. Her next three hits bounced off the fence in center and left field. That one little thing gave her the extra distance, and cost me a trip to Disney's MGM theme park.

What one little thing will you give your employee so he or she can hit one out of the park? ■

"Trifles make perfection, but perfection itself is no trifle."

—Michelangelo

Mold Litigation Update: Current Trends in this Once-Emerging Tort

by Stephen J. Henning and Patrick S. Schoenburg



■ **Stephen J. Henning** is recognized by major California developers for both his experience and his consistent delivery of impressive results. He combines the power of persuasion with sharply honed legal skills, and has recently gotten accolades for his groundbreaking work in complex mold litigation, along with his educational seminars on mold for construction professionals.

He has litigated all aspects of construction and toxic mold matters. Henning has won numerous legal awards, but is most proud of the results he delivers to his clients.



■ **Patrick S. Schoenburg** has extensive experience representing clients at trial, arbitration, and in a variety of transactional matters. He has particular expertise in the fields of toxic torts, commercial litigation, products liability, class actions, mass torts, and construction.

Schoenburg is a graduate of the University of Southern California Law School, where he was a member of the Southern California Law Review, and is a former law clerk to the Honorable A. Andrew Hauk of the United States District Court for the Central District of California. His experience includes serving as national counsel for a Fortune 25 corporation in a series of products liability cases filed in California and Texas, representing the prevailing party in one of the 10 largest patent litigation settlements of all time and advising clients across the country regarding mold and water damage issues. Schoenburg also currently serves as outside general counsel for a multi-state commodities brokerage.

While concerns regarding the effects of mold on human health and hygiene have existed for centuries, until recently mold exposure was not a common subject of litigation. But spurred by both plaintiffs' attorneys who sought a new source of business and media interest, mold became a hot topic starting early this decade. More than five years after the first wave of mold litigation began in California and Texas, what is the status of a tort that was once described as the "new asbestos"?

As attorneys who have handled literally hundreds of mold claims, on both a litigated and pre-litigation basis, we have seen a number of trends emerge. Now that the media hype has died down, it is time to examine what has occurred in regard to this once-emerging tort. While mold claims have not become the financial disaster for insurance carriers, property owners, and the construction industry that was once predicted, neither will mold issues disappear. On an individual basis, mold claims still have the potential to be costly. Claims professionals and others involved in evaluating mold cases should avoid the complacency that may be the natural result of mold having failed to have the impact that was initially anticipated. This article analyzes the current trends in mold litigation, with the goal of providing information that will help all professionals faced with this still significant problem.

Mold Is Not the New Asbestos, But It's Not Going Away Either

Starting approximately five years ago, mold claims began receiving significant media attention. Many stories predicted that mold would be the "new asbestos," costing corporations and insurers untold millions in claims. These exaggerated predictions have proven unfounded. A combination of successful defense

strategies in litigated cases, the drafting of mold exclusions in insurance policies and the inherent difficulties plaintiffs have in proving their cases have limited the scope of this problem. That being said, plaintiffs continue to have success. A Michigan homebuilder paid a \$775,000 settlement during trial early in 2007.¹ And as recently as 2005, defendants in the *Gorman* case paid close to \$22.5 million to a Los Angeles family whose young son allegedly suffered brain damage as a result of mold exposure.²

Mold Is Not a Mass Tort

Many articles describe mold bodily injury claims as a mass tort. This is a misnomer. Mass torts typically arise from a single catastrophic incident, e.g., a train derailment, or feature a single cause of injury and set of defendants, such that the issues in each case are very similar, e.g., asbestos. In both situations, opportunities exist for plaintiffs' attorneys to make large sums relatively easily; by litigating the same facts and issues for each claim and establishing liability, they may be able to repeatedly use the same evidence and rulings in subsequent cases while incurring minimal expenses. Neither model is applicable to mold cases. Although there have been some multi-plaintiff cases filed by apartment tenants or groups of workers in commercial buildings, the vast majority of cases are filed by individual homeowners, tenants, etc. Each of these cases feature different injuries, differing theories as to the cause of mold growth, and distinct injury-causing agents—there are hundreds of thousands of species of mold. Defendants also differ from case to case—no mold defendant has faced the type of situation that companies such as Dow Corning experienced in regard to breast implants, in which thousands of similar cases were filed nationwide. The result is that plaintiffs' attorneys cannot achieve economies of scale in litigating mold claims. This fact as much as anything has prevented mold from becoming the new asbestos.

Mold Is Not a Toxic Problem

The science in regard to so-called toxic mold continues to favor defendants. Only by demonstrating that molds release toxins in sufficient quantities can plaintiffs prove that mold is responsible for brain damage, cancer, and similar conditions. Several years ago, the Institute of Medicine published a report stating that there was insufficient scientific evidence of the so-called toxic effects of mold.³ More recently, in June 2006, the American College of Medical Toxicology issued a statement discrediting claims of toxic injuries due to mold exposure, as well as those arising from irritation.⁴ Along with other recent studies, defendants now have a significant body of literature supporting their position in regard to claims of exposure to "toxic" mold. When used effectively, these studies have helped prevent many of the more serious mold claims from ever reaching a jury.

Mold Claims Have Produced Subsidiary Litigation

Now that those with an interest in both sides of the mold issue have had years to contest each other's position, some have

decided to sue each other directly. Bruce Kelman, Ph.D., a toxicologist who has testified frequently for defendants, has a libel suit pending in California against Sharon Kramer, an activist on behalf of mold plaintiffs.⁵ Kelman alleges that Kramer made false statements regarding his testimony in prior actions, some of it related to a position statement on mold issued by the American College of Occupational and Environmental Medicine (ACOEM).⁶ This controversy was alluded to in a recent *Wall Street Journal* article, which repeated allegations that the ACOEM report was drafted by defense experts who failed to disclose their alleged conflict of interests.⁷ The preparation of the ACOEM report has become a litigated issue in a number of mold cases.

