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A BETTER YOU

Personal growth is arguably the biggest needle mover for any career and organization

By Brett Young

In an industry occupied by technical knowledge, policy language expertise, fancy acronyms, and E&O paranoia, have we lost touch with the engine of progress? Do we pride ourselves and our staff on letters after our names rather than books on our end table? Or what tech stack we use for maximum productivity rather than how we plan our day? Do we boast of how many hours we work rather than what our morning routines look like? Or what our continuing education schedule consists of rather than what our personal development plans include?

The art of mastering the self has no place in a world that is focused on the science of mastering insurance, right? Oh, what a shame it would be to land in the best industry on the planet and be forever distracted from the only thing that moves our personal progress forward: becoming a better version of ourselves.

The gift of personal development is not only the greatest gift we can give to ourselves, but it is the biggest asset we have—and can provide to our clients. Whether you are working to resolve a claim, navigate an underwriting issue, secure a renewal, or bind a new piece of business, *you* are the product. You, in its entirety. No, not just your insurance acumen or your experience in the business. You; your energy, your communication, your problem-solving, your creativity, your patience, your ability to connect with people, your ability to listen to people, and (perhaps of increasing importance) your ability to influence people.

The list of personal skills and qualities far outweighs any professional inventory. Furthermore, and more important, the education you subscribe to and the work that you put in on improving yourself with your kids, your friends, and your family are the most transferable skills to being a successful insurance professional.

The Florida insurance marketplace changes every day. It is as volatile as any market anywhere in the world. What was true yesterday is not true today, and what is true today will not be true tomorrow. This change is constant in our world and we are required to keep up with these shifts in order to be a true insurance professional these days.

Yes, a lot of this includes professional improvement and we lean on many resources to stay up to date with our professional education. Halcyon and its team, for example, are one of the top resources that we leverage to keep a pulse on the marketplace. They are more than a partner to help us place business, and they are an advisor for our many questions: What has changed in the marketplace? What are they consistently seeing with underwriting tolerances and exceptions? What are some of the things that we should be aware of while marketing in the field? I'll be the first to say that having such resources readily available is essential to competing in this ever-changing market.

Nevertheless, what kills more careers is not what is required, but rather what is not.

Over the last decade of observing, teaching, and mentoring insurance professionals from different backgrounds, walks of life, and positions within the agency, I found that the single greatest predictor of success comes down to one key thing: the consistent practice and study of personal development.

The individuals who rise among the ranks, close the biggest accounts, and serve customers at the highest level, are deeply rooted in personal growth activities. In fact, I'd contend that they work much harder on becoming a better human being than they do on becoming a better insurance professional. How can that be? In short, they understand that to earn more, they must become more. They are less concerned with the "how's" and much more focused on the "how to approach the how's." Another way to articulate this would be, "how to think rather than how to do." They have grown to understand that the principles that guide personal progressi n any craft are universal and not industry specific. Although the problems we face in this turbulent Florida market will change, the process of finding solutions does not.

The gift of personal development is not only the greatest gift we can give to ourselves, but it is the biggest asset we have—and can provide to our clients.

The "personal development book"

Now, whether you are an employee of a larger firm, work on a small team, or are an agency principal, there are many ways you can systematically encourage and practice personal development within your organization. One powerful way to do this is to start a voluntary, discussion-based personal development book phone call. I'm proud to say we've run a conference call such as this for 15 years; I've seen first-hand the power of this simple, consistent discipline.

Over and over again, we've witnessed new team members come into our organization (some who have never opened a personal development book before) and slowly become a completely different person through this cultural exposure. The act of consistently reading opened up a whole new world of possibility for them. With time, closing ratios improved, record-breaking production months became the norm, and delivering extraordinary customer experiences became fluid and standard.

Whether weekly or bi-weekly, we jump on a 30-minute call to discuss the latest chapter of the book we read together as a team. The call is not presentational, but instead discussion-based. One team member runs a "check-in," if you will, to introduce and edify the person leading the call that week. This teaches important skills that are transferable to becoming a more well-rounded professional: public speaking, organization, preparation, getting comfortable with being uncomfortable, the art of edification, and bringing energy to the group.

The weekly leader (who rotates every call) will lead us in a discussion of the chapter, what they liked, and what they did not. Questions are posed and illustrated, vibrant discussion and occasional debate take place, and we even address applicability to our daily workplace. For example, "How does this concept in the chapter apply to our activity as insurance professionals?" Oftentimes, these conversations continue throughout the week and into the break room, on our way to lunch, and away from the office.

Although there are many ways to encourage personal growth outside of work, it's been an invaluable reminder that growth is the biggest needle mover for any career and organization—let alone, insurance. It's proven to have such an enormous impact that I often ask myself the same question: What would our organization look like if every person read 10 pages of a good book every day for the next five years?

I am convinced there is no greater progress leverage point within any organization than this.

Yes, things are changing rapidly in our industry: processes, insurance carriers, technology, underwriting, distribution, consumer behavior, and legislation. All this means is a different tomorrow for us as agents, and with it might come an outdated knowledge of "how to do things."

One agent's "problem" is another agent's opportunity. Simply by a shift in thinking, we can become problem-solvers instead of problem-prisoners.

Widespread cuts in Florida homeowners insurance commission rates will not be the end of an industry. But, it can be an opportunity—for those who are positioned—to take market share. You can't possibly teach or learn all these "how to's" for every scenario that may come up, but you can teach the universal laws for "how to think."

Make no mistake, other unknown challenges will emerge for the future Florida independent insurance agent. Yet, the more problems that arise and the more challenges we face, what I am reminded of—and even more convinced of today than ever before— is that the true power is in personal development. Those who are deeply rooted in this practice will rise to the surface as industry leaders, key problem solvers, and future thinkers of tomorrow. ■

[T]here are many ways you can systematically encourage and practice personal development within your organization. One powerful way to do this is to start a voluntary, discussion-based personal development book phone call.

The author

Brett Young is CEO of Erb and Young, a local Florida-based independent insurance agency that focuses on personal development as the primary driver to innovation and creating extraordinary customer experiences. Brett started his professional career in late 2006. He was introduced to the insurance industry through a direct sales company while finishing up a bachelor's degree at the University of Central Florida. Moving into the property and casualty space in late 2009, Brett and two other business partners opened Erb and Young in early 2011.

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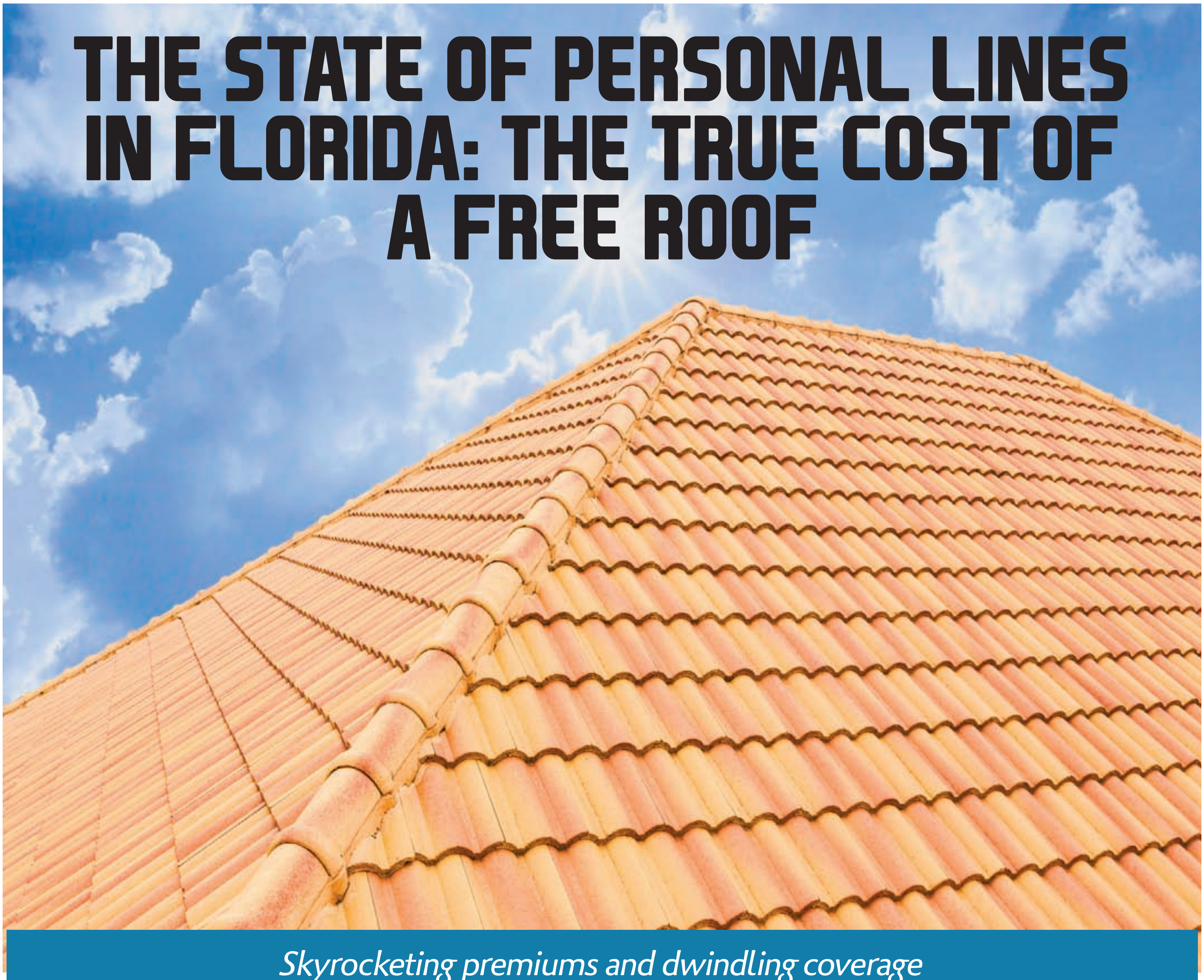
THE STATE OF PERSONAL LINES IN FLORIDA: THE TRUE COST OF A FREE ROOF



Skyrocketing premiums and dwindling coverage send market into state of disarray

By Allyson Olver

Florida's personal lines market is experiencing skyrocketing premiums and dwindling coverage for customers. It has been described as a complete state of disarray. There is cause to sound the alarms. Without some major changes to policy, the market may be heading towards collapse.

We have seen a rapid increase in frivolous and fraudulent claims since 2015, and the effects of those are destabilizing the market. The roofing companies move door-to-door in neighborhoods. They offer to inspect the roof and determine what damage is present, while telling the homeowner that they can get them a brand-new roof for just the cost of their deductible. The contractors and attorneys know exactly what damage will be covered and how to submit the claim. To the unsuspecting homeowner, this seems reasonable and convenient when they are told the company will file on their behalf and they unknowingly sign over the rights of their policy to the contractor.

In a recent report, we learned that Florida accounts for 8% of property insurance claims nationwide but a staggering 76% of all property insurance lawsuits in the entire nation. Typically, upon first notice of loss, the insurer would have the opportunity to review and contact the homeowner to adjust the claim. In many cases the first notice of loss is coming from an attorney's office, rather than the claim being filed and reviewed under the appropriate channels. The result? Homeowners are getting a new roof. How could this be bad news? Central Florida homeowners were paying an average of $1,000 in annual premiums to cover a $350,000 home. If you factor a guarantee for the insurer to replace the roof within the next 10 years, that math is not feasible.

Our insurers are also facing rising expenses due to water losses. Water damage remains the leading cause of loss, and payouts have increased in both severity and frequency. In addition to the overall cost of the claims surging, if the claim goes to court there is a fee multiplier and attorneys can make double their fees as it is not tied to billable hours. We have often seen attorneys receiving more of a payout than the actual homeowner is given to recoup their losses.

