THE REGULATOR
INSURANCE REGULATORY EXAMINERS SOCIETY

How increased litigation costs impact insurance consumers

by Nick Mallouf, CPA, CISA

Today there was good news and bad news for the insurance industry regarding litigation against its members. I'm reading two articles in a March issue of the National Underwriter that highlight the challenges of the litigation explosion.

The Good News

"Appeals Court Rejects Certification of Market Conduct Class." In this case, the U.S. Third Circuit Court of Appeals overturned a District Court certification of a nationwide class action (CA) suit involving contested market conduct litigation. Plaintiffs had brought suit against LifeUSA Holding, Inc. claiming the insurer's agents had made misrepresentations in marketing, advertising and the selling of two-tiered annuities.

The claim included fraud, misrepresentation, breach of faith and unjust enrichment. The Appeals Court rejected the CA certification because it relied on an earlier 1998 CA case involving Prudential agents, which the Court found did not apply in this case. In the Prudential case, the agent presentations were generally uniform and scripted. In the LifeUSA lawsuit, the court found this was not the case.

James Jorden, the attorney who successfully argued the appeal, described the decision as a crucial ruling that imposed substantial limits on the boundaries of market conduct class actions. "This is the first federal Court of Appeals," says Jorden, "to rule on the require-

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Custodial accounts: Keeping an eye on the assets

by Vincent Laurenzano

Insurance company asset custody agreements have been the subject of considerable scrutiny since May 1999, when insurance regulators in Mississippi and Tennessee discovered the apparent diversion of more than $200 million in insurance company assets by Martin Frankel over an eight-year period. After being permanently barred from the securities industry in the early 1990s, Frankel allegedly obtained control over several insurers by secretly purchasing them in the name of Thunor Trust, a trust established by Frankel and several others.

Simultaneously, Frankel obtained secret control of Liberty National Securities (LNS), a securities broker-dealer to which the assets of several of the Thunor Trust insurance companies were transferred through the execution of asset custody arrangements. Apparently,

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The Regulator

Wayne Cotter, Editor
quepasa@sprintmail.com

Kathleen McQueen, Associate Editor

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David V. Chartrand, executive secretary
Susan Morrison, office manager
Joy Moore, continuing ed coordinator

www.go-ires.org
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e-mail us at
ireshq@swbell.net

From the President

I just returned from Savannah, Ga., where I participated in the National Insurance School on Market Regulation sponsored by the IRES Foundation.

My plane ride to Savannah was a disaster from start to finish. First my flight out of Albany was delayed which caused me to miss my connection in Washington, D.C., which forced me to change airlines. I then flew to Charlotte, grabbed a flight to Charleston, and was lucky enough to find a cab to take me the 100 miles to Savannah (the airline paid). I finally arrived in my hotel room sometime after 3 a.m. The skies certainly weren't friendly that day.

But I made it, and thoroughly enjoyed the IRES Foundation conference. You may ask what is the IRES Foundation and what do they do? The IRES Foundation is a tax-exempt, nonprofit educational foundation that is exclusively devoted to sponsoring and supporting educational programs in insurance regulation for various groups. Many directors of the IRES Foundation are former regulators, so they're well equipped for the task.

During this past year the Foundation renewed its annual $10,000 grant to help fund the IRES Continuing Education Program. In addition, they purchased a video projector that can be used by IRES at annual seminars and other events. While we are indebted to the Foundation for its annual grant, IRES intends to begin phasing out its reliance on this annual grant money and to transfer more of the Continuing Education Program costs to the general IRES budget.

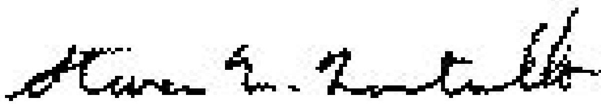
At this year's conference, the IRES Foundation also established an annual award in memory of the late Paul DeAngelo of the New Jersey Insurance Department. Paul's untimely death occurred on his way home from last year's Conference. The first recipient was the DeAngelo family, a most appropriate choice. Paul was both an IRES member and a teacher at the Foundation School. This award helps to memorialize Paul's contribution to the field of insurance regulation.

IRES members and other top-level market conduct personnel comprise the faculty for Foundation conferences. The conferences provide industry with valuable insight into how we do our jobs, and offer us an opportunity to hear their concerns. It should be noted that the Foundation is always looking for qualified Insurance Department personnel to be part of their faculty.

Industry and regulators don't always agree, but at least we have a better understanding of each other as a result of conferences

like these. Topics of interest this year included privacy, class action lawsuits, agents' licensing initiatives, and a financial services overview from the Federal Reserve's General Counsel.