Mold Claims Will Continue to Target Real Property Owners and the Construction Industry

Although there have been attempts to expand the scope of potential defendants in mold cases—the primary defendant in *Gorman* was a lumberyard that allegedly supplied mold-contaminated products used to construct the plaintiffs'

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Mold Litigation Update: Current Trends in this Once-Emerging Tort

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home—the target defendants remain those with interests in real property and construction. While this helps prevent mold cases from being filed on a mass basis, it's not likely to comfort the targeted industries. Most “mass” torts are product liability cases filed against manufacturers and suppliers of allegedly defective products. Mold claims focus on residential and commercial landlords, homebuilders, and their contractors. These industries need to remain vigilant in responding to water damage and mold claims, particularly given that any construction defect claim involving water damage can lead to much more costly personal injury claims based upon the presence of mold.

Handling Mold Cases Today

Defense verdicts and the failure of mold litigation to meet the early predictions of the media may create complacency. This is a mistake, as the *Gorman* case demonstrates. Mold cases are by definition singular. Erroneously assuming that every mold personal injury case will be limited to claims of allergy and asthma can be costly. Experienced counsel will quickly establish the nature of plaintiffs' injuries and then use proven techniques to prevent claims of toxic injury from reaching a jury. There is now sufficient scientific evidence undermining claims of serious toxic injuries from mold, and plaintiffs face such high evidentiary hurdles, that a good defense is available in every case. However, the failure to employ these strategies in every action allows a certain number of claims to reach juries without the strongest defense being made. And each plaintiffs' verdict, even if not as frequent as predicted five years ago, encourages the filing of more cases.

What Lies Ahead?

We believe that while the number of mold cases being filed in California has stabilized and may decrease, more cases will be filed in other jurisdictions that lack a history of these claims. Each of these areas are likely to experience a

repeat of what occurred in California, i.e., early publicity and success by plaintiffs will cause an increase in filings, which will drop off once defendants begin employing the techniques and strategies that have proven successful in other states.

A few plaintiffs' attorneys will continue to fight the battle to present “toxic” mold claims to juries, but most will limit their cases to claims of asthma and allergy, which have greater scientific credibility. This will decrease the potential value of the claims, but increase the likelihood of some recovery.

It is unlikely that the state of medical science will change in the next several years in a way that will significantly impact mold claims. The same issues that make each mold claim unique, e.g., the hundreds of thousands of species of different molds, the varying circumstances of exposure and the different injuries that are involved, limit the ability of scientists to perform comprehensive studies.

The value of mold testing, both in terms of industrial hygiene and as evidence in court, will face greater scrutiny. For example, a recent publication of the American Industrial Hygiene Association advises most homeowners who suspect that they have a mold problem that testing is not needed.⁸

Conclusion

Having avoided the predicted onslaught of mold injury claims, those with an interest in real property and their underwriters must now analyze each potential mold injury claim separately, to determine whether it represents an attempt to gain a few more dollars from a construction defect suit or whether the claimants believe they can obtain the next \$20 million settlement. Defendants have done a good job addressing these claims in the courts, and new scientific studies have bolstered the defense position. Knowing when and how to apply these strategies and the scientific data is the current challenge. ■

Endnotes

1. *Szymczak v A&T Development* (44th Circuit Court, Michigan) as reported by *The Detroit News* (January 17, 2007).
2. *Gorman v Kamich* (Los Angeles County Superior Court Case No. YC043494) (November 2005).
3. *Damp Indoor Spaces and Health*, Institute of Medicine of the National Academies (2004).
4. *American College of Medical Toxicology Comment: Institute of Medicine Report on Damp Indoor Spaces and Health* (June 2006) (available at www.acmt.net).
5. *Kelman v Kramer* (San Diego County Superior Court Case No. D047758).
6. Position Paper: The Medical Effects of Mold Exposure, *Journal of Allergy & Clinical Immunology*, Vol. 117, No. 2 (2006).
7. D. Armstrong, “Amid Suits Over Mold, Experts Wear Two Hats,” *Wall Street Journal* (January 9, 2007), p. 1.
8. “The Facts About Mold,” American Industrial Hygiene Association (October 20, 2006) (available at www.aiha.org).

Consider CPCU Society Service!

by Eric A. Fitzgerald, J.D., CPCU



■ **Eric A. Fitzgerald, J.D., CPCU**, is the chairman of Marshall Dennehey's Insurance Coverage/Bad Faith Practice Group, where he devotes his practice exclusively to general counsel and litigation of insurance coverage disputes. He practices out of the firm's Scranton and Philadelphia offices. He graduated cum laude from the University of Rochester in 1989, and Buffalo Law School in 1993. Fitzgerald obtained the CPCU designation in 1999, and is a member of the Advisory Committee for the American Institute for CPCU.

Attention all Claims Section members—there are many opportunities for CPCU Society service of which you may not be aware! You have obtained your CPCU designation and you've joined the CPCU Society. You are involved in claims in some manner in your job. You've elected to join the Claims Section and you are enjoying the benefits of section membership.

So why not go the next step? Get involved in CPCU Society service. Many CPCUs are exposed only to the local chapter leadership track to CPCU Society service. However, the interest sections are also involved in CPCU Society leadership positions. The Claims Section has a leadership committee of individuals who make the Claims Section a valued benefit in a number of ways: planning seminars and symposia for CPCU Society conferences; compiling and editing the *Claims Quarterly*; planning the Claims Section lunch at the Annual Meeting and Seminars; and more. Members of the committee stay on for three-year terms. This gives an opportunity to develop lasting friendships and networking opportunities with people who are in the same line of business as you.