All the promises for a "free" new roof and a complete restoration sound great to homeowners on the surface, but one thing that is not disclosed is that they will be paying for it in the long run. And that is exactly what we are seeing with the market in response to these large claims that are not always in response to legitimate damage. The claims will be costly to consumers in more ways than one.

The down side

Clients are feeling the effects of this surge in claims with fewer choices of coverage. The combination of fraudulent claims and high rate of litigation have made it unsustainable for insurance providers. We have lost a number of markets in the past 24 months due to insolvency or acquisition by other companies. We have seen an influx of non-renewals from insurers forced to reduce their exposure to stay in business. As hurricane season approaches, without any sort of reform or legislation, there may be additional companies unable to weather this storm. Fewer options and availability to customers will lead to a crisis in the market. In 2019, if a customer shopped for home insurance, they may have had up to 15 companies to choose from, but now some are lucky to have two or three.

> *[F]lorida accounts for 8% of property insurance claims nationwide but a staggering 76% of all property insurance lawsuits in the entire nation.*

Carriers have implemented stringent underwriting guidelines and the practice of re-underwriting existing policies to remain viable. This has led to thousands of non-renewals issued to Florida property owners, and with fewer companies available it leaves consumers without affordable options for the comprehensive coverage they need. The loss of coverage in some cases means if a client has a legitimate claim, they will now get a fraction paid out to cover losses, whereas before they may have had replacement on the policy. There is a growing stigma following these types of claims, and many customers with valid claims and suffering actual loss are having it held against them or being turned away completely.

Clients are realizing the price for these new roofs directly from their wallets as the premiums have increased exponentially. Premiums for Florida policyholders have risen anywhere from 50% to 80%, and customers could see that number go up. An increase in the price does not translate to the same quality coverage. Many times, limited coverage is paired with an increase in premium, so clients just pay more for less.

The current crisis in the market does have a glimmer of hope, with two pieces of legislation circulating which could help burst inflated costs of claims and ensure that customers are taken care of. The legislation has fallen flat in the past; nothing has been able to get pushed through for review. However, with so many companies on the brink, there is finally some light being shed on the issue. Companies have become very vocal about the matter, urging the entire industry, as well as consumers, to speak up about the issue so that legislators will take this seriously. The legislation is being discussed right now, so we have been working hard to get the message out to consumers that if they don't like the 50% to 80% increases that they are seeing on their premiums, or the loss of coverage on their policies, the time has come for them to take action.

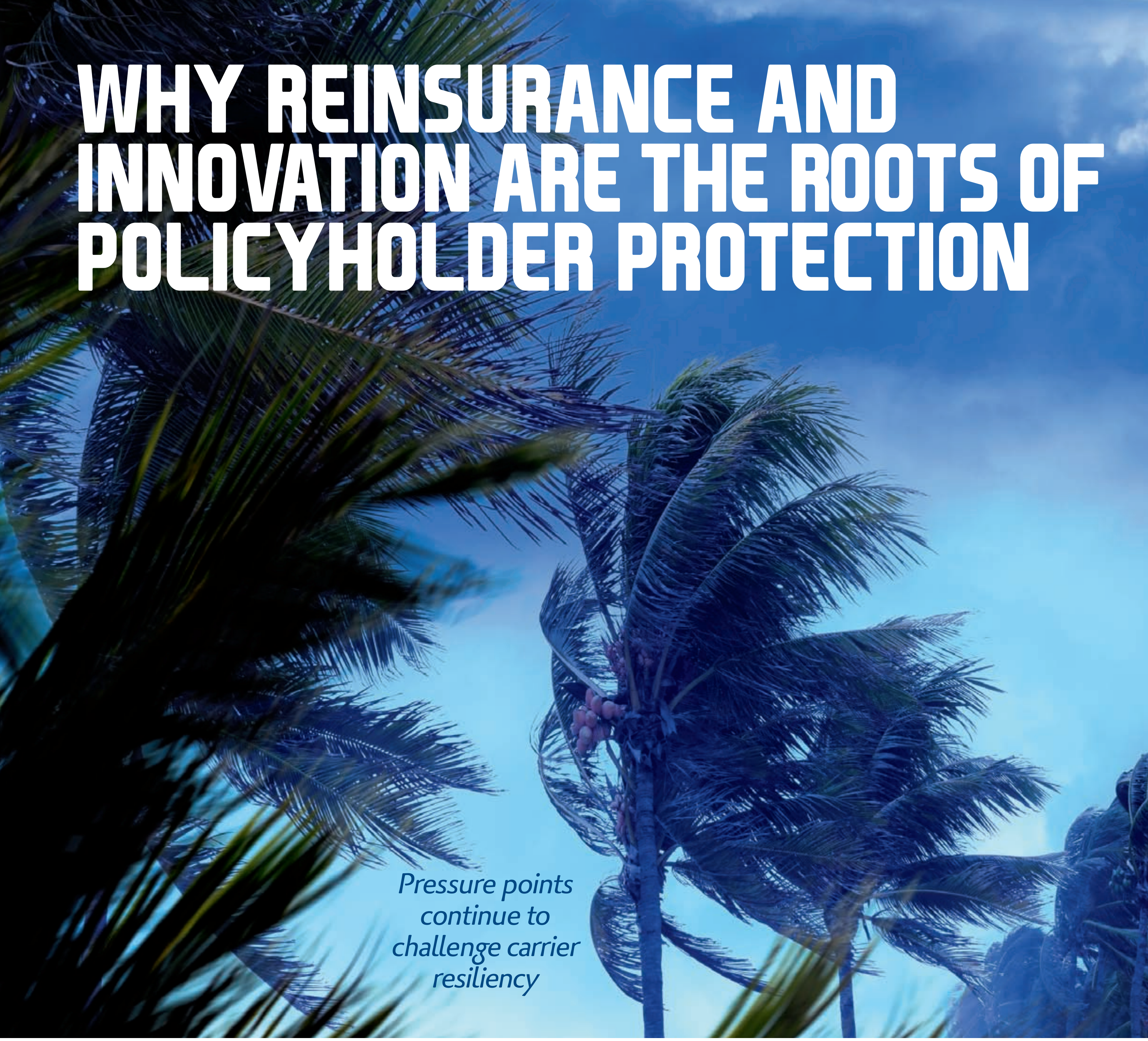
As the legislation is being reviewed, we at AssuredPartners are compelled to be strong advocates for customers, and ensuring that they have the coverage they need is part of that advocacy. We want to take care of customers, but options are limited, and prices are climbing in the current market.

The bottom line: Customers need to know the true cost of a free new roof and how they are paying for it in other ways. Raising awareness on the issue, being an advocate for our clients, and partnering to meet their needs the best way possible is part of the mission of serving our customers well. ■

The author

Allyson Olver has worked in the independent agent channel since the beginning of her insurance career in 2001. She served as COO at the AssuredPartners Personal Lines Agency in Lake Mary—formerly known as Florida Insurance Specialists—for 14 years prior to being named national personal lines practice leader. Throughout her tenure representing personal insurance, Allyson has held key leadership roles in production management, new business development and marketing strategies, including direct-to-consumer marketing.

WHY REINSURANCE AND INNOVATION ARE THE ROOTS OF POLICYHOLDER PROTECTION



Pressure points continue to challenge carrier resiliency

By David Howard, Kate Friday and Kyle Menendez

Thomas Carlyle, the 19th century Scottish historian and essayist, is famous for declaring "no pressure, no diamonds," meaning we rarely experience great success without a little bit of despair. As we collectively think about the sources of discomfort that the property insurance/reinsurance industry has felt over the past five years, we have experienced a series of pressure points that have challenged carrier resiliency and forced many to adapt to changing social, economic and atmospheric conditions.

As continuously seen in history, it is those who innovate and evolve that go on to become pillars of strength in their respective industries.

Natural catastrophe challenges

The past five years have brought forth a series of immense challenges within the property insurance/reinsurance market (statistics provided by TigerRisk, a risk, capital and strategic advisor to the global insurance and reinsurance industries):

- In 2017, the United States witnessed multiple landfalling hurricanes, including Hurricane Harvey and Hurricane Irma, as well as record wildfire destruction. The total natural catastrophe bill for catastrophe insured losses in the United States topped $100 billion, which likely makes 2017 the most devastating year on record.
- Hurricane landfall activity continued in 2018 with Hurricane Florence impacting the Southeast and the Mid-Atlantic. Furthermore, adverse development or claims inflation related to litigation and assignment of benefits stemming from Hurricane Irma led to insurance carriers increasing their loss estimates by more than $10 billion. This adverse development in itself is comparable to the insured losses related to the most

recent winter storm that left much of Texas and surrounding states without electricity and water.

- Compared to just above 50 recorded events the previous year, 2019 saw a new record of more than 60 natural catastrophe events declared in the United States. This activity continued to add to the pressure the primary insurance market felt following the severe, natural catastrophes of 2017 and 2018.
- The number of natural catastrophes recorded in the United States set yet another record in 2020, with more than 70 events being recorded, including nine landfalling hurricanes or tropical storms in the Southeast.
- This year, an unprecedented winter storm in Texas caused many to estimate around $10 billion or more insured losses. This came as a result of the catastrophe events that took place in the month of February alone. TigerRisk estimates that insured loss from the same storm was $8 billion to $13 billion.

The series of natural catastrophe challenges, coupled with uncertainty in the financial markets, which put strain on many insurance and reinsurance carriers' invested assets, have caused numerous providers to reevaluate their own views of risk and, in the face of increasing costs, begin to wonder if innovation is once again the tool to lean on.

value offered to end consumers, our insureds. Carriers want to be viewed as a sustainable, multi-state insurance source for insureds. Thus, providers continually search for ways to refine underwriting and risk management craft with a laser-focus on delivering value and innovation through product offerings. With this, it's critical for carriers to recognize that property owners have myriad choices regarding coverage options, and as the reinsurance community has provided for carriers, carriers must look to provide to insureds.

Reinsurance as the ultimate protection

So, what comes next in the 2021 insurance marketplace?

[T]he evolution of reinsurance has played a pivotal role in positioning primary insurance as paramount to the homeowners insurance market's continued viability and success.

The evolving reinsurance landscape

Luckily, the historians among us don't have too far to look for good news. The reinsurance industry has proved resilient in the face of pressure in the past. For example, in 1992, Hurricane Andrew made landfall in Florida as a Category 5 hurricane. After devastating Southern Florida, it proceeded to churn across the Gulf of Mexico and make landfall again in Louisiana as a Category 3 hurricane. In its wake, the industry found itself questioning whether the tools and resources in place were sufficient enough to face a new and evolving view of catastrophic weather risk. Thus, a year later in 1993, came RenaissanceRe, which introduced improved analytics and probabilistic catastrophe models. Today, RenaissanceRe is one of the largest property catastrophe reinsurers in the world.

Despite the challenges of 2020, capital that has flowed into the reinsurance industry is meaningful; and similar to what RenaissanceRe was able to achieve and consistent with Carlyle's principle of "no pressure, no diamonds," the reinsurance space continuously evolves.

Innovators are adapting their views of risk and, more important, their product offerings to increase the

Carriers throughout the Southeast have begun to reevaluate their entire portfolios and, ultimately, their risk appetite on a home-by-home basis. So, what does this mean in action? The process varies by carrier but includes a keen focus on research and development initiatives, some of which include the development of what is coined as the Ideal Risk Profile. The goal of creating an Ideal Risk Profile is to harden, mitigate, or reduce a portfolio of insured homes against loss from the ever-increasing catastrophic weather trends of the last five years. Understanding the ultimate return on investment is to reduce total costs incurred, including inspections to reinsurance, legal defense and more, to insure a home and pay out claims. If this activity is done right, the results will enable carriers to identify what its ideal risk homes look like, and in turn begin prospecting.