Again on behalf of IRES, I would like to thank the IRES Foundation for its continued support of our organization and we look forward to participating in future endeavors with them.



IRES PRESIDENT

IRES 2001 bylaws

The Board of Directors voted to adopt a recommendation by the IRES Past Presidents' Council that the definition of "Retired Member" be clarified so that only those no longer involved in the field of insurance (whether or not otherwise employed) would be considered retired and would be given the reduced annual dues. Those who were no longer involved in regulation (and thus not meeting the definition of a "General Member") but who remained active in the field of insurance would be placed in a new membership category designated "Active Former Regulator." Members placed in this category would not have voting rights, but would be required to pay full dues as is required for "General Members."

C.E. News

NICE transcripts for the current compliance period, Sept. 1, 2000 – Sept. 1, 2001, will be sent out in May. Watch for them to arrive in your mailbox!

Have you paid your IRES membership dues and CE fee**? Don't risk the suspension of your designation.**

What qualifies as CE for NICE?

Qualifying CE includes specific course work and seminars, published articles, and speaking engagements which are 50 % or more directly insurance related.

Courses must meet for at least 50 minutes to qualify for one contact hour and 25 minutes to qualify for one-half contact hour. Credit is not granted for less than one-half hour. However, a maximum of 12 hours will be granted for any individual course or seminar.

NOTE: Because of its unique focus on market regulation and the desire and goal of IRES to encourage its members to engage in continuing education, 15 credit hours will be granted for **full** participation in the annual CDS. Partial credit is available for those who leave early.

CE Reporting deadline is Oct. 1, 2001

Hope to see you at this summer's CDS in Baltimore!!

N · I · C · E

Litigation and the insurance consumer

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ments for certifying contested market conduct class-action cases" [emphasis added]. In a contested case, defendants oppose certification rather than settle. The decision also supported dozens of recent lower court rulings that denied certification to contested market conduct CA cases.

The Bad News

"New York Court Lets Class Action Against Health Plan Proceed." In this case, the New York Appeals Court ruled unanimously to let a CA suit against a health plan proceed. The suit accuses the plan, owned by Prudential Insurance Company of America, of committing fraud, breach of contract, and violation of New York's General Business Law by misusing care guidelines published by a third party – Milliman & Robertson (not named in suit). That is, the plan allegedly made medical coverage decisions that inadequately considered input from its staff physicians or the patients' own physicians. According to the National Underwriter, the ruling deals only with procedural matters and the court has not yet evaluated the merits of the plaintiffs' case.

These two cases offer a contrasting view of the status of litigation in the insurance industry. In general litigation, the frequency of suits appeared to have stabilized during the late '90s. And while the frequency of individual cases against insurance companies may be down, the severity of the suits has bounced back with a vengeance. On the other hand, CA suits have risen dramatically over the past decade. While individual cases may benefit certain individuals, neither carriers nor consumers are well served by this type of litigation.

General Litigation

A recent Tillinghast-Towers Perrin study estimated the annual cost of the American tort system to be at least $165 billion – 2% of gross domestic product – twice that of similarly industrialized countries.

On the other hand, the American Trial Lawyers Association (ATLA) publishes data on its Web site indicating the cost of tort cases is declining. It states that the number of personal injury suits in California, for example, has declined by almost 50% in the last 10 years. Also shown is a chart implying that the ten highest jury awards have declined in each of the last four years. (Although careful review indicates the 2000 awards are lower than 1999, but still higher than 1997 & 1998.)

Although the ATLA data could lead some to believe that award sizes are down and the number of cases declining, you would be hard-pressed to find anyone in the insurance industry who believes that.

Certainly America has long had a reputation for being an extremely litigious society, but here are some other reasons for the overall increase in litigation costs:

- Life companies are now selling securities
- Life products are more complicated (variable products)
- Long Term Care product premium changes
- Consumers are more concerned about health issues than in the past
- Doctor concerns about the size and timeli-

Criteria for Class Action Certification

In order for a suit to be certified as a class action, these requirements must be satisfied:

1. Reasonable class size

There has to be enough people to justify bringing the suit as a class.

2. Common facts of the case

You must be able to demonstrate to the court that there are questions of law or facts common to the class – meaning similar misconduct has occurred, such as misrepresentation of vanishing premiums.

3. Claims or defenses are typical

You must show that each person in the class is making allegations typical to the other class members.

4. Representatives will fairly and adequately protect the interests of the class

The legal counsel representing the case must be adequate, and there can be no conflicts of interest in representing class members.