Another way to get involved is through the CPCU Society task forces. These are action groups, which are formed by the board of governors to approach specific issues, which the Society faces. One great example of task force involvement was the development of the Sections Circle of Excellence. You may not know it, but it wasn't that long ago that only the chapters were able to receive such recognition for their efforts. Through the designation of a task force, the Circle of Excellence program was analyzed and modified to fit the needs of the interest sections. Now, we are proud to be members of an outstanding interest section, which has achieved the highest possible recognition every year since! This wouldn't be possible without volunteers participating in a task force.

So many of our members assume that only local chapter leaders are involved in CPCU Society service. This is simply not the case, and your membership in the Claims Section is proof of the value of the interest sections to CPCUs across the country. So whether it is membership on the Claims Section Committee, or one of the task forces, CPCU Society service is a great way to get involved. Think about it—and contact one of your Claims Section Committee members. We would love to tell you more about it. ■

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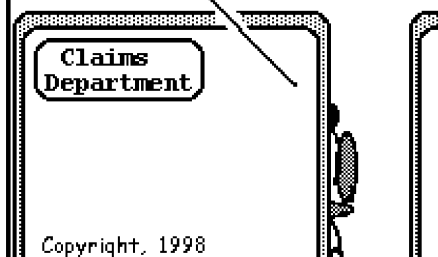
Visit www.cpcusociety.org to register online and for the latest information on the 2007 Annual Meeting and Seminars.



Liten Up!

by B.D. Hicks

Ma'am, the customer service link at our website will give you a user-friendly explanation of why we denied your claim.



Emotional Intelligence and Leadership

by Rodney Caudill, CPCU, AIC



■ **Rodney Caudill, CPCU, AIC**, is a vice president with Property Damage Appraisers Inc. of Fort Worth, Texas. He earned a bachelor's degree from Gardner-Webb University and a master's in business administration from Montreat College. In addition to belonging to the CPCU Society's Claims Section Committee, he serves on the CPCU Society's Fort Worth Chapter Board of Directors in the public relations position.

In our world, some people will rise faster and go further than others. These individuals may not have the highest intelligence or best pedigree, yet they lead and others follow. These individuals in the past were attributed to having charisma and the ability to influence others. Yet, recent studies indicate these skills are based on emotional intelligence. In fact, for leadership and high achievement, emotional intelligence may be the most important indicator of success one possesses.

To evaluate the role of emotional intelligence in leadership, it is necessary to explore the realm of emotions that human beings share. Emotions are powerful forces, which cause our body to react based on environmental stimulus. Emotions are the responses we give in regards to the events or situations we find ourselves in. In the past, emotions were thought as more of a part of an individual's personality. Yet, as documented by Dr. Daniel Goleman in his book *Emotional Intelligence: Why It Matters More Than IQ*, there is a physiological response as the body prepares to engage the situation. Dr. Goleman's (1995) studies show the following physiological responses:

With anger, blood flows to the hand, making it easier to grasp a weapon or strike a foe; heart rate increases, and a rush of hormones such as adrenaline generates a pulse of energy strong enough for vigorous action. With fear, blood goes to the large skeletal muscles such as in the legs, making it easier to flee—and making the face blanch as blood is shunted away from it, creating the feeling that blood “runs cold.” At the same time, the body freezes, if only for a moment, perhaps allowing time to gauge whether hiding is a better reaction. Circuits in the brain's emotional center trigger a flood of hormones that put the body on general alert, making it edgy and ready for action, and attention fixates on the threat at hand, the better to evaluate the response to make. Among the main

biological changes in happiness is an increased activity in a brain center that inhibits negative feelings and fosters an increase in available energy and a quieting of those that generate worrisome thought. But, there is no shift in physiology save a quiescence, which makes the body recover more quickly from the biological arousal of upsetting emotions. This configuration offers the body a general test as well as readiness and enthusiasm for whatever task is at hand and for striving toward a great variety of goals. Love, tender feelings, and sexual satisfaction entail parasympathetic arousal—the physiological opposite of the “fight or flight” mobilization shared by fear and anger. The parasympathetic pattern, dubbed the “relaxation response,” is a body wide set of reactions that generate as a general state of calm and contentment, facilitating cooperation. The lifting of the eyebrows in surprise allows the taking in of a larger visual sweep and also permits more light to stroke the retina. This offers more information about the unexpected event, making it easier to figure exactly what is going on and concoct the best plan for action. Around the world, an expression of disgust looks the same and sends the identical message—something is offensive in taste or smell, or metaphorically so. The facial expression of disgust—the upper lip curled to the side as the nose wrinkles slightly—suggests a primordial attempt, as Darwin observed, to close the nostrils against a noxious odor or to spit out a poisonous food. A main function for sadness is to help adjust to a significant event, such as the loss of someone close or a major disappointment. Sadness brings a drop in energy and enthusiasm for life's activities, particularly diversions and pleasures. And, as it deepens and approaches depression, slows the body's metabolism. This introspective withdrawal creates the opportunity to mourn a loss or frustrated hope, grasp its consequences for one's life, and as energy returns, plan new beginnings.

This loss of energy may well have kept saddened—and vulnerable—early humans close to home where they were safer. (pp. 6-7)

In all of the basic emotions, the body reacts to a change in its surroundings. This reaction is then modified by culture and personality. It would be unwise to draw a complete conclusion that all humans will react in the above matter. Yet, it would be fair to say the basic physiological response would be fairly constant.

Once it is determined emotions are to some degree a physiological response, then the body must have a mechanism for triggering the emotional response one has. Goleman (1995) uses the eyes, or retina, for his illustration, to the thalamus for translation or decoding. The brain then decodes the information for action to be taken. Again, in Goleman's (1995) illustration, the visual cortex is used. From the cortex, the data is analyzed and if an emotional response is required, it is sent to the amygdale to activate the emotional centers of the brain. This will lead to the physiological responses outlined earlier. However, a small portion of the data goes from the thalamus, the brain's encryption center, straight to the amygdala thus bypassing the brain centers for analysis (Goleman, 1995). This bypassing slows for a more immediate response, yet one based on unanalyzed stimulus. As Goleman (1995) points out, this clears the way for a response based on less data but quicker actual time.

