

## From the Chairman's Corner

by Lynn D. Goodwin, CPCU, CIC, ARM



**Lynn D. Goodwin, CPCU, CIC, ARM**, is assistant vice president at International Placement Services, Inc., where she is responsible for underwriting, marketing, and supervising the Commercial Special Risks Department. She is chairman of the CPCU Society's E/S/SL Section. She started her insurance career in 1977, and has broad knowledge of all lines of insurance, including international insurance. She has worked for several insurance companies in the underwriting and marketing areas; and in 1992 moved into the retail side of the insurance business, working for Johnson & Higgins (now known as Marsh), Lockton, and Willis. Prior to joining IPSI, she marketed and serviced national accounts. Goodwin obtained the CPCU designation in 1993, the CIC designation in 1994, and the ARM designation in 1995.

**I** cannot believe it is 2007. It seems like not too long ago that we were talking about Y2K issues. I am very excited about this new year. I will share with you some of the goals I have set for 2007 personally and professionally.

Did you know that I have done five full-marathons in a two and one-half year period (from October 2002 to January 2005)? I ran in Dublin, Ireland; St. Charles, MO; Nashville, TN; Chicago, IL; and Disney World, Orlando, FL (in that order). I have to admit that the Chicago marathon was my most favorite race. In training for these marathons, I have completed many 5k's, 10k's, and half-marathons. Yes, my short legs can run, not very fast, but they can run. So, since I have tackled 26.2-mile marathons, what was next for me?

In May 2005, my husband and I joined a tae-kwon-do club. We both go to classes three to four times a week. My goal for 2007 is to achieve my black belt before the CPCU Society's Annual Meeting and Seminars in Hawaii. To date, I am on target to meet that lofty goal!

That's enough about my personal goals. I would like to hear about yours.

Professionally, my primary focus is to increase my production at work, or my employer may ask that I resign from my CPCU Society responsibilities. I am confident that it would not get to that point. It cannot get any worse. It can only get better. Remember, I work for a private wholesale brokerage firm in St. Louis, MO. We are in a very soft market right now. I have been in this business long enough to realize that the market would tighten up again.

My next challenge is to do a better job of leading and motivating the Excess/Surplus/Specialty/Lines Section Committee members to achieve most of the CPCU Society goals outlined below:

**Goal #1: Make CPCU the most widely recognized, valued, and highly respected professional designation/brand in the property and casualty insurance industry by CPCU employers, key segments of the financial services industry, and other important audiences. Here's how to achieve this goal:**

- conduct a symposium
- conduct a workshop
- conduct a turnkey project
- publish articles (non-CPCU publications)
- other creative activities

**Goal #2: All Society members have access to continually increasing number of programs and services that position them for success. Here's how to achieve this goal:**

- publish newsletters
- conduct CPCU Society Annual Meeting seminar

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# From the Chairman's Corner

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- conduct CPCU Society symposium
- conduct CPCU Society member workshop
- conduct CPCU Society chapter meeting turnkey program
- develop CPCU turnkey program(s)
- enhance web site for member value
- prepare a research project
- other creative activities

## Goal #3: Stewardship

Here's how to achieve this goal:

- sponsorship program matching new designees
- outreach program to CPCU Society membership
- local chapter outreach
- e-mail outreach
- letter outreach
- staff Annual Meeting sections booth
- staff Annual Meeting new designee room
- staff I-Day booths at chapters
- other creative activities

Our section committee will meet on Saturday, April 21, 2007, during the CPCU Society's Leadership Summit in Orlando, FL. Please join us in our brainstorming session. We would love to hear your comments, suggestions, and ideas. I hope to see you there!

Until the next issue . . . ■



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# Debunking Neuropsychological Injury Litigation

by Peter R. Reilly



**Peter R. Reilly** is a complex injury analyst who evaluates neuropsychological, medical, and psychiatric litigation for defendants. His "work-product" reports demystify medical issues, develop defense and cross-examination strategy, and consider contemporary research and medical literature. Reilly assesses the technical merits of a case and advises if it is medically defensible or whether settlement should be considered.

For additional information contact Reilly directly at (386) 569-1277 or visit his web site [www.DynamicClaimsSolutions.com](http://www.DynamicClaimsSolutions.com).