The plaintiffs must also show it makes sense to proceed as a class. The most common way to demonstrate that a class action is the superior avenue is to show that common questions predominate over individual questions. If there are a lot of individualized issues among disgruntled policyholders, a class action may not be the best way to proceed.

ness of payments from carriers

- Old discriminatory marketing practices, such as race-based premiums, are being uncovered
- State regulators are having difficulty keeping up with new types of class action issues
- Regulations are frequently inconsistent across the states, and enforcement often changes with each newly elected/appointed commissioner

What the Costs Are

Lawsuits, especially CA suits, can be an unforeseen major expense for insurance companies. And although some consumers can benefit from these suits, insurers are being forced to take actions that ultimately affect these same consumers where it hurts the most – in the pocketbook. Increasing costs can manifest themselves in any of the following ways:

- Increased premiums
- Earnings declines where litigation costs cannot be passed on to consumers
- Erosion of sales
- Decrease in public trust
- Fewer qualified agents
- Company withdrawals from certain markets or states

An excerpt from a recent article in Crain's New York regarding the New York situation is being played out in various regions throughout the country:

> Liability insurers are pulling out of New York State and raising premiums at such a rapid pace that businesses in some industries say they are approaching a crisis. The lack of insurance options is spurring New York business leaders to mount a major lobbying effort this year to win broad limitations in state law on tort liability lawsuits. The goal is to ease conditions to allow more stable pricing and greater availability of policies from insurers.

Class Action

It is hard to discuss litigation in the insurance industry without discussing CA suits. The cases cited at the beginning of this article are just two examples of the type of CA actions facing the insurance industry today. At the recent IRES Foundation conference in Savannah, attorney Gary Hernandez cited one source that claims CA suits against the insurance industry have increased tenfold over the past decade. Because class size can range from the hundreds to the millions, reliable data on average settlement awards are not readily available.

Most CA cases involve market conduct-type issues. These include:

- Bad faith refusal to pay benefits
- Bad faith failure to defend cases
- Vanishing premium that failed to vanish
- Improper replacements
- Failure to disclose fees and expenses

According to Victoria Fimea, ACLI's Senior Counsel-Litigation, class action trends come in clusters. She says that plaintiff attorneys will test the waters with three or four cases against insurance companies in certain jurisdictions. If these cases work, i.e., obtain class certification, then they will rapidly expand to other states and other companies. Once a suit has been certified as a valid CA case, insurance companies have learned that it is often cheaper to settle than to litigate, regardless of the merits of the case.

Most CA suits center on point-of-sale issues, according to Ms. Fimea. In the early '90s there was Vanishing Premium; then Variable Products; then Agent Misrepresentation; and now Long Term Care and Modal Premium. Modal Premium is the latest "cluster" in the life arena. These suits claim the policies do not clearly state that the annual premium is more if the policyholder pays via a mode other than annual (annual = $100; semi-annual = $52 x2 = $104; quarterly = $27 x 4 = $108). This particular cluster started in New Mexico. There have been 17 cases filed in the state. State Court judges have certified two cases and one insurance company has already settled a case for $7.5 million. These types of cases are now moving to Texas and Massachusetts.

Recently, suits have cropped up against property/casualty insurers such as State Farm over the use of after-market parts used to repair cars. And as we enter the new millennium, class-action suits against managed care companies are also on the rise. The same lawyers who took on the tobacco and asbestos industries are looking to extend their winning streak against health maintenance organizations (HMOs). The suits challenge whether companies refused to pay for treatments to which patients were entitled under the plans. In addition, they challenge everything from whether HMOs paid claims promptly to whether physicians were given financial inducements not to order certain tests.

On another front, Connecticut's Attorney General

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Weighing the costs of litigation

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just filed suit against four major HMOs. The case is unusual in the sense that no damages are sought for the state, doctors, or patients. Rather, it seeks "an order that would compel the HMOs to comply with their duty of care, their duty to disclose their policies fully and accurately, and to obey their legal obligations under specific statutes." The litany of unfair actions attributed to the HMOs includes:

- Application of arbitrary, undisclosed coverage guidelines
- Deceptive use of lists of drugs to prevent patients from receiving medicine prescribed by their own physicians
- Unresponsive to patient or doctor complaints and inquiries
- Denial of timely payment to providers
- Overall interference with the doctor/patient relationship, which is the core of effective medical treatment

A new area that plaintiff attorneys have yet to fully focus on is the Internet. More companies and agents are developing Web sites and web-based marketing programs every day. With all the intermediaries and accumulators involved in bringing quotes, referrals, and advertising to the consumer via the web, an insurance company's liability is magnified geometrically. It is only a matter of time until there is enough web-based insurance activity to draw the attention of plaintiff attorneys.