The amygdale works in conjunction with the hippocampus. The hippocampus is what remembers the context of an event. The hippocampus remembers the facts and the amygdale retains the emotional memory of those facts. These two portions of the brain build the foundations for how humans respond to emotional stimulus (Goleman 1995).

The regulator to this response can be found in the neocortex. Goleman's work finds that the prefrontal cortex works when emotions are present to stifle or

regulate the feelings as so a response in line with the stimulus can be generated. The neocortical area is what analyzes and brings a response that is more rational than emotional. Again, the neocortical acts as a regulator to the amygdale and its immediate response (Goleman 1995).

All of these workings of the brain lead Goleman (1995) to the term of "emotional hijackings" (p. 14). This is when the amygdale is triggered and the neocortical is not. This leads to the individual being overridden with complete emotional response with no true rationalization. These "emotional hijackings" are the times when the body is at the complete control of its emotional elements and it is not regulated by any cultural or physiological limits (Goleman 1995, p. 26). This purely emotional response sets the stage for the physical response that others will see and interpret.

This combination of factors builds the physiological basis of emotions and enables one to look at the role of intelligence in emotional intelligence. Intelligence in the past was primarily thought of as being able to solve problems such as the ones found on the Scholastic Aptitude Test (SAT). Most intelligence ideas were based around this notion. Yet, Howard Gardner's Theory of Multiple Intelligence looks at intelligence from a different point of view. In *Frames of Mind: The Theory of Multiple Intelligence*, Gardner (1993) sets forth intelligence as "the ability to solve problems, or to create products, that are valued within one or more cultured settings" (p. x).

Gardner's (1993) work in intelligence is more relative to the study of leadership and emotional intelligence as he sees intelligence as being in different forms. The first of these would be linguistic intelligence and is the ability to communicate effectively followed by musical intelligence, which deals with the ability to create music. Logical—mathematical intelligence measures one's ability to solve mathematical problems. Spatial intelligence or visual intelligence

is when the individual can see and work out problems through visual cognition. Bodily—kinesthetic intelligence would pertain to athletes and others who have great control over their bodies. Personal intelligence is of two types. Interpersonal pertains to the ability to work or deal with others. Intrapersonal is based around a personal knowing of one's self. Gardner's (1993) research goes into much greater detail, but these basic understandings will enable one to see how different intelligence relates to emotional intelligence and leadership.

Gardner's theory will enable one to evaluate their highest level of intelligence when making work or relationship decisions. These intelligences will also lead people to have varying responses to stimuli, as each intelligence will undoubtedly effect personality. An example would be if asked to write a paper or speak, I could respond confidently. Yet, when asked to complete a calculus equation, my response will be very different. By evaluating intelligence in this context, we are able to build on what is emotional intelligence and the correlation to leadership.

With the work of Howard Gardner on intelligence and the physiological aspect of emotions the elements of emotional intelligence can be reviewed. To that effect, Dr. Goleman (1995) breaks out emotional intelligence into five major sections:

1. **Knowing one's emotions.** Self-awareness—recognizing a feeling as it happens—is the keystone of emotional intelligence . . . the ability to monitor feelings from moment to moment is crucial to psychological insight and self-understanding. An inability to notice our true feelings leaves us at their mercy. People with greater certainty about their feelings are better pilots of their lives having a more sure sense of how they really feel about personal decisions from whom to marry to what job to take.

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Emotional Intelligence and Leadership

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2. **Managing emotions.** Handling feelings so they are appropriate is an ability that builds on self-awareness . . . the capacity to soothe oneself, to shake off rampant anxiety, gloom, or irritability—and the consequences of failure at this basic emotional skill. People who are poor in this ability are constantly battling feelings of distress, while those who excel in it can bounce back far more quickly from life's setbacks and upsets.
3. **Motivating oneself.** Marshalling of emotions in the service of a goal is essential for paying attention, for self-motivation and mastery, and for creativity. Emotional self-control—delaying gratification and stifling impulsiveness underlies accomplishment of every sort. And, being able to get into the “flow” state enables outstanding performance of all kinds. People who have this skill tend to be more highly productive and effective in whatever they undertake.
4. **Recognizing emotions in others.** Empathy, another ability that builds on social awareness, is the fundamental “people skill.” People who are empathetic are more attuned to the subtle social signals that indicate what others need or want. This makes them better at callings such as the caring professions, i.e. teaching, sales, and management.
5. **Handling relationships.** The art of relationships is, in large part, skill in managing emotions in others. These are the abilities that undergird popularity, leadership, and interpersonal effectiveness. People who excel in these skills do well at anything that relies on interacting smoothly with others; they are social stars (pp. 43–44).

The above breakout is what Goleman believes to be the five basic domains of emotional intelligence. He goes on

to build on the definition, but for the purpose of this article and its relation to leadership, this will be the framework of a working definition.

The work of Gardner on intelligence is instrumental for one to understand the great importance of emotional intelligence on leadership. Without differing types of intelligence, emotional intelligence could be seen simply as people who are more stable and compassionate. When we factor in that intelligence operates at different levels and skill sets, then emotional intelligence would play an integral role on one's success as a leader. An example would be an accountant or actuary who can solve mathematical problems with ease. The person can no doubt be said to have a high “IQ,” yet the person may not be able to manage or lead a department. Then there could be a person who is technically not as sound as the first, but is able to lead and motivate the same department. Without Gardner's theories on multiple intelligences, there would be no logical basis for such an event. But, with Gardner's theory in conjunction with emotional intelligence, we now have the basis for such an occurrence.

This would indicate that for one to succeed as a leader, he or she would first need to be in a position to utilize his or her given intelligence. Only then would emotional intelligence be truly useful. The contention being that one must have a basic level of proficiency in an area before he or she can lead. One may score off the charts for being emotionally intelligent, but if he or she lacks the fundamental skills in the job, he or she will never truly lead. Emotional intelligence cannot be seen as a replacement for intelligence, as in the sense Gardner states intelligence, it would be an enhancer. This would be especially true in its relationship to leadership.