As mentioned, innovation is and will continue to play a key role in how carriers survive and adapt to the volatile weather cycles affecting the property insurance marketplace. However, reinsurance is just as critical.

In sum, reinsurance is the ultimate protection for a carrier and its policyholder surplus. It's also one of a carrier's most significant expense components. Consequently, reinsurance comes at a hefty price in the Southeast. To get a sense of what this looks like, consider

> *As continuously seen in history, it is those who innovate and evolve that go on to become pillars of strength in their respective industries.*

that about $0.30 of every premium dollar taken in is used to cover reinsurance costs. Simply put, carriers cannot exist without it.

Carrier and reinsurer co-participation

As expected, innovation is also occurring in the reinsurance structures that carriers place on an annual basis. As an example, a carrier's annual reinsurance placement is now filled with traditional reinsurance, collateralized reinsurance, insurance-linked securities, catastrophic reinsurance bonds, parametric insurance and other non-traditional forms of protection.

Another form of innovation happening in a unique way is co-participations. To help reduce a carrier's overall reinsurance spend, the strategy of co-participation with reinsurers on certain layers of their reinsurance program is gaining interest. However, if an event reaches a loss layer that the carrier and reinsurer co-participate in, co-participation increases the overall out-of-pocket dollar costs of claims for the carrier. Thus, in effect, co-participation increases a carrier's net retention on a catastrophic event if the losses reach a certain level.

On the homeowners policy front, for many years we saw only minor changes to the traditional ISO homeowners policy form that most carriers issue on paper. However, current weather trends and other loss factors became the impetus for carriers to reassess coverages, territorial restrictions and deductible changes. Additionally, recent catastrophic weather events have led to innovation in policy design and coverage, which is an absolute must for carriers in the Southeast to continue to write.

The homeowners policy goes back to its roots

As carriers look to co-participate or retain more loss, they also look for insureds to participate in protecting, for the most part, their largest asset, the home. An insured's co-participation, their minimum deductible, is trending in the form of higher deductibles in wind and all other perils. To mitigate billions in roof losses, carriers are making changes in roof coverage from replacement cost to actual cash value based on roof materials.

In essence, the homeowners policy is going back to its roots of protecting the insured against catastrophic and devastating loss from fire, damaging wind and hail, instead of acting as a home warranty or maintenance product. However, in this same regard, in order to serve as a home protection policy, many carriers will need to be more selective in insuring homes that fit their Ideal Risk Profile. An ideal risk, or home, tends to model better from a reinsurance perspective, and thus has a lower cost, due to its risk attributes, which in turn has a lower projected annual average loss.

Added protection for policyholders

To encourage the quoting and binding of ideal risks, carriers are rejigging their underwriting guidelines and promoting these changes to the agency force. Coupled with the promotion of these risks, carriers are hoping to provide substantial credits or discounted rates to insureds for homes that are protected against severe weather. Credits for newer homes, newer roofs, composition of roofs, hurricane mitigation devices, distance from water and water loss protection devices, like water sensors and water shut-off valves, are among the most prevalent credits available.

For primary carriers operating in regions with a high propensity for weather events like tornados, hail and hurricanes, reinsurers are the lifeline required to provide the necessary protection that carriers sell to homeowners. Thus, reinsurance serves as a key financial stability factor for independent agencies to watch. To write new business and retain current customers, understanding how carriers and reinsurers co-exist in the space allows agents to sell added protection,

which equates to added security. This concept reigns true through added coverages, discounts and endorsements.

Innovation as essential

Since 1993, the evolution of reinsurance has played a pivotal role in positioning primary insurance as paramount to the homeowners insurance market's continued viability and success. Future forward, if property reinsurance/insurance carriers want to continue to provide homeowners with a quality and financially secure product, innovation will be essential. ■


Howard


Friday


Menendez

The authors

David Howard, president of Lighthouse Property Insurance Corporation, has more than 30 years of executive leadership experience. Previously, Howard served in roles as CEO, COO, EVP and president at AmRISC, Edison Insurance Group and Bankers Insurance Group/Insurance Management Solutions Group.

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Kyle Menendez, CPCU, ARe, AAI, an associate at TigerRisk Partners, joined the firm in 2017 on the current client team. He began his career in a market strategy and product development role at Chesapeake Employers' Insurance Company, a regional casualty insurance carrier located in Maryland, in 2011.

PRIVATE FLOOD POLICY OPTION SOMETIMES A CHEAPER CHOICE

With so many new alternatives, agents can focus on coverage instead of price

By Dwayne LeBlanc

The axiom from customers when it comes to flood insurance often revolves around two, unfortunately common phrases.

The first: "I thought my homeowners insurance covered that." And the second: "We didn't have flood insurance because we thought we didn't need it where we lived." But with larger, damaging storms becoming more and more commonplace, it's not uncommon now to hear, "When I bought flood insurance, I didn't realize there was so much that was not covered."

As a response to such client needs, offering private flood insurance choices can alleviate many heartaches down the line. Additionally, they also resolve looming concerns about errors and omissions.

Do you write private flood? If so, what is your duty to your clients? Your role as an agent should be to help your clients make the best choice for their individual risk. Every consumer prefers choice; however, not every consumer understands insurance, much less the latest flood options that are available.

As professionals, we need to understand the consumer's flood risk, the related laws that impact the consumer, flood insurance coverage forms and the flood insurance markets that are available to our clients. Sell your customers on the benefits they deserve, educate them on their flood risk and help them purchase a flood policy they understand—and one that meets their specific needs.

Emerging markets

For decades, the National Flood Insurance Program (NFIP) was the only provider of flood insurance to property owners. The standard policy offered by the NFIP—unlike most property insurance policies—was not intended to return insureds to pre-loss conditions, but to "assist" them in repairing their home and getting back on their feet. With

As professionals, we need to understand the consumer's flood risk, the related laws that impact the consumer, … and the flood insurance markets that are available to our clients.

that goal in mind, NFIP coverage that can be purchased on a residential building is capped at $250,000, with $100,000 of residential contents coverage available as an add-on.

However, in recent years, we have seen flood insurance from private insurers emerge, primarily in the excess and surplus lines markets, offering more choices in flood coverage and amounts available. Private insurers now offer everything from coverage that mirrors—sometimes for a lower premium—the NFIP policy, up to a special form (HO3) for only the peril of flood with similar or higher limits available. The special form flood policy was designed with expanded coverage to put insureds back where they were prior to the loss. In other words, it covers the structure for all perils except those specifically excluded in the policy.

So, the crucial question is: If you are selling coverage, do you want to put your clients in a basic habitat or restore them to the condition they were prior to the loss?

Multiple opportunities

Private flood insurance gives customers a decision to make where previously they did not always have one: Choose the customary NFIP flood insurance policy or pick a private flood alternative.

To illustrate this point, I considered renewing my personal flood insurance with a private flood alternative. Here's a comparison of the two plans that influenced my decision:

Option #1—NFIP Preferred Risk Policy Renewal

- $250,000 coverage on building
- $100,000 coverage on contents
- Deductible of $1,250 for each
- Annual premium: $572

Option #2—Private Flood Insurance Alternative

- $393,000 coverage on building
- $196,500 coverage on contents (replacement cost basis)
- $39,300 coverage for other structures
- $50,000 coverage for loss of use
- $39,300 coverage for Ordinance or Law
- Single deductible of $2,000
- Annual premium: $525

As illustrated, the private option offered better coverage at a smaller premium. Surprisingly, this tends to often be the case. If that's not enough to convince a client, my policy dictated that, to be compliant with mandatory purchase requirements: "If the National Flood Insurance Program for flood insurance to dwellings provides broader coverage than that provided under this insurance, that broader cover will automatically apply to this policy without additional premium charge."

As they say, a picture is worth a thousand words. If you or a client were impacted by one of the recent hurricanes, could the NFIP coverage that you're currently selling paint a picture as attractive as what the private alternative would provide?

You, the professional

The latest flood reform efforts by Congress have the potential to provide additional momentum in the private marketplace by authorizing significant cooperation and coordination between FEMA and the private insurance industry with the intent of providing consumers with real choices.

Closer to home, 35% of Florida's 8.9 million homes are at risk of at least minor flooding right now and 10% of those—or 900,000 homes—are at risk of severe or extreme flooding. Yet, across Florida's 38 coastal counties, only 42% of these homes are covered. Meanwhile, Florida's overall flood insurance rate for hazard-zone homes is 41%.

The more you know about the ever-increasing risk of flood, the better equipped that you will be able to sell the proper coverage. With statistics like that, there should be no question that you should offer every property owner the opportunity to at least explore a private alternative. Providing your clients with options that can meet their flood insurance needs is a no-brainer. And with so much on the line, your clients deserve the chance to make an informed choice.

Are you currently offering flood insurance to your clients? And if so, are you selling based on coverage or price? The way you address these questions could have a tremendous impact on your client, your agency and the resilience of your community. ■

The author

Dwayne LeBlanc, is vice president of business development for Wright Flood, the largest flood provider in Florida and in the United States. For more information, visit www.wrightflood.com.

UNPRECEDENTED TIMES, UNPRECEDENTED MEASURES

General contractors see large premium increases

By Issy Bustamante

Unprecedented times call for unprecedented measures. It is no secret that every general contractor who has had an insurance renewal during the last 18 months has seen exceedingly large premium increases in their corporate insurance program. A combination of weather-related catastrophic losses dating back to 2017, record verdict settlements and jury awards, COVID-related litigation, and other factors have caused a spike in insurance rates at all levels impacting all lines of insurance.

The days of primary general liability insurance limits of $1 million per occurrence/$2 million aggregate, along with primary business auto liability limits of $1 million, are becoming a thing of the past; contractors now are being required to purchase programs with increased limits in the general liability line of $2 million per occurrence/$4 million aggregate and $2 million in the business auto liability line. Guaranteed cost programs, where no deductibles apply, are coming to an end, with the exchange for no deductible being gargantuan premium increases that in some cases are cost prohibitive.

In the current environment, contractors are having to consider managing their total cost of risk by taking on larger deductible structures and putting up collateral with the insurance companies to obtain premium rates that allow them to be competitive when bidding in the construction marketplace. Larger deductibles come with a better price tag; however, the determination of whether such a program makes sense takes the analysis of a few factors.

The first is the contractor's historical losses. Loss trends for each line of insurance—typically general liability, workers compensation and auto—will be able to estimate the contractor's average number and cost of each claim per year. This will also allow the contractor to determine its own loss forecast. Once this has been calculated, the next step would be to determine if the premium savings and collateral requirements provide enough total cost of risk relief to cover the average cost per claim while still reflecting the true risk exposure. The savings may not be sufficient for this new or increased deductible structure, or the collateral requirements with the carrier may be too burdensome to justify such a deductible program structure change.

Collateral requirements, usually in the form of a letter of credit from a bank, require the contractor to hold said pre-established amount aside in case they cannot meet their deductible requirements with the carrier. The exact amount of the collateral requirement depends on the contractor's financial state and is established by the insurance carrier's actuarial loss forecasting.

Once a contractor commits collateral to a carrier, it is extremely important to focus on safety, loss control and

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claims management. The more losses you have and the longer those losses stay open, the longer the insurance carrier will hold onto the collateral requirements or even increase them in future years.

As claims are closed, collateral can be negotiated downward. Similarly, if there are more claims than anticipated, it is likely that the insurance carrier will make a call for additional collateral requirements. Therefore, a large deductible program with collateral is a long-term commitment because, if in the future you decide to change insurance carriers, the likelihood of receiving a return collateral is slim, especially if there is no claims management in place.