What Companies Are Doing

Besides defensive actions such as raising premiums and pulling out of markets, many insurance companies are taking positive actions to deal with the exposure of increased litigation. Doug Friedman, a principal at the law firm of Friedman & Pennington, P.C., says his insurer clients are doing several things to combat litigation exposures:

- Obtaining IMSA (Insurance Marketplace Standards Association) certification
- Getting Internal Audit more involved in compliance issues
- Designating compliance officers
- Raising the status/authority of existing compliance officers

President George W. Bush, during his election campaign, promised to clamp down on plaintiff attorneys by changing some of the ground rules for litigation. For example, Bush wants to require those people who file suits to pay for the other side's legal expenses if they lose (similar to Canadian law), a move that would make it much harder for private citizens to challenge big companies, and one that is fiercely opposed by most Democrats. But in the final months of his campaign, Bush de-emphasized tort reform, and the issue appears to have moved to a lower rung on his list of priorities. And given the narrowness of the Bush victory, the prospects for far-reaching legislation appear to be doubtful.

Also, in an attempt to restore public trust, the life industry has implemented the IMSA program. Members certified by IMSA must meet compliance, ethical, documentation, and review standards as determined by an independent review every three years.

What else can be done? J. Michael Grier and Steve Imber, attorneys with Blackwell Sanders Pepper Martin, say companies should be more proactive in identifying and solving problems in an objective manner - deal with complaints "substantively" not just legally. Grier says: "A lawsuit is rarely the first time an insurance company has heard from the consumer. Since courts are often more sympathetic to the 'little guy,' companies should be asking themselves if there is something they can do, even after a suit is filed, to resolve the issue besides letting the lawyers handle it."

Grier notes that the courts cannot be expected to maintain litigation standards and keep forums consistent. This is largely due to:

- Different standards for electing/appointing the judiciary in each state
- Different laws, interpretations, and level of enforcement that exist in each state
- The varying quality of judges from state to state
- Many judges are so overloaded, they are unable to perform adequate oversight

Kenneth William Cooley, Counsel for State Farm Insurance Companies, says companies need to implement solid compliance procedures – not just for show, but also for good customer relations and better protection against litigation. Companies should

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Grading the sites: Insurance on the Internet

by Wayne Cotter, CIE

Researching insurance issues on public (i.e., free) Web sites can be a frustrating experience to even the most savvy Internet user. You know the information is somewhere on the Web, but finding it—ah, there's the rub.

The most popular search engines, like AltaVista and Lycos, are good starting points. However, if you need up-to-date information, you're likely to be disappointed. For example, former New York's Superintendent of Insurance Neil Levin was recently named by Governor Pataki to head the Port Authority of New York & New Jersey. A search of "Neil Levin" on both AltaVista and Lycos for relevant stories uncovered a 1997 Governor's press release announcing Mr. Levin's appointment as superintendent and little else. Interesting, perhaps; timely, no way.

Specialized search engines can help, but they're not necessarily the answer either. Financialfind.com came up empty on a "Neil Levin" search, however Moreover.com, a specialized search engine that locates current news articles, was able to locate two stories on the Levin appointment. Rather than searching for words on Web sites, Moreover searches online news headlines, thousands of them. (Lexis-Nexis, of course, is an excellent Web-based source of timely insurance news and information, but this article is about free Web sites.)

When search engines can't do the trick, it's best to go directly to specific Web sites, provided you know where to find them. With more than 100 million sites on the Web, it pays to narrow your choices.

Below are a few Web sites and search engines we return to regularly. For each site, we've included a brief description and an unabashedly subjective rating, based on ease of use, comprehensiveness, unique features and overall design and presentation. Ratings are based on a traditional letter grading system.

Dictionary

Investorwords (www. investorwords.com): What better place to begin a review of Web favorites than with a financial services dictionary? With over 5,000 definitions, Investorwords.com is the best free financial services lexicon on the Internet. If you don't know what an adventure capitalist is or have never heard of a momo play, check out Investorwords.com. Bonus Tip: The site includes 15,000 links between related terms. Click on "insured," for example, and you'll see links to other definitions, such as "insurance policy," "underinsured," and "uninsured motorists coverage."

Search Engines

Business.com (www.business.com) Business. com markets itself as the only search engine devoted strictly to business. The site has a good daily summary of the latest business news, but its search engine desperately needs a tune-up. A search of "viatical" yielded only two hits, neither of them articles. A search of "custodial accounts" found seven Web sites, all from private firms offering custodial services.

Findlaw (www.findlaw.com): Findlaw searches for legal documents on the state and federal level. It also provides Web-based continuing legal education (CLE) credits for attorneys. Choose from 12 CLE courses, pay $20, and take the online exam. If you pass, bingo, you've got your CLE credits.