The quality of leadership is seen in individuals for many different reasons. In Gardner's (1996) *Leading Minds: Anatomy of Leadership*, he examines the stories of 11 distinct individuals who all were considered to be leaders. Yet, these

individuals were diverse and without a doubt some would not score as high as some non-leaders on IQ tests. There is certainty that all of these leaders would test high on one of Gardner's theories of multiple intelligences. However, once they are identified as having one of seven multiple intelligences, the individuals would probably score high. The word “probably” is used as no definitive test was performed. But, an assumption can be made that for a person to lead, he or she must in fact be accepted as “intelligent” by followers.

Once a person has been put into a position of leadership in which he or she has an acceptable match of intelligence, will emotional intelligence truly effect the quality of his or her leadership? Once the person is accepted as being fundamentally “qualified” by followers or subordinates, the leader will have to facilitate a confidence or consensus for the others. Garner (1995) can see these factors for leadership development in four ways:

1. A tie to the community . . . relationship between leader and follower.
2. A certain rhythm of life . . . the ability to reflect and assume distance from the battle.
3. An evident relation between stories and embodiments . . . influence through stories or messages or traits they embody.
4. The centrality of choice . . . virtues being embodied or opinions being changed through example and persuasion (pp. 36–38).

These factors can be viewed as the context or the framework of one's leadership. They do, however, relate directly to the concepts of emotional intelligence. Primarily, they are built around understanding, dealing with and motivating others, which is the essence of what Goleman sees as emotional intelligence.

Leadership can be put in the context of emotional intelligence relating to Goleman's (1995) five basics, which were stated earlier. For one to lead, he or she must know one's self. This can be seen as to lead people you must understand who you are and where you are going. People who know their own emotions and can fairly well predict how they will react, can spend greater amounts of time assisting others through turbulent times. In addition, it relates to the concept of being comfortable "in one's own skin." When leaders, especially politicians, are judged, they are looked at how comfortable they are. This is the essence of knowing one's emotion as if you can predict your reaction; there will be less stress for one to endure.

Managing one's emotions fits, as people must see stability in those they follow. This is particularly true in professions in which there is a high level of risk. A prime example would be combat operations or law enforcement fields. Leaders must control their emotions, as their actions will set the tone for others. If subordinates see their leader falling apart in a mission, what disastrous effect this probably will have for the mission. Leaders will become scared, startled, and surprised as all human beings do in situations of great risk. The key is that true leadership overrides the emotional response of the body to react. An example was when I was a supervisor in the military and in law enforcement, it became apparent that those I commanded looked to my reaction when we faced a difficult situation. This observation of those I commanded would usually set the tone for their own emotional response.

If leadership at its essence is to motivate others, then it only makes sense that a true leader motivates one's self. A way of looking at this would be that a leader exemplifies the qualities he or she wishes for others to emulate. Here again, subordinates or followers will key in on what the leader does. If the leader comes in an hour early and leaves an hour late, the followers will in fact believe this is the standard they are to follow. It follows the time-tested method of leadership that

one will not ask something of another, which they have not done or are not willing to do. This self-motivation is what will push a leader to demand more, not simply from others but from their own actions. Self-motivation cannot be faked. It is apparent to those who follow. We all have had the leaders who demand more, but sacrifice little or none. These leaders are doomed for failure, as subordinates will undoubtedly see their true nature.

Leadership requires one to be able to recognize emotions in others. This is termed the "people skill" (Goleman, 1995, p. 43). This skill allows the leader to know the temperament of his or her followers. A leader will know if his or her people are dazed, sad, confused, or happy. A leader will not only know these emotions but will seek to discover what is the cause for such behavior. If the leader can assess the cause of such emotions, he or she will be able to compel action by the use of the emotion. In addition, he or she will bond with the followers, as they will believe the leader understands their feelings.

Playing into recognizing the emotions of others is the "handling of relationships" (Goleman, 1995, p. 43). The leader must know what motivates the individual follower. The followers must be seen as individuals by the leader with each requiring his or her own form of attention need. The emotionally intelligent leader understands what will motivate the individual. A leader with poor emotional intelligence will not seek to understand those he or she commands. This failure will ultimately lead to the leader not being accepted by the group. Even a leader who leads by fear and intimidation must ultimately understand what his or her subordinates fear. In the business world, failure to perform this portion of emotional intelligence will lead to a disintegration of unity. If the leader is seen as being removed or not involved in an active relationship, there will be no foundation for achievement. When leaders are able to smoothly handle relationships with followers, they are able to convince many to tie into the objectives they have set forward.

Goleman continues this approach with emotional intelligence and leadership in his book *Working with Emotional Intelligence* (1998). He states that people with this competence:

- Articulate and arouse enthusiasm for a shared vision and mission.
- Step forward to lead as needed, regardless of position.
- Guide the performance of others while holding them accountable.
- Lead by example (p. 183).

Goleman's research contradicts my earlier belief that there must be an acceptable level of intelligence for a leader. Goleman found for outstanding leaders' emotional competencies—as opposed to technical or cognitive cues—make up to 80 to 100 percent of those listed by companies as crucial for success (Goleman, 1998). However, Goleman does not note if research was performed to assess the individual's basic skill or his or her ranking in regards to Gardner's theories on multiple intelligences.

It would be possible for someone to be in a position in which his or her intelligence was not truly suited but still have a basic level of expertise. With the relationship to emotional intelligence and leadership, there follows a relationship between success and failure as a leader. Robert "Dusty" Staub, the president of Staub Leadership Consultants, responded with the following when asked about leaders and courage. "Over the past 31 years of working with people in highly diverse settings . . . I have found all causes of failure to be driven ultimately by EQ (emotional quotient) breakdowns, not IQ (intelligence quotient) insufficiency" (Hopen, 2003, p. 2). This goes to prove that the link between emotional intelligence and leadership is not causal. This link has found to be so strong there are executives paying \$10,000 a week to learn emotional intelligence (Conlin, 2003).