Risk focus

After the initial analysis determines that the premium savings make sense and the collateral is set exactly where it should be, then the fun starts. Contractors choosing such a program structure should look at their exposure proactively. Since indemnity and allocated loss adjustment expense (ALAE), or simply expense payments, satisfy deductible requirements, a proactive approach should be taken in terms of where those expense dollars are spent. Expense dollars spent on proactive investigations can and should be used to help meet program deductible requirements while preserving the accident investigation and evidence should a claim arise. ALAE dollars count towards meeting deductible requirements on each claim and help reduce the frequency and severity of claims.

Managing risk entails taking an active role in the management of claims resolution. Unbundling claims management services can help contractors secure best-in-class vendor partners who will work together to seamlessly provide their services. Hand selecting vendor partners and establishing a robust post-accident protocol will help manage the contractor's and the carrier's exposure by properly investigating the incident and determining your liability early in the process. This will aid in the early resolution or defense position on a case should a claim be filed.

This is what an integrated risk management structure looks like when premium savings and the program's ALAE are used in a proactive manner to protect the post-accident investigation and hedge risk, by mitigating the claim exposures instead of paying for a guaranteed cost program that will cost twice as much in premium than a large deductible program.

Think about how many times a contractor gets a lawsuit based on an accident that occurred years ago, right before the statute of limitation runs out? Do any of these accidents get investigated thoroughly enough to capture sufficient information and detail to help create a sound defense? As a former claims adjuster, I can guarantee that the answer is almost always a resounding "no."

The benefit of a large deductible is the change from how things have been done historically to a new way that can yield larger cost savings across the board; this will reflect on a contractor's loss history and experience modification rating (EMR) and help rank them among the best in class in their field.

What services can be hand-selected and predetermined? Think accident reconstruction, evidence preservation, expert investigators, first-aid providers, defense attorneys and nurse case management to name a few. All post-claim mitigating services that are unbundled should be presented to and approved by the insurer and then coordinated together to become seamless as they are deployed.

In addition, these services are meant to fit like a lock and key with the corporate safety and loss control services. Nothing replaces a safety culture where pre-employment screenings and ongoing training are the foundation; however, regardless of all the preemptive measures put in place, claims are fortuitus and they are expected to happen regardless of how great and robust the in-place risk management program is. This is where proactive and aggressive post-accident claims management comes in handy.

I encourage every contractor who is presented with a large deductible option to not discard it right away. It may be uncomfortably new, but by partnering up with an experienced insurance broker to help analyze the risk/reward of this program, it can help contractors take control of their risk, save premium dollars, and change the way business is done. ■

In the current environment, contractors are having to consider managing their total cost of risk by taking on larger deductible structures and putting up collateral … when bidding in the construction marketplace.

The author

Issy Bustamante is the insurance vice president of the Florida operations for American Global. In her capacity she is responsible for client relationships and the delivery of the company's insurance product and services. Specializing in the construction industry, Issy has experience in complex risk financing and risk mitigation strategies for large clients and projects. Experiences include leading teams and client engagements for complex assignments in all aspects of insurance needs for owner/developers, contractors and public entities, yielding expertise in coverage analysis, risk transfer, risk reduction strategies, loss sensitive programs and wrap-up insurance plans. Issy has been recognized for her work in the industry receiving the 2012 Helen M. Garvin Award for Enterprising Achiever that made a positive impact supporting women in the insurance industry. Most recently, she was the recipient of the 2018 Business Insurance Break Out Award, awarded to future leaders of the insurance and risk management sector from across the United States. She also holds a Construction Risk Insurance Specialist (CRIS) designation. Prior to joining American Global, Issy was a construction casualty broker, placing intricate and comprehensive casualty programs tailored to the unique risks of construction development clients at the largest construction and development broker globally. Issy is a graduate of CUNY Queens College with a Bachelor of Arts degree in Economics in Finance and holds a Master's in Business Administration (MBA) from the Frank G. Zarb School of Business at Hofstra University.

WEATHERING THE "PERFECT STORM"

Florida's insurance market outlook

By John Bell

A combination of factors is creating what could be described as a "perfect storm" for Florida's insurance market. Programs are struggling to realign capacity, carriers are pulling back appetite, and rate increases coupled with supply shortages are on the rise. Of course, we're used to storms in the Sunshine State. The obvious impacts of Hurricanes Irma (2017) and Michael (2018) have taken a few years to digest, but even those catastrophes would have made less impact on the current market if it weren't for otherwise unrelated disasters across the globe. Wildfires in California, freezing in Texas, and other weather catastrophes have combined with the hurricane-driven ebb and flow of rate changes in Florida to create the "perfect storm." For the first time in more than a decade, we find ourselves with a challenging property market in Florida.

Our market has been on borrowed time for years; it's just been a matter of when. The last property hard market preceded one of the longest stretches without a Florida CAT event on record. We even witnessed a few years with 20% decreases in premium. As many underfunded carriers shored up market share, few in the industry expected stability to last. The current situation was expected by many, at least to some degree and at some point.

What I don't think many anticipated is that this property market would be in full swing as casualty pain from years of third-party assignment of benefits, statewide aggressive legal advertising, outright fraud, and an increasing number of nuclear verdicts in judicial hot spots all caught the attention of major insurers across the country at the same time. Recent state legislation has tried to address some of these issues impacting casualty coverage, but the impact of that legislation is yet to be realized, and carriers are seeing the development of these adverse factors continue at an alarming rate.

All of this is enough to make us think that we have trekked deep into a correction period in Florida, but this may be just the beginning.

What's more

There's additional bad news: Aggressive government spending and a long-term outlook of extremely low interest rates heavily impact insurance carriers' ability to generate investment income and improve valuation across the firm. Interest on surplus generates a significant amount of carrier income and is often where revenues begin to surpass annual expenses. With the expectation that interest rates will remain low well into the future, a focus on underwriting profit will continue to take hold, ultimately resulting in further fuel to price increases and stringent risk selection.

As businesses continue to struggle from the pandemic's economic effects—employee layoffs create uncertainty and claims increase in management and professional lines—the market continues towards a real danger zone. Throw in proposed increases of federal corporate taxes and we have our perfect storm!

We have seen Florida companies struggle from Irma, and to avoid failure there was a surge of financial- sheet-saving mergers and acquisitions. We are now starting to see a few of what we thought were reputable carriers getting downgraded. Programs that used to have companies that were widely recognized in their storied sharing of risk are quickly being replaced with companies we haven't heard of that provide minimal or questionable information on their financials. These new firms come packaged with a significant risk of short-term insolvency given the current financial conditions.

Insolvency creates major issues for insureds. They may have to replace coverage and if that is mid-term, they may struggle to get a return premium. The bigger problem, especially if they have liability insurance, is the original policy provider may not be around to subrogate or indemnify when a claim comes in. Fortunately, there is a guarantee fund for the admitted carriers; however, limits are well below what is purchased and the timing can significantly impact the funding of a claim.

How can we weather this current outlook? The best agents and insurers not only weather the storm but thrive in it. For one, we spend time educating the client on what the challenges are and why they are happening. This builds trust and value, reassuring clients that we aren't here only to collect premium. We focus on improving our results for the client with risk management, risk avoidance, and tightening risk controls. We remind them that the best-performing and prepared risks are likely to have the least dramatic impact. We focus and collaborate with policyholders to put together the best information on what they can expect moving forward—well in advance of 90-day renewal notices.

A half-complete ACORD app and three to five years of loss runs were enough in a soft market. In a hard market, we need to go the extra mile to share risk management programs with insurers, provide photos, and offer a write-up explaining why an insurer should want to minimize an increase or be more aggressive to bring this risk into the portfolio.

We take the time to evaluate our insurers. What is their service like? How do they handle claims? What is the financial outlook? Do you know someone there you can call in the event of an issue? Do they regularly non-renew books of business or are they stable and consistent historically? Most important, do they have claims staff prepared to handle a hurricane or the expertise for a challenging liability claim? The worst thing we can do is place business with carriers that do not understand a legal environment or class of business. If they fight the wrong claim or settle too quickly, the impact to your client can be as minor as higher premium or as dramatic as making insurance unavailable.

The first step you should take to weather this moment in time is to be sure you have a full grasp of why the market shifts and then start sharing your discoveries with your team and your clients. There will be bad news to deliver, but if there is good knowledge and collaboration between insured, agent, and carrier, you will be well on your way to thriving through this storm. ■

The author

John Bell is regional vice president of marketing at Philadelphia Insurance Companies (PHLY).

INSURING AVIATION-RELATED BUSINESSES

A significant number of businesses work directly and repeatedly with the aviation industry

By John Bowen

Have you considered how many businesses provide services to or intersect in some way with the aviation industry?

There are the more obvious examples, including aircraft mechanics who service both commercial and private leisure aircraft at airports ranging from international to general and municipal. In Florida alone, there are over 13,500 aircraft mechanics; the only state with more aircraft mechanics is Texas.

Another example? Manufacturers who develop parts that are used for a variety of aircraft and companies who rent out aircraft parts. In addition, hangar operators throughout the state maintain storage facilities for airplanes not in use. The Venice Municipal Airport alone has nearly 200 private hangars for private pilots.

Partial aviation exposures

While a significant number of businesses work directly—and repeatedly—with the aviation industry, there are many more with partial aviation exposures.

Numerous businesses provide services for the nearly 500 public and private airports across the state. Construction companies, for instance, take on projects to renovate the interior or exterior spaces of municipal and international airports. A number of airports have hired construction companies during the pandemic, taking advantage of the decrease in air traffic to update their facilities.

Because of the significant impact of the pandemic on the aviation industry, airports have already received $20 billion in federal relief funds and hope to receive an additional $27.5 billion through the current administration's infrastructure proposal. Airports that have postponed renovations may choose to use those funds to do projects in upcoming years. If they do, they will likely require services from local contractors.

Construction companies are not the only businesses that provide services to airports. Paving companies are hired to resurface runways. Sanitation companies service both airports and individual aircraft. Painting and welding businesses use their skills to maintain aircraft.

In Florida, aviation is more than just a commercial industry; it is a personal endeavor. Because of its fair year-round weather and plethora of retirees, the state is home to numerous "fly-in" communities popular among aviation enthusiasts. Individual homes have their own hangars where they can store their small aircraft, and the communities provide nearby runways for convenient take-offs and landings.

The number of companies and individuals who interact with and provide services to the aviation industry at any level is surprisingly large, and this list only scratches the surface of clients who require specialized aviation insurance.

Popularity of drones

In addition to the businesses con-nected—even tangentially—with the aviation industry, businesses that use drones, or unmanned aerial vehicles (UAV), also require specialty aviation insurance.

Drone usage has skyrocketed in the past decade. According to a 2016 study, Florida is tied with Texas for the highest number of drones, even though Florida has about 7 million fewer people. As of March 2021, the number of commercial drones registered in the United States was 372,000. In the next few years, the market is expected to grow annually by 3.7%.

Drones have proved invaluable to a number of industries that are mainstays of commerce in Florida. Real estate agents, for instance, use them to take high-quality photos and videos of larger properties and/or communities. Golf courses use drones to produce marketing videos as well as tutorials for golfers who want to gain inside knowledge before they play.

The agricultural industry uses drones to monitor crops. Florida's $9 billion citrus industry, for instance, has been revolutionized by the ability of drones to provide valuable information about the status of crops. Information collected by these unmanned aerial vehicles is used for water management and can significantly impact crop yield.

Drones are used for more than just commercial reasons, however. The Florida Department of Transportation uses drones to inspect bridges, and the Florida Department of Highway Safety uses drones for traffic accident management. Sheriff departments across the state, including Franklin and Okaloosa counties, among others, are using drones to assist with search and rescue missions and to monitor traffic. Conservationists use drones to monitor animal populations and for marine mammal research.

Finding coverage

Most policies that would cover the types of businesses using drones have aviation exclusions. As a result, these businesses would be at risk if the drone they're using was damaged or caused bodily injury or property damage.

All of these businesses—those that provide services directly to the aviation industry and those that use drones to support their work—require some level of specialized aviation insurance. Unlike for major aviation companies, however, large-scale aviation insurance would be overkill.