Financialfind (www.financialfind.com): This search engine site is a bust as far as we're concerned. A search of "viatical" led to one insure.com story and a host of sites offering to buy our life insurance policies.

Google (www.google.com): Google is a search

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Insurance on the Internet: Grading the sites

engine that introduces democracy to the search process. Google not only counts the number of times your search term appears in Web-based text, it also determines the importance of each Web site by evaluating the number of times users link to a particular page within a given Web site. Each link is considered one vote. Google calls it a "sophisticated text-matching technique." We call it a great search engine.

Google searches also may unearth legal documents, chat room discussions, or other offbeat, but useful information. The site is incredibly fast and includes an "I Feel Lucky" option that brings you directly to the site Google determines is best suited to your needs. (Most times it's wrong, but it's a harmless diversion.) The site does, however, suffer the same timeliness drawbacks of the major search engines. Bonus Tip: Try www.google.com/unclesam for government articles, documents and press releases.

Moreover (www.moreover.com): It may not look pretty, but Moreover.com is your free search engine of choice if you need up-to-date news information on a particular insurance topic. We'll take timely over pretty any day. Its major drawback is that it only searches headlines so that your ability to mine the Web may be based on how in sync you are with the heads of the headline writers.

Insurance Web Sites

A.M. Best (www.ambest.com): A.M. Best began publishing current insurer financial ratings last year free of charge, along with brief insurer profiles. The company charges for full company reports, but casual users aren't interested in that level of detail anyway. The site is a real service to consumers and professionals, and a great public relations coup on Best's part. Bonus Tip: Best publications are also available online. You can also watch the latest insurance news headlines scrolling down the site's home page. Click on a headline and the full story appears.

American Council of Life Insurers (www. acli. org): Not nearly as many bells and whistles as the Insurance Information Institute's site (see below), but nonetheless offers useful information on the life insurance industry. Site would prompt far more return visits if it included more trending and industry analysis.

Insurance Information Institute (www.iii.org): This site of the Insurance Information Institute is a great source of property/casualty statistics (even some life insurance data). It includes the largest insurance writers in key markets, trends in the industry, and timely white papers. Bonus Tip: Site includes top-notch PowerPoint presentations, suitable for downloading.

Insurancenewsnet (www. insurancenewsnet. com): Similar to insure.com (see below), but with far fewer original articles. Choose as your default entry page either the site's p/c or life page. Also includes a search feature for back articles. Bonus Tip: You can customize the site to monitor your individual stock portfolio.

Insure.com (www.insure.com): Simply put, Insure. com is the best online-only source we've come across for insurance news. Insure.com reporters offer original stories on a variety of insurance topics. The site also includes a searchable archive of back articles and a challenging "Insurance Survivor" weekly quiz. Bonus Tip: If you're interested in vehicle safety, just enter designated crashworthiness criteria and insure. com lets you know which current vehicles meet your safety standards.

National Association of Insurance Commissioners (www. naic.org): This is one site most IRES members should be familiar with. If you're not, click on immediately. It's your link to NAIC model laws and regulations, committee minutes, issues updates, research bibliographies, and the world-renown "Map of Insurance Regulators" that provides instant access to any state's insurance department Web site. The NAIC site is somewhat cluttered, but judicious use of the search tool should yield a wealth of information. Bonus Tip: You'll need a password to access certain "regulator's only" material. Some passwords are available through your Systems staff; others can only be obtained directly through the NAIC.

National Underwriter (www.nunews.com/pandc and www. nunews.com/lifeandhealth and www. nuco.com): Current and past issues of the weekly National Underwriter (NU) are available on this site as well as an industry resource center at www.nuco.

Insurance on the Internet: Grading the sites

com. Need to go back further? Explore NU's archive covering five years of past publications. Nuco.com's "career kios[illegible] however, is not recommended as a source of potential jobs. Only one opening popped up when we input "actuary," while none appeared in response to "underwriter." Bonus Tip: The site will soon feature live insurance chats and online public documents.

And now for Something Completely Different

Agents Insurance Marketing (www.agentsinsur-ancemarketing.com/central.htm): This site may look like a service site for agents, but it's actually a bizarre assemblage of insurance information, rock 'n' roll trivia and muscle cars. Elevator-music versions of such favorites as Hit the Road Jack and Cool Jerk, play continuously as users attempt to answe[illegible]he site's 300+ insurance trivia questions. Some clever ideas, but laid out poorly. Bonus Tip: Answer 11 of 13 questions correctly in the "agents' trivia game" and become enshrined in the site's "trivia hall of fame."