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Emotional Intelligence and Leadership

Continued from page 9

The types of leadership are even being looked at in a new light. As research goes forward to study the most effective leaders and forms of leadership, again emotional intelligence is seen to play a critical role. The studies show based on what level of emotional intelligence one has that it to some degree can be seen as a predictor of leadership style. The following is from the *Leadership and Organization Journal* and proves the connection:

Laissez-faire leadership and management-by-exception (passive) are both similar in that they are forms of non-leadership; thus, it could be inferred that individuals with particularly low levels of emotional intelligence (i.e. those who cannot recognize and express emotions, those who do not use emotional information to assist problem solving, those who do not understand emotions of others, those who do not manage their own emotion and do not control their emotions in the work place, would not make effective leaders. (Gardener & Stough, 2002, p. 7).

The link does not end in discussing the pure emotional intelligence and leadership. An argument can be made that among the influence of a leader's abilities, emotional intelligence is ranked above eight other values. These eight other values were deemed moral values, but were categorized as responsible, loving, etc. (Krishna, 2001). The argument can be made that what transformational leaders find the most valuable is emotional intelligence. This is based on the mention of love, which, as stated earlier, is one of the basic emotions.

The correlation between emotional intelligence and leadership does not have to be genetic or innate. If we are to accept that emotional intelligence is a needed quality of leaders, it will need to be learned. Emotional intelligence can be learned and tends to reach higher levels with maturity (Smigla & Pastoria, 2000). Goleman (2002) believes that leadership skills are learned in life and are a skill,

which takes practice by individuals to enhance. In fact, many of the things we are taught today in training bear to the study of emotional intelligence and emotions. This teaching point may not be framed in the context of emotional intelligence, yet relate.

A case in point would be when I received advanced training in law enforcement. We practiced clearing buildings for hostages and suspects. The instructors continually said the phrase, "Slow is smooth, smooth is fast." A very corny phrase, but when looked at through emotions, it is prevalent what they were really saying was to calm yourself to what was going on and to act deliberate. It now appears that his was truly a call to override amygdala as so the neocortex could process information more accurately. This would then be a learned form of emotional intelligence. In addition, based on performance of these test values assigned to individual skills, undoubtedly formed an impression on someone's leadership skills, as it would be imperative for the leader of such an operation to remain calm and in control in such an environment.

There is sufficient evidence to provide more than a causal link between leadership and emotional intelligence. When we bestow what are the commonly accepted views of what is a leader, the ability to control one's own emotions is key. Leaders who cannot control their emotions, whether to display or not, will be seen as out of control or maybe worse, out of touch. The ability to see and respond effectively to the emotions of others will enable the effective leader to apply the appropriate means of motivation.

This combination of factors could be explored further to determine emotional intelligence leadership based on educational levels of followers. While this article concentrates on the leaders, it would be of interest to see the level of emotional intelligence needed to lead people with high school diplomas as compared to individuals with Ph.D.s.

In conclusion, the overall response of emotions in the physiological sense builds the basis for how we are drawn to act with others. There can be no argument that those who better understand their emotions and the emotions of others will in fact have a greater aptitude for leadership. This coupled with multiple intelligences indicates that raw IQ will be less of a predictor in leadership success than would be thought. Without a doubt, intelligence is needed, but the ability to motivate and achieve goals will be based more on a leader's emotional intelligence. In the end, a true measure of a leader is not who or what he or she leads, but to where he or she leads. Emotional intelligence is what convinces others to follow to that destination. ■

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From the Editor

by Robert M. Kelso, J.D., CPCU,



■ **Robert M. Kelso, J.D., CPCU**, is a senior partner with the law firm of Kightlinger and Gray in Indianapolis, IN, and is a past president of the CPCU Society's Central Indiana Chapter. Kelso concentrates on insurance defense, and also chairs the firm's Employment Practices Liability Defense Group.

Handling claims competently requires knowledge and skills, to analyze facts in the context of legal principles: How do the pertinent rules of law apply to the facts of a particular situation?

For example, the analysis in third-party negligence claims (coverage issues aside) generally begins when an allegedly damaged person makes a claim against an insured, and then the claims professional reviews the facts as they would be considered in light of the legal elements of the tort of negligence. With the tort of negligence, and its familiar four elements (duty, breach, proximate cause, and damages), this analysis begins with the question: Did the insured owe a legal duty to the claimant under the facts? The analysis proceeds logically from there, through the other elements, and ending with an analysis of the legally allowable damages and potential defenses.

However important this knowledge and these skills may be viewed, most claims and lawsuits require something more for a successful resolution.

It is often essential to the successful resolution of claims for other people to "reason with" the claims professional through a legal analysis, when those other people (and even the trained claims professional) may be experiencing an emotional reaction in a professionally or personally stressful situation. In addition, the claim itself may involve an unpleasant, or sympathetic, factual situation, which may cause an emotional response. This is true in discussions with co-workers, informal settlement negotiations, mediations, legal arguments, and trials. A truly effective claims professional is required to consider and to anticipate these reactions and responses, in addition to undertaking the legal analysis of the facts.

The leadership article "Emotional Intelligence and Leadership," by **Rodney Caudill, CPCU, AIC**, in this CQ is an insightful review of the basis for, and the significance of, these issues. If you have not already done so, please consider the CPCU Society's National Leadership Institute (NLI) courses. For myself and the rest of the CQ editorial team, **James W. Beckley, CPCU, Eric A. Fitzgerald, J.D., CPCU, Kenneth R. Hoke, CPCU, Keith D. Mulvihill, J.D., CPCU, and Marcia A. Sweeney, CPCU**, we hope you enjoy this edition of the CQ. Your feedback is always welcome. ■

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CQ Spotlight

Claims Section Members Recognized as “Outstanding Course Leaders”

by Marcia A. Sweeney, CPCU, AIC, ARe, ARM, AIS



■ **Marcia A. Sweeney, CPCU, AIC, ARe, ARM, AIS,** serves on the Claims Section Committee and is a member of the CQ editorial team. Sweeney is a reinsurance claims manager for Horizon Management Group, and specializes in run-off claims management.