That puts these businesses in a tricky spot. They need special coverage for any work they do involving the aviation industry, including the use of drones, but the typical business policy doesn't provide that level of protection.

As an agent, you have two options: You can send these businesses to other agents or insurance companies. Or you can work with companies like ours who can supplement clients' already existing policies with commercial general liability designed specifically for small to medium-sized businesses involved in aviation.

We've had success working with a number of clients who need special aviation coverage. For instance, a wood refinisher who replaces old dashboards in both cars and aircrafts needed aviation liability insurance. We were able to help with our access to hard-to-insure markets; our markets can provide coverage for aviation-only risks and partial aviation exposures.

Rather than losing business to another agency, consider working with a partner to supplement your existing policies and find coverage for aviation-related risks. With knowledge of the aviation industry and the ability to cover these risks, the markets such partners can access are able to quote coverage to support businesses whose work intersects with the aviation industry.

The aviation industry has already started to rebound after the pandemic halted most travel last year. As it continues to come back, airports and airlines will require more assistance from supporting businesses that in turn require specialty insurance to cover their risks. ■

The author

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AVOIDING CONSTRUCTION DEFECT LITIGATION IN FLORIDA

Agents and contractors are on the front line in the battle

By Matt Crum

Construction defect lawsuits are on the rise in Florida. The cost to handle these lawsuits is quickly becoming a driver of higher insurance premiums for many small business owners. Other states have similar insurance requirements to Florida, but they barely see a fraction of the claims activity. How did the Sunshine State become ground zero for a surge in construction defect claims and litigation?

We trace the increase to 2017, and the case of *Altman Contractors, Inc. v. Crum & Forster Specialty Insurance Company.* In resolving that dispute, the Florida Supreme Court determined that a 558 Notice qualifies as a "suit" as defined under a general liability policy. A 558 Notice is a notice of construction defects that an owner must present to a builder or general contractor, which informs them of defects alleged in the construction of a project. This affords the general contractor the opportunity to correct the alleged defects before a lawsuit is filed.

Florida requires that this notice be issued and that a certain amount of time pass before a lawsuit can be initiated, which in theory should have led to fewer lawsuits, as contractors fixed defects before the lawyers could get involved. Before the *Altman* decision, that's usually what happened. Since the ruling, we have seen an increase in tender demands from general contractors to subcontractors demanding defense and indemnity of the 558 Notice since it's now considered a "suit" under the law.

Changes in Florida's legal system have also made it an easy jurisdiction to get into court, but getting thrown out of court is tough. This invites lawsuits. The laws in Florida allow parties to be brought into litigation without a thorough investigation into what, if anything, they did wrong. Plaintiff attorneys and attorneys for large builders can name whatever parties worked on a construction project regardless of whether their work is implicated in the defects or damages alleged. The lawsuit needs to only state that there is an allegation of defective work resulting in damage to other property to trigger a duty to defend under the insurance policy.

Courts are very hesitant to grant motions to dismiss or motions for summary judgment, and so we find ourselves incurring significant costs defending cases where our party has little to no liability or damage exposure.

Agents and contractors are on the front line in the battle against construction defect litigation. Knowledgeable agents can make all the difference in helping their clients avoid getting entangled in a costly and time-consuming legal mess. A few best practices can save not only the individual insureds, but the entire industry, a lot of money.

What are some specific ways that agents can support their clients so we all avoid having to deal with construction defect lawsuits? Here are four things we would tell them:

1. **"Stay in your lane."** If a contractor is hired to do one thing on a job, they should do that and only that. No one should do anyone any favors, and a change to the scope of work should always come with written instructions. Perhaps most important: No contractor should ever perform work outside their class code. It is not covered by insurance. Period.

   In the real world, contractors often work outside their class code with disastrous results. For example, we had an insured who was class-coded to install windows and doors. In the process of installing a sliding glass door, they had to cut the tile floor to fit the new track. In so doing, the insured cracked the existing tile. Rather than stop and report the claim, they attempted to fix the tile and caused further damage. This resulted in the homeowner claiming that all of the tile flooring needed to be replaced. Since the insured did not have a




class code for tile installation, the insurance company no longer had a duty to defend the case.

We have had many claims where the entirety of the insured's work on a project is completely different from what they are class coded for on their policy. It's the agent's responsibility to make sure their clients understand what work is covered by insurance, and what work could land them in court.

2. **"If you haven't read it, don't sign it!"** "Know what you're signing" is a great rule in everyday life, one that goes double for contractors. The fact is that many contractors, while fabulous at their trades, are not trained to read the contracts and all the fine print they are presented with. Many are hired by large national builders that routinely use detailed and lengthy contracts that can run hundreds of pages. The contractor doesn't have legal counsel to review the document, but they want the work, and they sign. What could go wrong?

Quite a bit, as it turns out. For example: A typical General Liability (GL) policy will exclude injury to employees, which makes sense because that's usually covered by workers comp. GL is written to cover damage to third parties, not employees. Contractors frequently sign contracts where they hold harmless the big national builder who hired them for injuries to anyone including employees. Had the contractor understood what they were signing, they probably wouldn't have.

We often see this when a contractor is brought in to finish an ongoing project. Say 10 homes in a new subdivision have unfinished carpentry. The national builder will retain a local carpenter to do the work. The local contractor completes the job and shows up to get paid, at which point the builder's local rep says, "Oh, the paperwork isn't in order. We just need you to sign these papers and we can give you your check." The check is often right there, waiting to be handed to the contractor.

In the event of a lawsuit, the builder will go after the local contractor, who will turn to the insurance company to provide a legal defense—but the insurer is no longer on the hook to defend.

3. **"Buy a filing cabinet and save everything."** If there is one thing I could stress above all others, it's that everyone—contractors, agents, skilled laborers, etc.—needs to keep detailed records. Lack of documentation is a killer, especially in Florida, where construction defect cases can be brought forth up to 10 years after the event. Contractors should keep documentation of work performed, and they should never, ever do things agreed to verbally. Always get it in writing.

This includes insisting that any change order to existing job specifications be provided in writing prior to doing the work. We see claims where our insured was working for a General Contractor (GC) when they noticed a problem and brought it to the GC's attention verbally. If there's no email or written documentation, it's as if it never happened. Document in writing all problems with a job, and then keep and save everything.

Everyone who works in every level of construction should be saving their work orders, logging their payments, and saving their receipts. Get a filing cabinet!

4. **"The Florida Legislature will fix this … one day."** Government can't solve all your problems, but it will eventually have to handle this one. It did create it, after all. To my point: The current situation with construction defect litigation reminds me of what happened with sinkholes back in the early 2000s. If you recall, sinkhole claims in Florida went from about 2,400 in 2006 to almost 7,000 in 2010, largely because the legal definitions around sinkholes were vague and enterprising lawyers found an ever-expanding number of potential clients.

What happened? In 2011, the Florida Legislature changed the legal definition of a sinkhole, which tightened up what kinds of damage could result in litigation. The days of lawsuits erupting over simple cracks were over. Claimants now needed to show subsidence in a foundation. Legal claims and subsequent lawsuits dropped immediately.

The Legislature has tried to tighten up the language around construction defect claims before by adding requirements around making specific claims, but it's not enough. More will have to be done. In the meantime, if everyone stays in their lane, knows what they're signing, and saves every work order and receipt we'll be in a much better position to fight these lawsuits when they arise. ■

Courts are very hesitant to grant motions to dismiss or motions for summary judgment, and so we find ourselves incurring significant costs defending cases where our party has little to no liability or damage exposure.

The author

Matt Crum is president of Frank Winston Crum Insurance and sits on the Board of Directors. He is responsible for managing the operations of the insurance company and works closely with the PEO's management team on workers compensation and other company initiatives. Matt is also the co-president of FrankCrum, alongside Haley Crum. The two are jointly responsible for operations, product, customer service, technology, marketing and compliance. Matt grew up in the Tampa Bay area, where he earned an MBA with a concentration in Finance from the University of Tampa. He is also a graduate of Trinity College in Hartford, Connecticut, with a Bachelor's degree in Economics and Religion. Matthew serves on several boards in the Tampa Bay area, including the YMCA of the Suncoast, the Clearwater Downtown Partnership, and the Clearwater Regional Chamber of Commerce. He was a finalist for the Tampa Bay Business Journal*'s Up & Comers award in 2013. He is a licensed insurance agent (20-20 and 20-15 licenses) and is a Certified Insurance Counselor.*

CONSTRUCTION PROJECT CHALLENGES IN FLORIDA

Skyrocketing premiums and dwindling coverage send market into state of disarray

By George Sella

Florida is currently the third most populous state in the country, and it continues to experience consistent growth year after year, in part due to the appeal it has to retirees and young professionals. Natural population increases are playing a relatively insignificant role in the state's overall growth, accounting for only 10.7%, while net migration accounts for 89.3%, according to a 2020 report by the Florida Legislature's Office of Economic and Demographic Research.

There is no doubt that Florida continues to be a destination state to live. It has incurred the highest count of net migrations (both international and domestic) in the country, based on United States Census Bureau data.

This continuous increase in population has driven heightened demand for construction projects to keep up with the growing population. In particular, demand for condominiums, apartments, and other multi-family housing in Florida has surged in the last several years.

Unfortunately, insurance rates for construction have continued to climb over this same period and have seemingly accelerated quite rapidly over the past 18 to 24 months. While rates have increased at the same pace as other tough construction defect states (around 10% to 20%), some areas within the Florida construction market have seen a more dramatic increase—around 30% to 40% in some extreme cases, specifically within the for-sale condo space. These increases are due to several key factors, some affecting coverage for construction projects nationwide, with others being Florida-specific.

Key contributors to overall market challenges

The insurance market has hardened significantly over the past year and a half. It has become particularly challenging in the construction space and even more difficult to secure proper excess coverage. Recent contributors include damage from fires on construction projects, an increasing number of construction defect awards, several high-profile crane collapses, and other large construction accidents. In addition to these construction-related issues, insurance companies have also been paying out substantial claims for other reasons, including an increased number of severe weather events, civil unrest and significant damage from riots due to social and political

One of the newer challenges … is the recent surge of new entrants into the marketplace—new MGAs and carriers who are taking advantage of the current demand and rates.

[A]n excess tower that previously involved six carriers may now need upwards of 10 to satisfy the same requirements, and the components of these towers do not exist independently of one another.

issues, and the COVID economic downturn for many segments of the country.

Insurance companies have also been inundated overall with large (and increasing) jury awards, seeing more nuclear verdicts over the past few years due to social inflation. While the recent increase in such verdicts is more prevalent on the auto side, it's still having a profound effect on the construction market. Huge payouts happening in auto are running up excess towers, and this is concerning to carriers who are also paying out larger construction defect claims. There has also been a significant uptick in the number of lawsuits being filed against contractors overall, and a steady increase in jury awards.

Historically, the primary concern when insuring construction projects on the casualty side has been completed operations claims, but over the past several years, there has been a large increase in claims for ongoing operations, ranging from slip and falls to property damage to neighboring buildings. This has resulted in large loss payouts by insurance companies, which have responded by raising insurance rates and self-insured retentions, limiting coverage, and reducing excess capacity.

Project-specific coverage challenges in Florida

Beyond the general rise in insurance costs, finding coverage for Florida construction projects has its own additional set of challenges. Material costs have increased in Florida, as has the cost for qualified labor. To add another complication, the workforce is dwindling as the Baby Boomer generation retires while Florida's population continues to rise. The demand for construction projects in Florida is outpacing the workers available, and with fewer experienced individuals, construction companies are having trouble finding qualified workers. This is a known problem to insurance companies who want to be sure construction jobs are being performed safely by experienced workers.