Federal sites (www.census.gov) (www. bls.gov) (www.bea.doc.gov): Every year the U.S. Census Bureau releases estimates of the percentage of each state's residents without health insurance, based on its annual Current Population Survey. And each year we used to telephone this guy in Suitland, Md., who dutifully faxed us the state-by-state information. Now we retrieve it in seconds on the Census Bureau Web site. The site contains an incredible amount of information if you're willing to invest the ti[illegible] to uncover it. Ditto for the Bureau of Labor Statistics' site, where you can locate detailed Consumer Price Index data by region. And don't forget the Bureau of Economic Analysis site where GDP data and Gross State Product data are readily available. Bonus Tip: Check out the entire Statistical Abstract of the United States (1997 through 2000) on the Census Bureau Web site.

Slashdot (www/slashdot.com): Slashdot solicits and posts stories on a variety of subjects. Here's how it works: Anyone can submit a story to Slashdot, which selects the best for posting. Visitors to the site are encouraged to share comments and insights on posted stories. When we searched for "UPS" we uncovered a fascinating chat exchange concerning the UPS tax and insurance scandal that had been preserved from late 1999. Although Slashdot deals with a wide range of subjects — not just insurance and business — the site is still a top-notch source for exploring the arcane and unusual. A+

Yuk Yuk (www.actuarialjokes.com and www. cpadvantage.com/misc/jokes.asp): We all need a little humor to help relieve the stress of researching insurance on the Internet. The absolute best source for actuarial jokes (more than 200 of them) can be found on actuarialjokes.com. You'll find jokes like these:

Actuarial bumper sticker — Old actuaries never die; they just get broken down by age and sex.

Q: What do you call an actuary who is talking to someone?

A: Popular

Prefer accountant jokes? Try cpadvantage.com. Or how about a joke that crosses both professions?

Q: What do actuaries do to liven up their office parties?

A: Invite an accountant.

Wayne Cotter is Director of Research for the New York State Insurance Department and editor of The Regulator. He reminds readers to check the IRES Web site (www.go-ires.org) for back issues of The Regulator.

Weighing the economic impact of litigation

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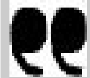
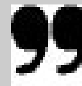
continue, says Cooley, to press regulators and legislators for the self-audit privilege. This privilege allows companies to perform internal audits of their compliance functions. Companies can do this now, but such efforts are not protected from discovery in litigation. Therefore, companies are reluctant to perform this self-policing activity even though it could benefit consumers and assist regulators in improving the industry.

Diane Nygaard, a plaintiff attorney who has brought several suits against insurance companies, says that to improve its defenses against litigation, the insurance industry needs to look to the securities industry for procedures to control its agents, advertising/marketing, and customer service activities. "The insurance industry is ten years behind the securities industry in its compliance procedures and standards" says Nygaard. As the boundaries separating the insurance, banking, and securities industries continue to blur, and federal regulations over insurance expand, Nygaard's statement may hold the secret to short circuiting the growing trend in litigation against insurance companies.


A recent Tillinghast-Towers Perrin study estimated the annual cost of the American tort system to be at least $165 billion – 2% of gross domestic product – twice that of similarly industrialized countries.


Who's Next?

Plaintiff attorneys are very much attuned to what is going on in the industry and know how to pull its chain. The media, always hungry for a story, provide a boost to attorneys every time they find an industry practice worthy of prime time.

A.M. Best recently published an interview with Melvyn I. Weiss, founding member of the law firm Milberg, Weiss, Bershad, Hynes & Lerach LLP, considered by many to be the foremost class action legal practice in the U.S. In the interview, Weiss acknowledges the fact that the Private Securities Litigation Act of 1995 (PSLA) successfully reduced the number of CA cases. However, he says, settlements on current cases are generally higher than before PSLA because the law requires a far more thorough investigation in order for a suit to be certified. Therefore, the surviving cases are much stronger.

Most litigation focuses on point-of-sale and consumer treatment issues, all of which are directly tied to market conduct issues and practices. Regulators, who are becoming more and more restricted by inadequate market conduct budgets, are sometimes unable to timely identify or respond to true company abuses. The regulatory system was established to prevent, identify, and resolve consumer abuses. However, it has become increasingly easy for consumers, who may or may not have tried to resolve their grievance through the state insurance complaint apparatus, to use the threat of litigation to get an insurance company's attention.