**Editor's note:** Here is an interesting article on brain injury claims. While most of our focus is on underwriting, pricing, and programs, it's always good to be mindful of trends in the claims arena and to learn how to handle these fairly, accurately, and expeditiously for all parties involved.

Complex injury litigation often involves allegations of organic brain injury secondary to blunt head trauma, hypoxic/anoxic compromise, electric shock, or whiplash. The purported foundation for these claims is that a change in the neuro-anatomy, electrophysiology, metabolism, or neurochemistry of the brain has occurred. Commonly, the results of diagnostic studies such as MRI, CT, or EEG are presented as objective evidence of

acute damage. Increasingly, however, plaintiffs are pursuing allegations of brain injury without objective test data or examination findings that correlate with their subjective reports of pathology and dysfunction. Many times these plaintiffs have been evaluated by a neuropsychologist who administered and interpreted a battery of neuro-cognitive and intelligence tests, inventories, and self-report measures.

Brain injury litigation that relies heavily or solely on neuropsychological testimony is often countered by the defendant with contradictory neuropsychological testimony. This approach commonly results in further confusion, not clarity, as neuropsychology can be highly subjective and speculative in forensic cases. While neuropsychological tests can identify areas of neuro-cognitive or other deficit, weakness, or impairment, they cannot establish the etiology of the performance variation. There is no proven objective method to determine whether the data represents acquired neuropsychological impairment or if it represents the effect of other non-organic factors also known to alter neuropsychological performance.

An alternate defense strategy to consider in this situation is to forego cognitive re-testing and to prepare aggressive cross-examination material to discredit the validity of the plaintiff's neuropsychological evidence as it pertains to a proximately caused brain injury with cognitive residua. Commonly, along with cognitive dysfunction, plaintiffs report depression, anxiety, pain, poor sleep, fatigue, and the use of a host of medications, all of which negatively effect test performance and clinical condition.

Additionally, the defendant's neuropsychological expert witness should administer psychological tests, personality inventories, and measures of effort, manipulation, and malingering to underscore the non-organic nature of the plaintiff's pathology.

The following guidelines can be used as the foundation to cross-examine the credibility and accuracy of plaintiff's neuropsychological evidence:

- Did the plaintiff's neuropsychologist confirm the plaintiff's baseline by reviewing pre-morbid medical, pharmaceutical, psychological, vocational, and academic records? This data is imperative to determine authentic functional changes.
- Did he or she review the medical records from the day of the alleged injury to confirm the type and severity of the initial injuries?
- Did he or she discuss the impact of other non-brain injury factors that may have negatively affected the plaintiff's test performance? Medical conditions, psychological overlay, medications, illicit substances, and manipulation all impact test performance.
- Did he or she discuss the plaintiff's differential diagnosis using the multi-axial diagnostic system (MADS) to confirm that other influencing factors were considered?
- How did he or she control for the accepted statistical problems with the neuropsychological tests, which limit their reliability and validity?
- Are the neuropsychological interpretations consistent with the plaintiff's ability to function in the community setting and with the neurological examination results?

Litigants alleging cognitive and psychological harm often use neuropsychological testimony in an attempt to objectify damages. However, the plaintiff's data typically results in a gross over-interpretation and over-statement of accident-related pathology. These cases are commonly fueled by clinical confusion, manipulation, and longstanding, underlying psychiatric conditions. Aggressive defense strategies are worth exploration and employment in these high-risk cases. ■

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# Sections Strategic Task Force Report Summary

by Kathleen J. Robison, CPCU, CPIW, ARM, AU



**Kathleen J. Robison, CPCU, CPIW, ARM, AU**, has more than 30 years of experience with leading claims organizations, and possesses a wide range of commercial and personal insurance coverage knowledge and applicability. K. Robi & Associates, LLC, which she founded in 2004, provides customized consultant services in the property and casualty insurance fields, including expert witness testimony, litigation management, claims and underwriting best practices reviews/audits, coverage analysis, and interim claims management.

She can be reached at (423) 884-3226 or (423) 404-3538; or at [info@krobiconsult.com](mailto:info@krobiconsult.com).