While there is still some soft market for industrial-related buildings, costs in the Florida habitational space are increasing at an accelerated rate, and coverage challenges are increasingly worse the closer a project is to the coast. This is due in part to the higher risk and impacts of severe weather events on coastal areas, which are of course in high demand for development and are where all the higher-end properties are located. Lawsuits associated with these types of properties are naturally predisposed to having higher payouts and incurring higher costs.

Properties on the coast also have a lot of soil and earth movement issues. When land developers use fill to build the ground so it's above sea level and then build a building on top, the weight of the building can cause settling over time, resulting in ground movement and cracking foundations. This is normal and natural to some degree, but if the appropriate measures aren't taken during construction, the issues can become exponentially worse over time.

Florida's legal system also poses a greater challenge to carriers, favoring insureds more than in other areas of the country, and this is impacting policies. For quite some time, Florida has been known as a construction defect state lumped in with the western 13 states that have a more litigious environment and higher numbers of construction defect claims. However, over the past several years, Florida has been more on par with the likes of California, which is one of the worst construction defect states in the country. Florida and South Carolina are the two states that raise the largest challenges in the Southeast when it comes to construction defect issues.

Overall, the Florida construction market has become much more

Information and transparency are key for all parties, and the best practice is brutal honesty and being realistic.

difficult to navigate. One of the newer challenges agents should be aware of is the recent surge of new entrants into the marketplace—new MGAs and carriers who are taking advantage of the current demand and rates. In general, this should be good for the longer term because creating more capacity will lower prices overall. However, the challenge is to stay up on all the new markets. For example, an agent may have already worked hard on a deal for their insured and reached a solution, but it will not bind for another two months. Meanwhile, a new company might come in a month later, offering a new option.

It might seem initially like the new player is offering a "better deal," but agents need to remember that these carriers are coming in mid-stream. Construction projects are complicated, often involving several carriers, especially when excess towers are involved. Due to the hard market and reduced capacity, an excess tower that previously involved six carriers may now need upwards of 10 to satisfy the same requirements, and the components of these towers do not exist independently of one another.

Finally, one of the biggest challenges we face in this market is working with an insured whose budget discussion started years ago but who has not planned for how the market has changed. With the rate of change in the Florida construction market, some insureds may not realize their budget is no longer realistic, due to the cost increases. A year ago, when they addressed lending requirements, a certain limit may have been readily available for a reasonable price, but now that may no longer be the case. For example, we have seen a 20%-40% increase just over the past six months.

Solutions for retailers

Information and transparency are key for all parties, and the best practice is brutal honesty and being realistic. Insureds will be able to get the most appropriate and comprehensive coverage for their construction projects at the most competitive rates if they present complete submissions, are proactive about demonstrating that they already have tools in place for active risk management (for example, comprehensive protocols to address worker safety and quality control measures), and allow the time needed for the quoting process. Retailers can really help their insureds understand that a quick turnaround will not yield the best results.

Some insureds are price-driven while others see the bigger picture. It is essential to let insureds know they should not try to cut costs by excluding certain coverages, which could result in an E&O claim. Retailers should have an ongoing conversation with their clients about their budget and make sure this is something the insured continues to assess.

Making sure insureds have a dedicated risk management team on staff for the project can help prevent these misconceptions if they are staying on top of changing rates and pricing, adjusting the budget regularly, and not working off the same dollar figures they established at the beginning of the project.

It is more important then ever to ensure that insureds are selecting a well-qualified construction team for their projects from the general contractor, construction manager, subcontractors and their insurance professional. This can help prevent insureds from being caught in the tough situation of finding out that the budget they planned years ago is no longer viable.

Securing coverage in the construction sector, particularly in Florida, is changing quickly and dramatically, and insurance is often one of the last project details on an insured's mind. Many will wait until the last minute, but complete and comprehensive information affects the pricing and terms coming from markets.

Underwriters are being inundated, and they only want the most comprehensive submissions—and will often look at those first, rather than those that are incomplete. It is invaluable to the insured to make their submission as easy as possible for underwriters. Ideally, at least a two-to-four-week window is preferred with a full submission, including project supplementals, soil reports, budget information, complete information on subcontractors and vendors, as well as any quality control and site safety protocols available, including crane safety if one will be used.

Establish solid relationships with your insureds, so they understand the importance of how a comprehensive submission can have a positive impact on their coverage.

It is also essential for retailers to find a wholesaler they trust. Wholesalers that specialize and know the ins and outs of the construction market will have well-established relationships with carriers and the ability to negotiate on your and your insured's behalf. However, regardless of the wholesaler you work with, this marketplace is difficult and challenging and not one where anyone benefits from jumping from person to person. Just as it's important for a retailer to work with their trusted wholesaler, the retailer needs to build trust with the insured. The complexity of the Florida construction project market requires the full market to build out excess towers and centralized coordination. ■

The author

George Sella is principal and senior vice president at Brown & Riding. He joined the firm in 2010 after graduating with a double major in Risk Management Insurance and Managerial Finance from the University of Mississippi. He has incredible drive and has achieved significant professional accomplishments in a short period of time. Within a year of joining, he was promoted to associate broker. After another two years he was promoted to broker, and in 2015, he became a senior vice president as well as the youngest shareholder at the company.

FLORIDA PROPERTY INSURANCE—A MARKET ON THE BRINK OF DESTRUCTION

Frivolous claims-related litigation and egregious trial attorney fees have created a man-made disaster

By Robert Ritchie

Although its moniker is the Sunshine State, Florida is legendary for its storm activity. Hurricanes, floods, and tornadoes are just a few of the natural disasters Floridians can expect—and prepare for—before Mother Nature sends them our way.

But in the past few years, Florida has experienced a whirlwind of frivolous claims-related litigation activity accompanied by egregious trial attorney fees, creating a man-made disaster that has the state's property insurance market on the verge of collapse. Only decisive and meaningful legislative relief can help prevent the market from complete suffering and utter destruction.

While this may sound like hyperbole, one shocking statistic alone helps explain exactly how and why Florida finds itself in such dire straits: In 2019, Florida accounted for 8.16% of all homeowner insurance claims in the country, but it accounted for 76.45% of all homeowner suits opened in the United States.

This statistic was shared in an April 2021 open letter by Florida Insurance Commissioner David Altmaier to House Commerce Committee Chair Representative Blaise Ingoglia. Commissioner Altmaier further stated that 2019 was not an anomaly—Florida has significantly led the nation in homeowner insurance-related lawsuits for the past few years:

- In 2016, Florida accounted for 7.75% of U.S. claims and 64.43% of lawsuits
- In 2017, Florida accounted for 16.46% of U.S. claims and 68.07% of lawsuits
- In 2018, Florida accounted for 11.85% of U.S. claims and 79.91% of lawsuits

That's not all. Although Florida trended with the national average when comparing the number of claims closed without payment to total claims closed, our ratio of suits opened to claims closed without payment was eight times higher, at nearly 28%, than the next highest state, Connecticut, which had a ratio of 3.4% of suits opened to claims closed without payment.

These findings are the result of a review of a National Association of Insurance Commissioners (NAIC) Market Conduct Annual Statement (MCAS) Data Call spanning 2016-19. MCAS is a regulatory tool developed in 2002 by state insurance regulators to collect information from insurers regarding claims and underwriting. In 2019, over 750 homeowners' insurance companies reported data via MCAS using uniform definitions and reporting requirements across all states. The review was conducted by the Florida Office of Insurance Regulation (OIR). Commissioner Altmaier leads the OIR and also serves as the NAIC president.

What, you may wonder, led to the opening of the "lawsuit floodgates" in Florida? Several factors have drastically contributed to a perfect storm in Florida's legal climate:

- **One-way attorney fee statute—** This statute, which applies only in Florida, requires insurers to pay 100% of litigation costs when a plaintiff receives a settlement $1 greater than the settlement offered by the insurance company. Trial attorneys are not required to pay 100% of litigation costs if the insurance company prevails, giving them no (financial) deterrent to file lawsuits on potentially frivolous claims.
- **Sebo v. American Home Assurance (2016)—**The Florida Supreme Court shifted to using the Concurrent Causation Doctrine that permits a covered cause of loss (such as wind) to combine with damage caused by non-covered cause of loss, putting insurers on the hook for claims that often are due to wear-and-tear or manufacturers defect.
- **Joyce v. FedNat (2017)—**The Florida Supreme Court overturned a longstanding application of contingency fee multipliers (which allows lawyers to earn up to three times their hourly rate) when determining that those multipliers do not need to be reserved for rare and exceptional circumstances. The Joyce decision is contrary to the U.S. Supreme Court's 1992 decision.
- **Claim filing statute of limitations—**In Florida, consumers have three years to file a hurricane-related claim and five years to file a general property damage claim. Not only does this multi-year statute make Florida an outlier, but this extended period of time lends itself to fraud and makes it extremely difficult, if not impossible, to properly adjudicate a claim.

Short of reform, it's hard to imagine how to stem the ever-rising lawsuit tide in Florida.

This avalanche of claim activity has resulted in unprecedented underwriting losses, skyrocketing rates, hardening markets, and underwriting restrictions across the state. Florida carriers lost more than $1.6 billion in 2020 alone and had an average combined ratio of 126%. The Florida Office of Insurance Regulation approved 105 rate changes in 2020, 90 of which were for rate increases, with 55 of those for rate increases of more than 10%.

Virtually all Florida insurers are taking steps to reduce their exposure. Some companies are entirely closed for new business and many have restrictions in place based on location, age of home, age of roof, and Coverage A (minimum) amounts. Policy cancellations are approaching an all-time high, while Citizens Property Insurance Company, the state's insurance company of last resort, is growing at a rate of approximately 5,000 new policies a week. The situation is absolutely unsustainable.

While the forecast of Florida's property insurance environment is bleak sans reform, the good news is that a substantial bill has been presented and passed during the 2021 Florida Legislative Session. Senate Bill 76 contains provisions that will: mitigate the one-way attorney fee statute and contingency fee multipliers, add a reimbursement schedule for roofs, broaden pre-suit notice and inspection requirements for property claims, and lower the statute of limitations for filing claims.

As of this writing, the companion bill (House Bill 305) has not been passed and does not include all of these provisions. In his letter to Rep. Blaise Ingoglia, Commissioner Altmaier urged the House to adopt the provisions contained in the Senate bill. He wrote that the solutions could "substantially reduce the litigation associated with claims, bringing more certainty into Florida's property insurance market. Ultimately this will provide more stability in the market and more rate stability for consumers."

That stability is sorely needed. Florida homeowners are paying a "hidden tax" totaling about $680 per family, according to "Florida's P&C Insurance Market: Spiraling Towards Collapse," a report by Guy Fraker of Cre8tfutures Innovation System & Consultancy and the James Madison Institute. They also have less opportunity for choice, as carriers are forced to constrict markets.

Until reform is passed that addresses the breadth of issues, the blizzard of rate increases and market tightening will continue unabated in the Sunshine State. Let's hope 2021 is the year that legislation passes that will provide Florida's consumers with the viable market that they need and deserve. ■

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Florida homeowners are paying a "hidden tax" totaling about $680 per family … [and] have less opportunity for choice, as carriers are forced to constrict markets.

The author

Robert Ritchie is president and CEO of American Integrity Insurance Group. An insurance industry veteran with more than 35 years of experience, he has built and transformed businesses ranging from startups to large national insurance companies. His background includes specialty niche insurers, such as American Modern, national carriers, including AIG and CNA, and conglomerates, including GE Insurance Solutions. As the founder of American Integrity, he is committed to the success and growth of the Company along with the stability of the Florida insurance marketplace.

FIND A HOME FOR D&O INSURANCE

The insurance industry responds to an increase in litigation against organizations and their boards

By Rick J. Lindsey

The litigation landscape for directors and officers has become increasingly dotted with minefields as private, public and nonprofit companies have experienced a rise in lawsuits over the last several years, including from employment practices-related suits involving allegations of sexual harassment, discrimination, wrongful termination, wage-and-hour disputes and other issues. This environment has been further exacerbated by COVID-19 and concern over an uptick in company insolvencies, bankruptcies and negligence claims.