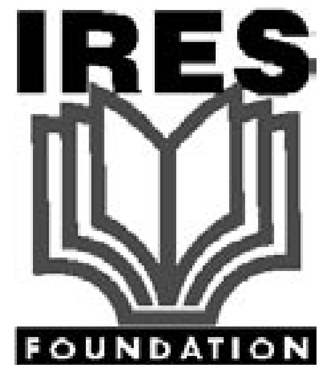
Being in a highly regulated industry has not spared insurance companies from expensive litigation. It's easy to focus on the harrowing stories about CA abuses and the attendant huge attorney fee awards or spend hours debating the pros and cons of such litigation. However, no amount of hand wringing will change the ultimate fact that CA and individual suits will continue.

So watch as the insurance industry continues to merge; as companies are forced by competition to create ever more sophisticated products; and as consumers, providers, and third parties, who are used to certain types of service, become increasingly dissatisfied with the new business models.

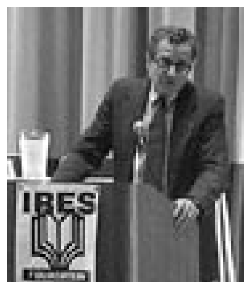
Nick Mallouf, CPA, CISA, is a Principal at MRC Consulting Group, Inc., a firm specializing in market conduct examinations, company compliance, due diligence for banks in insurance, and litigation support.

Industry experts graduate from market conduct school

SAVANNAH, GA. – About 250 insurance industry professionals graduated from regulatory compliance "school" here, having been tutored by a faculty of state regulators on how to comply with a myriad of market conduct rules and regulations across the country. It was the 8th annual National Insurance School on Market Regulation, sponsored by the IRES Foundation.The sessions were held at the scenic Westin Harbor hotel overlooking the scenic Savannah River.



Clockwise from top School attendees enjoy an opening cocktail reception πAttendees mingle at the market conduct consultants' exhibit room πCathey Steinberg, Georgia's insurance consumer advocate; π Arkansas Insurance Commissioner Mike Pickens alongside the school faculty πVirgil Mattingly of the Federal Reserve Bank πPlaintiff attorney Diane Nygaard and defense counsel Jim Griffin visit before squaring off on class action litigation πRegulators and insurers sit down for "roundtable" informal discussions



Custodial accounts: Who's watching the as-

continued from page 1

neither Frankel nor anyone else at LNS attempted to manage the assets held by LNS, rather they were simply transferred to Frankel's personal accounts. The scheme was not immediately apparent because LNS and Frankel generated false account statements each month regarding the activity of his insurance companies' investments.

In its September 2000 report to the U.S. House Committee on Commerce, the U.S. General Accounting Office (GAO) concluded that the scheme could have been dramatically minimized had there been stronger regulatory controls in place. For example, several of the states impacted by the Frankel scandal had not adopted the NAIC Model Law and Regulation on the Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies (the "NAIC Models").

The NAIC Models prohibit the transfer of insurer assets to any custodian other than a national bank, a state bank or a trust company. LNS, as a broker-dealer, would not have been eligible under the NAIC Models to serve as custodian to the Thunor Trust insurance companies. As the GAO Report points out, however, one of the states in which insurer assets were misappropriated by Frankel had adopted the NAIC Models, but failed to enforce the prohibition against broker-dealer custodians.

The NAIC Financial Condition Examiners Handbook (the "Handbook") sets forth a useful checklist for determining the adequacy of insurer custodial or safekeeping agreements. Here are my observations on some of the key items on the checklist:

Indemnity provisions – Although many states only require indemnification by custodians for any loss of securities due to the negligence or dishonesty of the bank or trust company's officers or employees, I believe that custodian agreements should adhere to a higher standard of custodian liability. Specifically, custodians should further be liable to insurers for any loss of securities resulting from burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction. Examiners should closely scrutinize custodian agreements to verify that they contain appropriate indemnification provisions.

> "Examiners should more closely review insurance company responses to annual statement interrogatories concerning custodial agreements."

Verification of securities held under other custodial arrangements – Consideration should be given to the physical counting of securities that are held in safekeeping under other custodial or safekeeping arrangements. Examiners must be furnished with a copy of such other custodial agreements and be satisfied that they contain necessary safeguards and controls before exercising their discretion not to count securities held under other arrangements. Examiners should not excuse such counting unless all of the requirements set forth in the Handbook are met, in particular, the requirement that the custodian is regularly examined by its licensing authority. Moreover, examiners should strictly enforce the requirement that any deposit not counted be accompanied by a verification signature of an authorized signatory of the entity holding the deposit.

Accounting control and other procedures – The NAIC directs examiners to "satisfy themselves as to the integrity of the accounting controls and verification and security procedures of the bank or trust company and/or the depository." Moreover, as the GAO Report suggests, examiners should further examine the thoroughness of due diligence investigations conducted by the insurer regarding the legitimacy and adequacy of the custodian.