**Editor's note:** The following article reports on important trends and potential changes for CPCU Society interest sections. If you would like to share your thoughts on your E/S/SL Section or the CPCU Society interest sections in general, please e-mail Lynn D. Goodwin, CPCU, CIC, ARM, at [lgoodwin@ipsico.com](mailto:lgoodwin@ipsico.com), or me at [brockmeier@us.ibm.com](mailto:brockmeier@us.ibm.com). Your thoughts may shape the committee meeting agenda at the Leadership Summit in April.

**A**t the CPCU Society's 2005 Annual Meeting and Seminars, the Board of Governors created a Sections Strategic Task Force. The task force developed a strategic vision for sections, and presented it to the board at the CPCU Society's 2006 Annual Meeting and Seminars in Nashville in September. The Board of Governors accepted the report and referred it to the Executive Committee to develop detailed recommendations for consideration by the board at the April 2007 Leadership Summit meeting. This article summarizes the report and recommendations.

**David Medvidofsky, CPCU, CIC**, chaired the task force. Members of the task force were **Tony L. Cabot, CPCU**; **Matthew J. Chrupcala, CPCU**; **John L. Crandall, CPCU**; **Clint Gillespie, CPCU**; **Michael J. Highum, CPCU**; **Kelli M. Kukulka, CPCU**; **W. Thomas Mellor, CPCU, CLU, ChFC**; **Kathleen J. Robison, CPCU, CPIW**; **Eli E. Shupe Jr., CPCU**; **Nancy S. Vavra, CPCU**; and **Barry R. Midwood, CPCU**, as CPCU Society liaison.

The task force began its assessment by focusing on issues of strategy and purpose. It developed a series of strategic questions designed to answer "who, what, and why," before addressing the question of "how?"

After task force consensus on the questions, feedback was shared with designated section liaisons. The task force also met with key stakeholders at the mid-year meeting to share findings, to test attributions, and to obtain additional input.

The task force took a qualitative approach relying on member input and interviews to develop findings. Prior survey data were reviewed.

Prior to creating the strategy, the sections' current mission and vision statement were reviewed. The task force recommended the following changes.

**Special Note:** One of the recommendations is to re-brand the sections into interest groups. Therefore, the reader will note the reference to interest groups rather than sections.

## Proposed Mission

The CPCU Society aligns its members within interest groups consistent with the major disciplines of the property and casualty insurance industry. Serving the industry and other stakeholders in an ethical and professional manner, interest groups add value by increasing interest in attaining the CPCU designation and by helping make CPCU the most recognized, valued, and highly respected designation in the property and casualty industry through consistent and valuable technical content.

## Proposed Vision

Interest groups offer targeted educational content that make CPCU the most widely recognized, valued, and highly respected professional designation/brand in the property and casualty industry. Instead of being focused toward a value-add for a narrow target, interest groups are at the forefront for name recognition and desirability of the CPCU designation by reaching a broad audience. Although segmented by discipline, interest groups target their consistent and high-quality technical content to anyone in the industry seeking focused information.

Interest group affiliation is provided automatically to CPCU Society members. This enables consistent and ongoing technical content to reach CPCUs affording continuing education and reminding them of the value of CPCU Society membership.

Ultimately, the reach of interest groups extends beyond just CPCU Society members. All industry professionals are, therefore, exposed to CPCU through the work of its interest groups. Exposure to the high-quality, technical content of the volunteer interest groups:

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1. draws industry professionals to interest groups through exposure to their work; which
2. increases interest in CPCU and other Institute programs as a course of study; which
3. increases Institute participants and program designees; which
4. increases CPCU Society and chapter membership

**Special Note:** The above is a recommended long-range vision for sections. Included in the recommendations are specific steps to position sections for the proposed mission. The task force believed strongly that attaining the mission would be a staged process. The sections' offerings must first be of consistently high value on par with other offerings before extending sections' reach beyond Society members.

## Proposed Strategy

The strategy is to position sections as a provider of readily available, high-quality, technical content to stakeholders. The level of content and delivery will vary based on the audience:

- For prospective CPCU candidates, sections offer technical information such as symposia and expertise within the disciplines of the industry.
- For current CPCUs the newsletter and web site are of high value and encourage CPCUs not presently part of the CPCU Society to see the benefits of joining. Retention of current CPCU Society members increases by providing consistent, high-quality, technical content within member disciplines. CPCU Society members are connected to others within a functional discipline offering networking and resource advantages not available through other industry designations or associations.