Public companies also face additional potential risks stemming from the pandemic, including claims of inadequate disclosures related to COVID-19, supply chain durability, cash flow liquidity, value of receivables, reserves or bad debt, etc. Add to these risks the dramatic increase we've seen in securities class-action and derivative lawsuits along with the emerging risks that companies face involving board diversity and inclusion and shareholder activism regarding environmental, social, and governance (ESG) issues.

At the same time, new regulations are ushering in additional potential risks for public companies. For example, California in 2020 passed legislation requiring public companies to have at least one director from an underrepresented community (those who identify as African American, Asian, Hispanic, Latino, Native American, or LGBTQ) on their boards by the end of 2021. By the end of 2021, companies with five to eight directors must have at least two members from underrepresented communities, and those with nine or more directors must have at least three members from these communities. Illinois, Maryland, New York, and Washington have also passed laws requiring greater diversity on boards, more detailed reporting on board makeup in financial statements, or laws requiring that governments conduct studies on board representation.

The state of D&O insurance

The insurance industry has responded—and continues to respond—to the increase in litigation against organizations and their boards, the impact of social inflation (characterized by litigation funding, anti-corporate sentiment and massive verdicts awarded by sympathetic jurors), and changing regulations in the Directors and Officers (D&O) market. Over the last few years, insurance carriers have increased rates significantly, diminished capacity (the amount of coverage provided), implemented greater restrictions on coverage terms and conditions, and added new policy exclusions. Some insurers, for example, have now included

A D&O policy is designed to provide coverage for individuals for claims made against them while serving on a board of directors and/or as an officer.

bankruptcy, pandemic-related and past-actions exclusions in their D&O policies, while others have left the market altogether. Certain industries are facing greater underwriting scrutiny, including life sciences, real estate, healthcare, higher education, hospitality and energy. Startups with no prior coverage are also having difficulty finding coverage.

This difficult insurance market is in full swing as increasingly more professionals, board members and organizations are looking for D&O insurance to protect themselves and organizations against risk. A D&O policy is designed to provide coverage for individuals for claims made against them while serving on a board of directors and/or as an officer. A policy can be written to protect a corporation's directors and officers when the company cannot indemnify the individuals; reimburse the organization when it does indemnify the individuals, thus protecting the company's balance sheet; and provide "entity coverage," which eliminates disputes of coverage allocation when both the directors and officers and the insured organization are named as co-defendants in a securities lawsuit.

It's clearly a challenging time for brokers and their insureds looking for broad and competitively priced D&O insurance as premiums skyrocket and markets shrink. Brokers should look for partners that tackle head-on today's aggressive plaintiff bar and nuclear verdicts. These verdicts have driven underwriting losses that have led some carriers to retreat from the D&O and other liability markets. By contrast, firms with a track record of winning litigated cases on behalf of clients generally produce excellent combined loss ratios—something that bodes well for sustainable market presence and, as a result, stable relationships. ■

The author

Rick J. Lindsey is president and CEO of Prime Insurance Company.

OLD AGENCY, NEW TRICKS

Mindful tech adoption delivers work/life balance and other benefits

By Trace Meek

For the past five years, I have placed greater emphasis on my producers' work/life balance. We focused heavily on one area, making it easier for team members to work from home while still meeting clients' needs. Eliminating long commutes and accommodating family scheduling issues has improved everyone's morale. It wasn't easy to make this transition, but once we took a hard look at our internal processes, procedures, and communication methods, the path forward was clear.

I often refer to my three-generation insurance agency as an old agency that's learned new tricks. We've effectively gone paperless, drastically reduced unnecessary internal emails, improved internal office communications, and made it easier to stay in touch with remote employees. We also have a mobile app and portal for clients that make it easier for them to pull up their ID cards or print a Certificate of Insurance. We also can requote policies with just a few clicks.

> When it comes to finding the perfect work/life balance, eliminating time-wasting tasks is essential.

However, I am constantly on the lookout for more ways to boost productivity and improve work/life balance for myself and my producers.

Enabling my staff to work remotely without sacrificing client service has also enhanced our overall emergency preparedness. Running an insurance agency on the Gulf Coast of Florida means we always have to be capable of working remotely to serve our clients in the event of a tropical storm or hurricane. The reality of dealing with emergency evacuations or potential power outages was a large part of what prompted me to reevaluate how we research underwriting guidelines, quote policies, process applications, deal with email and customer phone calls, and so on.

When COVID hit

This agency overhaul didn't just make us more effective when dealing with Atlantic hurricane season; it meant we were better prepared when faced with the challenges of the COVID-19 pandemic and the quarantine that resulted.

Leaving the normalcy of the structured office environment behind for the comforts of home can be a bit challenging. Working from home certainly brings to mind Zoom meetings with colleagues who've abandoned business attire for pajamas and endless snack breaks because, after all, you have access to your pantry 24/7.

But working remotely doesn't have to mean reduced efficiency or productivity.

One of the keys to successfully working from home or on the road is *access.* Remote employees need access to files, documents, their co-workers, resources—the list goes on. I have implemented multiple tools and programs that provide everyone access when they need it, and a bonus of doing this has been that we've streamlined a lot of our daily tasks.

Thanks to our efforts to maximize agency efficiency, our producers need only a laptop or phone to provide the same services that they can provide from the office. With remote access to our management system via an app, an online searchable database for researching underwriting guidelines, an internal communications program, and softphones built into our computers, producers have at their fingertips any resource they need. And clients can always reach them.

We frequently reevaluate our automation and technology to ensure we haven't lost touch with the client and to find other areas needing improvement.

When it comes to finding the perfect work/life balance, eliminating time-wasting tasks is essential. Time is a currency, whether in the form of lost business or lost quality time with your family.

Two tools

Perhaps our agency's biggest timesaver is "Fetch! Underwriting Made Easy." Every insurance agent is familiar with the often outdated three-ring binder bulging with pages of carriers' guidelines. Fetch is an alternative to that bulky binder. It is a searchable database of underwriting guidelines that saves us countless hours—and numerous paper cuts.

After entering just a few search criteria, the database will identify carriers who will write even the most obscure risk. The system also automatically updates carrier guidelines as they happen. The old binder method was tedious and was a huge time waster. We save a lot of time, sanity, and lost business using Fetch. It really has transformed the way our producers quote policies.

My favorite tool for internal communication with the rest of my team is Slack. Slack is a highly efficient instant messaging system for interoffice communication and so much more, and it's available via an app or on your internet browser. With Slack, we've eliminated 95% of internal emails and boosted our overall team productivity.

We use various channel-specific Slack integrations; each channel has its own email address. For instance, all incoming leads from our website are currently set to be distributed to the appropriate Slack channel, which

This agency overhaul ... meant we were better prepared when faced with the challenges of the COVID-19 pandemic and the quarantine that resulted.

results in a faster response time. With Slack, we can easily search leads. All incoming faxes are automatically forwarded to a Slack channel, as well.

Staying connected with remote employees this way is simple and lets us avoid the hassle of missed phone calls, overfilled email inboxes, and the distraction of personal emails or texts.

Looking ahead

I believe that in the very near future all an insurance agent will need is a cell phone in hand. I also believe that the speed at which we can meet our clients' needs will only increase.

As an agency leader or team member, it's important when working remotely, by choice or due to unforeseen circumstances, to focus on creating and maintaining a daily routine—but keeping it simple. It's important that we communicate our schedules to family members and co-workers to avoid the trap of working longer hours from home because there is no need to clock out. Be sure to create a defined workspace; this will help you stay focused during working hours and provide separation between your work and home life.

My team members' work/life balance is extremely important to me. Today's clients still need the attention of an agent, but they don't necessarily need to meet face to face. Thanks to the changes we've made, most of my producers come in only a few days a week; the rest of the time they're working from their laptops and phones, which allows them more quality time with their families.

Working from home doesn't have to be detrimental to your business. With the right tools and a solid game plan, you'll notice increased productivity and improved morale. ■

The author

Trace Meek is the president of Meek Insurance Agency, a three-generation, family-owned, independent insurance agency founded in 1954 and located in Clearwater, Florida.

BIG CHANGES IN POST-COVID CYBER INSURANCE ERA

Multi-Factor Authentication and data backups have become important security measures

By Madde Narr

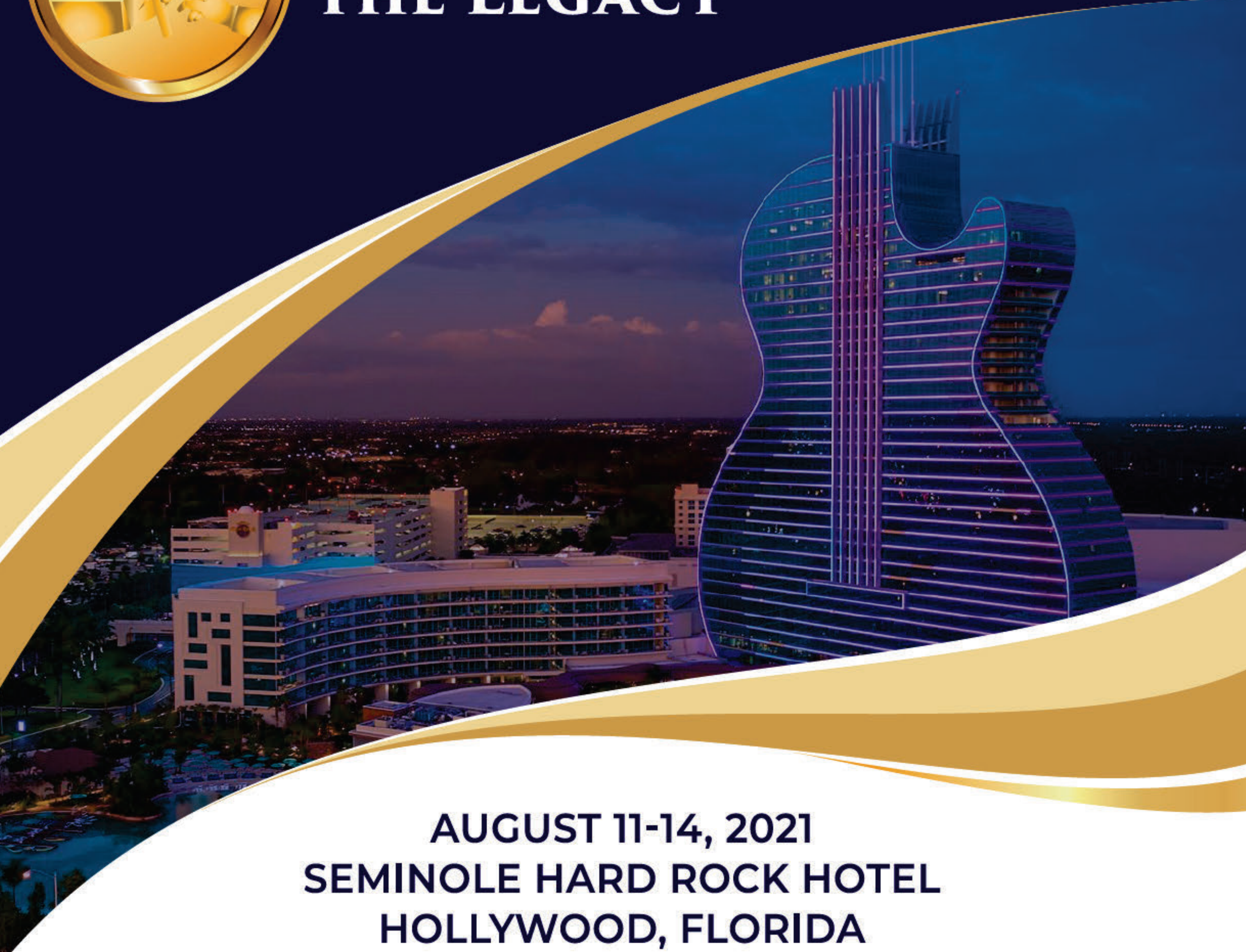
It has been a little over a year since the beginning of the COVID-19 pandemic and many people are beginning to feel a small slice of normalcy. However, one thing that will likely never return to pre-pandemic status are cyberattacks. Since April 2020, data breaches and cyber events have increased by 142% with no sign of reprieve in the immediate future. The most striking fact of all is that the direct costs of a ransomware attack exceed $230,000.