Industry professionals that teach CPCU and IIA insurance courses for the American Institute for CPCU (AICPCU) and Insurance Institute of America (IIA) have the opportunity to receive an award and be recognized in the industry as an “outstanding course leader.”

The Claims Section has identified a list of the Institutes’ outstanding course leaders who are also CPCUs and who are also members of the Claims Section. We wanted to identify those individuals so that they could be recognized by their peers in the claim business. The CQ spotlight is on these trainers and mentors.

Teaching insurance courses gives satisfaction in many forms—one instructor said the best part of teaching is seeing the look on their faces that say “I get it”; another likes to teach to share information and know-how with other insurance professionals; another has a passion for teaching, she says it energizes her. All instructors quoted on the AICPCU web site seem to express the same sentiments—they love sharing their knowledge and helping others in their career development. To learn more about the program and the individuals involved, you can visit www.aicpcu.org, select “corporate services,” then select “course sponsors/leaders.”

The Institute’s Course Leader Recognition Program recognizes outstanding CPCU and IIA course leaders whose performance consistently results in pass ratios equal to or better than national averages. These outstanding course leaders receive public recognition and awards attesting to their achievements. You may have had someone in your chapter receive the recognition and award at one of your local meetings. These individuals have taught many courses over the years and had many of the chapter members pass through their classes. They’ve received

highly complimentary feedback and maintained a high passing ratio for each course taught.

Most course leaders are working insurance and risk management professionals, and several of them are members of the Claims Section. They share their knowledge with their students and help them learn course material and prepare for Institute examinations. The Institutes like to reward outstanding course leaders: those who have made a long-term commitment and whose results are exemplary.

Classes that qualify for the Course Leader Recognition Program must meet the following criteria:

- The class is listed in the Institutes’ Study Group System.
- The course contains five or more students.
- The class pass ratio is equal to or higher than the national pass ratio for that course in that time period.

The Institutes offer a combination of public recognition events, press releases, and various gifts (depending on number of qualified classes) to recognize outstanding course leaders. Current gifts include briefcases, plaques, and engraved crystal bowls.

Additional levels of reward and recognition are granted to the instructors based on the number of courses taught, the number of students enrolled, and a consistent, high pass ratio. As you read through the list of those individuals that the Claims Section is spotlighting, look to see the level they have achieved.

Outstanding CPCU/IIA Course Leaders

The Institutes are proud of the dedication and achievement of this group of outstanding industry professionals and so is the Claims Section. If there are other Claims Section members who have received this award and you don't see their name on the list below, I apologize. Please let me know and we will be sure to recognize you in a future CQ and on the Claims Section web site.

The Claims Section shines the spotlight on the following 18 CPCUs for their outstanding contributions to the betterment of the claims industry. The following people are all "outstanding course leaders," and they are also members of the CPCU Society's Claims Section:

Joseph M. Barbara, CPCU

Safeco Insurance Companies,
Claims Specialist
Level 2—Outstanding Course Leader
CPCU Society's Colorado Chapter

Jennifer Nablo Blandford, CPCU, AIC, AIM

Southern States Insurance Exchange,
Sr. Claims Examiner
Level 1—Outstanding Course Leader
CPCU Society's Greater Richmond Chapter

Ulises E. Castellon, CPCU

Fire Cause Analysis, Claim Analyst
Level 2—Outstanding Course Leader
CPCU Society's Sacramento Valley Chapter

Joseph J. Czapla, CPCU

Farmers Insurance Group,
Claims Supervisor
Level 2—Outstanding Course Leader
CPCU Society's Central Oklahoma Chapter

David R. Edwards, CPCU

21st Century Insurance Co.,
Casualty Analyst
Level 2—Outstanding Course Leader
CPCU Society's California
El Camino Chapter

Richard Gianino, CPCU

Plunkett & Cooney, PC, Partner
Level 1—Outstanding Course Leader
CPCU Society's Greater Detroit Chapter

William C. Gilmartin, CPCU

Riggs, Cousnelman, Michaels & Downes,
Senior Vice President
Level 1—Outstanding Course Leader
CPCU Society's Maryland Chapter

Robert C. Haberman, CPCU, AIC, ARM

Western Reserve Group,
Regional Supervisor
Level 2—Outstanding Course Leader
CPCU Society's Cleveland Chapter

Kenneth R. Hoke, CPCU

North Carolina Farm Bureau,
District Claims Manager
Level 1—Outstanding Course Leader
CPCU Society's Tidewater,
Virginia Chapter
CPCU Society's Claims Section
Committee member

Laurence M. Johnson Sr., CPCU

Middle Oak, Vice President
Level 1—Outstanding Course Leader
CPCU Society's Connecticut Chapter

Kirby D. Kasperek, CPCU

National American Insurance Co.,
Dept. Claim Manager
Level 1—Outstanding Course Leader
CPCU Society's Northeastern
Oklahoma Chapter

George E. Krauss, CPCU

Magellan Group, Inc., President
Level 1—Outstanding Course Leader
CPCU Society's Allegheny Chapter

Eric J. Sieber, CPCU

Sieber Claim Investigations
Level 2—Outstanding Course Leader
CPCU Society's San Gabriel Valley
Chapter
CPCU Society's Claims Section
Committee member

Dennis J. Stauffer, CPCU, ARM

Kemper Auto & Home,
Technical Supervisor
Level 3—Outstanding Course Leader
CPCU Society's Syracuse Chapter