As the technical content is consistently on par with competitor offerings, "associate memberships" are offered to non-CPCUs working in the industry and to industry providers (e.g., vendors). This provides a new revenue stream for the CPCU Society and further increases name recognition of CPCU. Candidate interest in the Institute's programs increases as well as through the exposure sections create.

Accomplishing this vision requires strategic actions that are presented as a series of strategic initiatives that align with four key perspectives:

- organizational structure
- leadership development
- membership
- value-added services

These strategic initiatives are summarized with a proposed template for reporting on results.

## Organizational Structure (OS)

### OS1—Re-Brand Sections as Society Interest Groups

**Rationale:** The term "sections" does not concisely describe their purpose. Other associations with similar structures such as PMI, ABA, etc. use "interest group" terminology. As the vision for sections evolves, re-branding them as interest groups signals something "new and improved." Further, the phrase "sections" carries connotations of silos where "interests" applies whether one works in a discipline or just has "interest" in learning more.

### OS2—Create Interest Group Resource and Governance Committee

**Rationale:** As the interest groups are exposed to a wider audience, the demand for consistent, high-quality content will increase. CPCU Society staff provides excellent support. Interest groups can enhance CPCU Society capacity

by forming a rotating four-member committee overseeing standards of content (see Recommendation VA1) and providing a resource for backup, training, and consultative advice. This committee would consist of:

- a former section chairman
- a former section web liaison
- a former section newsletter editor
- an additional member with experience in one of the above tasks

### OS3—Assess Current Interest Groups and Align Them with Major Industry Functions

**Rationale:** The industry has evolved since the creation of sections. For example, many companies no longer have "underwriting" departments—they have moved staff functions to product teams and field functions to production positions. Project management is integrated into most positions but has no discrete focus. As membership is opened, there needs to be a clear alignment between technical interests and the content focus of interest groups.

### OS4—Open Interest Group Membership to all Society Members

**Rationale:** Open membership will expose all CPCU Society members to the work performed by interest groups. Providing newsletter and web site access will consistently remind CPCU Society members of the value they receive by belonging to the Society. This recommendation also supports the CPCU Society's goal of visibility. Continuing education is provided while leveraging one of CPCU's key differentiators: the ability to connect its members at both the interdisciplinary level (chapters) and the intradisciplinary level (interest groups).

## Leadership Development (LD)

### LD1—Formalize Standard Interest Group Leader Training and Orientation for the Chairman, Newsletter Editor, and Web Liaison. This training will include an operations manual and continuously updated list of best practices.

**Rationale:** As membership is opened, interest group offerings will have wider exposure. Content value will become more important. Formalized training and reference materials need to be provided as tools to support the key interest group roles.

### LD2—Create a Developmental Scorecard for Interest Group Volunteers and CPCU Society Members

**Rationale:** As budget and time demands increase, employers and employees will need to understand and demonstrate the value of their commitment. A development scorecard will show employers what their investment provides. It will also enable employees to easily articulate the value they receive. The present CPD qualifier may be promoted or modified to meet this need.

## Membership (M)

### M1—Create Value Statements and Other Communications Tools to Promote Interest Groups

**Rationale:** As the sections are re-branded and membership is opened up to all CPCU Society members, value statements and a communications strategy must be created. These efforts must crisply articulate the value of interest group membership, and describe how the value of CPCU Society membership has increased. This highlights the differentiation that interest groups provide CPCU Society members through focused technical content that CPCU Society members will continuously receive.

### M2—Establish Affiliations between Interest Groups and Other Industry Organizations (e.g., PLRB, The “Big I,” and RIMS)

**Rationale:** To promote the technical expertise of CPCU Society interest groups and to support the goal of making CPCU the most widely recognized and highly respected designation, affiliations should be formed with other associations and/or designation programs. By presenting at their conferences and contributing to their newsletters, the CPCU Society increases their reach to potential designees committed to continuous learning.