This statistic is just the tip of the iceberg—costs can exceed $800,000 for a single ransomware attack when taking into account resulting expenses and mitigation in addition to paying the ransom. With this in mind, it may come as no surprise that insurers are taking a hard-lined approach to both new business and renewals for cyber insurance. This includes tougher underwriting and stronger requirements such as the use of Multi-Factor Authentication (MFA) and backups. Having these security measures in place is of the utmost importance when underwriters consider offering cyber liability insurance.

Around 60% of small- to medium-sized businesses (SMBs) have no digital defense plan in place, indicating that the majority of these SMBs cannot afford the costs and, ultimately, will be put out of business due to a cyberattack. Because of this, cyber insurance for businesses of any size has never been more important—but has also never been more difficult to acquire.

What are insurers looking for?

Carriers have become much more stringent when it comes to eligible businesses. A business that once



would have only needed a simple four-question application may now be required to submit additional applications to the carrier to be considered for coverage or renewal terms. When taking a look at a submission for cyber insurance, insurers are focused on positive responses to security questions.

Leading the list for favorable responses is the question about MFA. Also known as two-factor authentication, this security control requires confirmation of valid entry with each login to an account by an additional source or application. A secondary question that is equally as important is the favorable response to keeping segmented and regular data backups. These two security measures are followed by a host of other questions that carriers strategically and carefully analyze for positive responses.

In the event that even one of those questions is not answered favorably, coverage could be rejected and policies could be non-renewed. A reinvigorated diligence of cyber application reviews comes at a cost—anywhere from 15% to 50% premium increases across the industry. The cyber market is now an exclusive club with no room for undesirable accounts or errors. To be protected from cyberattacks is far more difficult than in the past, but more insureds are looking for coverage from hackers' deadly attacks.

What is Multi-Factor Authentication?

According to consulting company Accenture, 43% of cyberattacks are aimed at SMBs, but only 14% of these are prepared to defend themselves. The new requirement of MFA aims to mitigate this statistic. MFA is a safer way to log in to secure sites and applications, such as your email accounts and other work platforms that you use on a daily basis. This type of two-factor authentication will decrease the ability for hackers to easily enter into your email accounts and monitor your systems for potential hacking opportunities.

Here's how it works: Once you fill in your username and password on the login page, you will receive a text, email, or notification from a designated authentication application on your phone providing a code. This code will essentially be an additional step to entering in your username and password. Having this additional authentication will protect your accounts from accidental leakage of your login credentials, thus keeping your accounts and proprietary information safer.

People tend to keep a great deal of sensitive data in Microsoft accounts. You may have a sensitive Word document, a detailed PowerPoint presentation for your company's new products, or even just your daily email chains on your Microsoft Outlook account that you want to keep from prying eyes. By enabling MFA, each user will be able to protect their Microsoft accounts from fraudulent entry. If someone attempts to access your account, you will receive a notification of an attempt to access your Microsoft account and you will be asked to verify the login attempt. You will then be prompted to enter a code. If you did not request the ability to log in to your account, you will be encouraged to report the attempted entry into your account to your IT department immediately. You will also be able to update and change your login credentials or password to secure your account and data before an intrusion occurs.

Why does your insured need to have backups?

The second security measure that many carriers are now requiring, which will mitigate the risk of a devastating file encryption, is having backups of all your business files and data. If your network crashes due to a hardware failure or a system hack, you may lose all of your most valuable company data and files. This can leave your insured vulnerable to business interruption claims and business downtime, reaching close to the industry average of 21 days.

To have sufficient backup files, your insured would need to create a copy of all their data and store it to an alternate location. In the event that a data recovery is needed, your insured would be able to retrieve the duplicated data from a backup storage location like iDrive and restore these files in their original location. Along with having the actual backup of your files, iDrive would also need to be protected by MFA, subject to segmentation, and be encrypted using unique login credentials stored separately from any other login credentials you (or your users) might have. Ideally you would conduct backups as frequently as possible to optimize potential for quick and comprehensive recovery.

If you don't have a backup system in place, most carriers will not offer coverage, as they would be at risk for an extensive business interruption payout.

What to expect from insurers

It is important to begin your insured's renewal conversations early in order to navigate these new requirements. Although implementing MFA and backups is fairly easy to do on an individual basis, it may be more challenging to put into practice at larger commercial businesses. Many carriers will not consider offering terms unless utilizing MFA and data backups is a standard practice for your business, so time is of the essence. Although these security measures are not a guarantee to prevent a cyberattack, they will certainly soften the statistics.

Gone are the days of cyber insurance for just anyone. It will be paramount to set realistic expectations for your clients on these requirements as well as new pricing from carriers. Insureds may also need to be prepared for sub-limits or co-insurance, which are becoming more common for important coverages like ransomware and business interruption.

With the additional hassle of these requirements comes the subsequent security that your customers will be protected against the harms of a cyberattack. It is far more important to go through the exercise of providing cyber insurance than waiting for a devastating attack to happen. ■

A business that once would have only needed a simple four-question application may now be required to submit additional applications to the carrier to be considered for coverage or renewal terms.

The author

Madde Narr is an underwriter at Wingman Insurance.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THE VALUE OF AN EFFECTIVE RETURN-TO-WORK PROGRAM

A win-win for both agents and policyholders

By Michael S. Noble and Christopher R. Marriner

In numerous regions throughout the country, the compensation marketplace has been one of diminishing returns. Many states have seen years of rate reductions while medical costs and legal involvement have continued to climb.

We often hear concerns from our agency partners about the workers compensation marketplace, primarily with regard to those increasing costs while, simultaneously, their rates/commissions are decreasing. For example, in Florida, we've seen years of rate reductions, totaling nearly 35% since 2015.

So how can we ensure that our agent partners continue to enjoy business success in the workers compensation marketplace while their policyholders keep their experience modifier in a healthy range and save money?

Recommending return to work

Return to work (RTW) is a fundamental workplace concept focused on helping employees and employers by returning injured workers to meaningful work as soon as possible. These programs include policies and procedures that take into consideration factors such as the nature of the injury, type of work performed, temporary or modified jobs, and input from the treating physician. Everyone has vested interest in timely return to work.

Implementing a well-structured RTW program is an effective way to manage injuries that occur at work and reduce direct and indirect costs. According to OSHA, employers pay nearly $1 billion per week in direct costs alone. RTW programs improve communications and provide a blueprint to help companies navigate the injury management process—from the first report of injury to the employee's return to work.

The many benefits of RTW

We strongly encourage our agency partners to recommend RTW to their policyholders, as there are tremendous benefits to all parties involved.

The timely return of injured employees to productive roles in the workforce is a key component of workers compensation. A primary goal of an RTW program is

to assist employees who sustain a workplace injury or illness to safely return to work as soon as possible in a modified, temporary or light-duty assignment. RTW programs provide not only cost-containment for the employer but also peace of mind, improved morale, and faster recovery for employees.

The benefits of RTW to employees:

- A faster return to work
- Job security
- Boosted morale strengthens a worker's emotional ties to the company
- Job skills are maintained
- Reduced boredom, depression and stress levels
- Wages nearer to pre-injury pay
- Company benefits are maintained

The benefits of RTW to the employer:

- Company productivity is maintained
- The chances of litigation are lowered
- The need to hire temporary workers is reduced
- Workforce morale, confidence and values are strengthened
- Employee and management communication is improved
- Medical costs and employee recovery time are reduced
- Indemnity costs are diminished or eradicated
- Impact of claims on insurance premiums is reduced

Consider this: Do you think that companies would prefer to have a recovering employee coming into work each day, doing something productive and feeling engaged and useful, or watching daytime TV, feeling isolated, worrying about losing

Incorporating modified duty as a component of a workers compensation plan will elevate a company's ability to be competitive in the goods and services they provide.

their job, and watching a never-ending stream of commercials from law firms promising big paydays for work accidents?

Modified duty is a key element of any RTW program

To be a highly successful business, it is essential to seek out efficiencies, negotiate better supplier deals and control overhead costs. Workers compensation insurance plays a big part in overhead costs and, indisputably, modified-duty planning is paramount to controlling some of these costs. Incorporating modified duty as a component of a workers compensation plan will elevate a company's ability to be competitive in the goods and services they provide.

No matter the industry or business, modified duty can have an impact.

To illustrate: FCCI's RTW program offers employers cost-effective solutions for reducing claim costs while giving the injured worker time to heal. Some specialty programs we offer illustrate the value of helping to find alternatives for those who have been injured on the job:

- **The not-for-profit volunteer placement program** utilizes a national network of accredited nonprofit partners, securing volunteer assignments for injured workers to help them transition back to work while boosting self-confidence and improving sense of worth with important services to get them back into a daily work routine.
- **Job fit accommodation** identifies reasonable accommodation in the original job, adapting the work-station or work environment so that duties can be performed that fit within the worker's medical restrictions.
- **The Hand Soldering Certification program** provides a solution to assist injured workers in returning to gainful employment in little time. In just five days, students are trained, gain experience and are provided with numerous job leads for re-employment.
- Through **light/modified duty job placement,** alternate duties are assigned that fit within the worker's medical restrictions until a time when they are fully healed and can return to their previous position. If the temporary placement pays less than their former position, workers compensation pays the difference.
- A **virtual physical therapy program** is accessible to injured workers anywhere, through the use of a smartphone or internet-enabled device with a video camera. It encompasses a wide range of clinical rehabilitation services and allows for treatment outside of traditional office hours.

Everyone can have and benefit from an RTW program

Even in cases where a company thinks they can't create and implement an RTW program, they really can. Most injured workers don't just go from no work to full duty all at once. An RTW program offers the opportunity for the employer to reap the benefits of some productivity and defray some of the costs, while the injured employee stays connected with their workplace and remains engaged and active.

Inventory, clerical work, training and mentoring, research, and light maintenance are just a few of the tasks that a worker on restricted duty can perform. An injured construction worker can serve as a spotter to verify health, safety and condition of fellow workers. An electrician on restricted duty can assist with finishing duties, such as workplace cleanup or quality control. A carpenter on light duty can assist in preparing project layouts, confirm measurements, or help to finish surfaces.

We often suggest safety duties for those who have been hurt on the job—perhaps replenishing first-aid cabinets, updating safety bulletin boards or inspecting fire extinguishers. (There is powerful symbolism in these types of assignments!)

Final thoughts about RTW

There are real dollars involved—as well as reputational impacts—when

We often suggest safety duties for those who have been hurt on the job—perhaps replenishing first-aid cabinets, updating safety bulletin boards or inspecting fire extinguishers. (There is powerful symbolism in these types of assignments!)

it comes to RTW. From cost control to a company's experience modifier to the ability to find the best insurance coverage—having a solid RTW program can positively impact all of those things. Plus, it helps policyholders to save money and agents to make more, while injured workers enjoy a gamut of physical, emotional and financial benefits.

Employees are a company's best and most important asset. Having a solid RTW program shows a company values its team. We always appreciate it when our agency partners advocate for the importance of RTW and, down the road, we know the policyholder will appreciate and reap the benefits. ■

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Noble

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