Jeffrey A. Svestka, CPCU

Fireman's Fund, Financial Analyst—Re
Level 1—Outstanding Course Leader
CPCU Society's Golden Gate Chapter

Jerry E. Vondrell, CPCU

Cincinnati Insurance Co.,
Regional Claims Manager
Level 1—Outstanding Course Leader
CPCU Society's Dayton-Miami
Valley Chapter

George M. Wallace Jr., CPCU

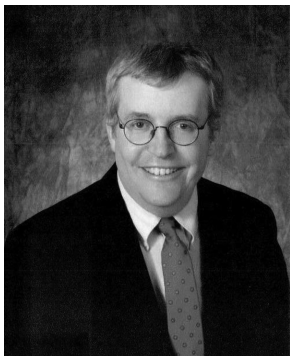
Wallace & Schwartz, Attorney
Level 1—Outstanding Course Leaders
CPCU Society Los Angeles Chapter

Andrew L. Zagrzewski, CPCU

Farmers Insurance Group,
Customer Relations Manager
Level 2—Outstanding Course Leader
CPCU Society San Gabriel Valley
Chapter
CPCU Society Claims Section
Committee member

Eight Best Practices in Your Voice Mail “Away” Message

by Kevin M. Quinley, CPCU



■ **Kevin M. Quinley, CPCU**, is senior vice president, Medmarc Insurance Group. He is a leading authority and trainer on claim productivity and the author of 10 books, including *Time Management for Claim Professionals* (www.nuco.com). You can reach him at kquinley@cox.net or at www.kevinquinley.com.

“Hi, this is Kevin. I’m away from my desk right now but. . .”

Sound familiar? Tons of callers try to reach adjusters and claim professionals: claimants, insureds, attorneys, vendors, and family. You can’t be at your desk or accessible every single minute, so you record an away message to greet callers who phone when you are away or on another line.

Good away messages can save you time, make the best use of your schedule, and serve as claim service boosters. A lame away message can cause time management headaches, erode your professional image, and cause customer frustration.

Let’s look at eight best practices in designing your away message:

1. **Project!** Does your away message sound interested and energized or flat and bored? Like it or not, callers may draw inferences about you depending upon what they hear when they get your recorded away message. Like it or not, fair or unfair, callers are forming impressions of you. Make it a good one by projecting energy and attention to detail in your brief voice mail away message. Claim professionals are constantly trying to build and reinforce their credibility and their personal “brand.” You do not do



this if you record your away message when you are angry, fatigued, or distracted. You do not have to take a course on method acting, but project vibrancy in your away message!

2. **If you intend to change it daily, do so daily!** Keep your message current. When I call people, get their voice mail message, and their message is clearly out of date, it tells me they are not on top of their workload or business. That is not the kind of impression a claims professional wants to make. If you plan to change your greeting every day, (“Hi, this is Kevin on Monday, March 19 . . .”) discipline yourself to do so daily, even if you’re out of the office. Otherwise, have a “generic” greeting not pegged to a specific date and does not force you to change the date every 24 hours.
3. **Allow a bail-out option** for those who want to bypass the voice mail greeting. Many people calling the Claims Department are repeat callers, people who call you again and again. Indicate what button they press or what commands they use in order to shortcut having to sit through your message for the thousandth time. They will appreciate this. Also, if there are numbers callers can press in order to be connected immediately with a living, breathing human being, include data.
4. **Keep it short!** I don’t need to know your life’s story or travel itinerary. I have heard voice mail greetings that go on and on for minutes. Who has time for that? I once made the mistake of asking an elderly aunt about her diverticulitis. Before I knew it, she was demonstrating to me how her ostomy bag worked! (One school of thought that you never ask an elderly person, “How

are you feeling?" This may lead to an ultimate Snickers moment—you're not going anywhere for a long while!) Nowadays we call that "TMI"—Too Much Information. Keep your away message short and sweet.

5. Leave emergency or urgent contact information. Claim files never get sick, and they never go on vacation. You, however, occasionally do. If callers have an emergency or an urgent matter that simply cannot wait until you get back—not unusual in Claim Departments—leave the name and phone number of your backup. Arrange such a backup before you leave for your vacation, business trip, et cetera. If you are out of the office sick, dial in, and leave those instructions remotely. Engage in "swap" agreements within the claims team so that you cover for other people when they are out, and they reciprocate when you are out.

6. If you aren't checking voice mail, say so. Sometimes you may be in locations where you cannot access voice mail. Maybe phone connections are scarce or temperamental. Perhaps you want to unplug from work, clear your head, and not be a slave to checking voice mail regularly. To calibrate customer and caller expectations, do not be afraid to flatly state that you will not be checking voice mail during the time you're out.

7. State when you'll be back. Let callers know when you will be back in the office. This also calibrates their expectations as to when they will hear back from you. You might even consider adding a day or two as a cushion, which leads to the next point. . . .

8. Calibrate the date. Let's say you have been out of the office during the week of March 12 through March 16. You will return to the office on Monday, March 19, but you know you will be swamped that first day back with catch-up e-mails, returning phone calls, claim team meetings, etc. Therefore, there is nothing wrong with telling a little white lie, stating in your voice mail message that you will be back in your office on March 20 or March 21. Notice you did not say that your first day back in the office was March 20 or March 21. This gives you March 19 and perhaps March 20 to dig out

and get current. Without this, I have literally had situations where, 20 minutes after arriving at the office on March 19, an attorney would call me to follow up on something that she had left a message on during the preceding week.

Assess your own away message. Does it reflect positively upon you as a claim professional? Is it concise and helpful?

Maybe you have other best practices in this realm. If so, you can call me with them, though—when you phone—you may get my away message. . . . ■

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Presenter

Robert E. McHenry, CPCU
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Claims Quarterly
is published four times a year by and for the members of
the Claims Section of the CPCU Society.
<http://claims.cpcusociety.org>

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