### M3—Refresh the Interest Group Newsletters

**Rationale:** As the reach of newsletters increases (first to all CPCU Society members and longer term as a revenue-generating product) they must be refreshed. This will support the re-branding efforts. A task force should be formed to finalize recommendations—potential areas of review include electronic versus hard copy delivery (or option for both), the colors, logo, and layout, and the possibility of providing one comprehensive quarterly interest group newsletter with space for each interest group’s contribution (versus publishing 14 separate newsletters).

### M4—Designate Liaison(s) to Promote Interest Group Benefits to Chapters, Major Employers, and the Insurance Services Community

**Rationale:** The value of interest groups may be promoted by expanding the Connections concept. A discussion of the value of the interest groups must be added to the present agenda. Designating special liaisons will expand capacity to extend outreach to chapters and industry service providers.

### M5—Strengthen Connection between CPCU Society and Accredited Risk Management and Insurance Degree Programs

**Rationale:** Students pursuing degree programs in risk management and insurance are future prospects for the Institutes’ programs. Increasing awareness helps capture interested students. Recommendations to strengthen this connection include offering interest group membership to any approved university, offering a pool of guest lecturers, and providing a student forum for web site and newsletter submissions.

## Value-Added Services (VA)

### VA1—Develop Consistent Format and Content Standards for Core Interest Group Offerings

**Rationale:** As membership increases to all CPCU Society members, interest groups have an opportunity to promote their value to a wider audience. Longer term the strategy is to broaden interest group reach outside of the CPCU Society. This strategy requires content that compares favorably with alternative offerings. Specific content targets and standards assure the CPCU Society member regularly receive high-quality content. Support and governance for this recommendation is contemplated under recommendation OS3 above.

### VA2—Expand Delivery Methods of Technical Content

**Rationale:** Time and expense dictate member participation. Present delivery methods of the newsletter and the CPCU Society’s Annual Meeting and Seminars for technical content should be expanded by the interest groups to include webinars, more symposia, and chapter-ready presentations through a pool of local speakers. The possibility of on-demand or ability to purchase video of the CPCU Society’s Annual Meeting and Seminars must be considered to meet

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the needs of our growing international presence and those who cannot attend CPCU Society's Annual Meeting and Seminars.

## VA3—Encourage Interest Groups to Convert Highest-Rated CPCU Society Annual Meeting Technical Seminars into Symposia

**Rationale:** A great deal of work goes into producing quality technical sessions that are presented at the CPCU Society's Annual Meeting and Seminars. In their efforts to re-brand themselves and increase awareness of their offerings, interest groups have an opportunity to convert these programs into tested and finalized symposia. Not only does

this effort support the strategic goal of industry outreach, but it offers an additional revenue source to the CPCU Society.

## VA4—Conduct SWOT Analysis for Each Interest Group; Implement Findings

**Rationale:** As the interest group expectations change and the prospective members increase to all CPCU Society members, each interest group needs to assure that their offerings align with member needs. Action plans should be developed based on the findings and reported back through the interest group governors. ■

### *The Specialist*

is published four times a year by and for the members of the Excess/Surplus/Specialty Lines Section of the CPCU Society.  
<http://essl.cpcusociety.org>

### **Excess/Surplus/Specialty Lines Section**

#### **Co-Chairman**

Lynn D. Goodwin, CPCU, CIC, ARM  
International Placement Services, Inc.  
E-mail: [lgoodwin@ipsico.com](mailto:lgoodwin@ipsico.com)

### **Excess/Surplus/Specialty Lines Section**

#### **Co-Chairman**

James A. Roe, CPCU, ASLI  
Arlington Roe and Company, Inc.  
E-mail: [jroe@arlingtonroe.com](mailto:jroe@arlingtonroe.com)

### **The Specialist Editor**

Mark C. Brockmeier, CPCU  
IBM  
E-mail: [brockmeier@us.ibm.com](mailto:brockmeier@us.ibm.com)

### **Sections Manager**

John Kelly, CPCU  
CPCU Society

### **Managing Editor**

Michele A. Ianetti, AIT  
CPCU Society

### **Production Editor/Design**

Joan Satchell  
CPCU Society

CPCU Society  
720 Providence Road  
Malvern, PA 19355  
(800) 932-CPCU  
[www.cpcusociety.org](http://www.cpcusociety.org)

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## The Specialist

Volume 21

Number 1

# ESSL

March 2007

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