Discrepancies regarding physical custody of assets – Examiners should closely review insurance company responses to annual statement interrogatories concerning custodian agreements. The verification of an insurer's responses (on financial statements and elsewhere) regarding the custody of assets typically occurs only during on-site examinations which, in most states, are conducted once every three to five years. Because on-site examinations occur so infrequently, regulators should take advantage of interim opportunities to review the legitimacy of custodian arrangements.

Custodial accounts: Who's watching the as-

Strengthening regulatory oversight

While the Handbook guidelines serve as a foundation for ensuring the legitimacy of custodian agreements, states should implement additional reforms to ensure that custodial arrangements provide adequate protection of insurer assets. First and foremost, states that have not yet adopted the NAIC Model Law and Regulation on the Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies should do so immediately. As noted above, the NAIC Models prohibit the transfer of insurer assets to any custodian other than a bank or trust. A transfer of assets to a broker-dealer would be prohibited. The NAIC Models reflect a consensus among state insurance regulators that banks and trusts are the only appropriate custodians of securities belonging to insurers.

The NAIC is currently formulating an amendment to strengthen the NAIC Model Regulation. If adopted, the amendment would require the custodian to provide written notice to an insurer's state of domicile in the event that the custodial agreement is terminated or an insurer requests a 100% withdrawal of its securities.

Originally, the amendment included a provision that would have required such notice in the event that the insurer withdrew securities greater than or equal to 25% of its total portfolio. The 25% requirement was rejected during the NAIC Spring 2001 meeting in Nashville in response to practical considerations raised by insurers and custodial institutions. Critics charged that the 25% requirement was burdensome in that it would require custodians to continuously value client assets and compare those assets to the company's portfolio balance. The extra costs associated with these services would then be passed on to the insurer.

Although the notice requirement in the event of a 25% withdrawal was not adopted, the current amendment will still enhance insurance departments' oversight of insurer assets under custodial agreements, and help eliminate Frankel-like frauds in the future. The NAIC should also do its part, as the GAO Report recommends, by making adoption of the NAIC Models a condition to accreditation.

States should also increase inter-state communication among regulators. Fraudulent schemes are less likely to occur in an environment in which state regulators proactively alert one another regarding the financial condition of troubled insurers.

Moreover, the NAIC Model Regulation on the Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies includes three Custodian Affidavits. The Affidavits clearly prescribe the obligation of the custodian to the insurance company in the event that securities are lost. The Custodian Affidavits are not expressly mandated by the NAIC Model Regulation, but rather are included as a reference for banks and insurers in those states that mandate Custodian Affidavits.

New York is one state in which an insurer must present such affidavits to the Insurance Department during an examination in order for the insurer's custodied securities to be recognized as admitted assets. Other states should similarly mandate the use of Custodian Affidavits in connection with insurance company securities that are held by a custodian.

Finally, the NAIC recently adopted a recommendation by the NAIC Ad Hoc Task Force on Solvency and Anti-Fraud to expand accreditation standards on examinations to make reference to investment expertise under the "Use of Specialist" examination standard. Previously, the "Use of Specialist" examination standard made reference only to computer and audit expertise.

This new accreditation standard is a prudent one and will motivate state insurance departments to enhance their oversight of insurers' invested assets by either hiring additional examiners with investment expertise or obtaining outside expert assistance on examinations of insurers with high-risk or complex investment strategies. Increased investment expertise is critical in today's regulatory environment. As the GAO Report notes, several insurance regulators who reviewed insura[illegible] companies connected to the

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Mr. Laurenzano worked for more than 30 years on property/casualty regulatory issues for the New York State Insurance Department. He is a former chief of the Department's Financial Condition Property/ Casualty Bureau and Assistant Deputy Superintendent. Mr. Laurenzano is now an insurance finance consultant for Stroock & Stroock & Lavan, Manhattan.

IRES adds new accreditation option for state health care regulators

by Ed Mailen, CIE, FLMI, CLU, CPCU, AIC, ARP, ALHC
chair, IRES Accreditation & Ethics Committee

As most members are aware, IRES continues to strive to enhance and improve its programs and curriculum. In that vein, and based on recommendations of numerous members regarding a need for a career path emphasizing health care, the Accreditation & Ethics Committee has for some time been reviewing education courses to meet that goal.

After extensive study, we have determined that coursework offered by the Academy for Healthcare Management met our needs and three of those courses have been added to our approved curriculum and the Life/Health path has been modified accordingly.

Beginning Sept. 1, 2002, all candidates for the AIE designation following the Life/Health path will be required to take four "core" courses: FLMI 280, FLMI 290, AIRC 410 and AIRC 420.

The remaining four courses needed to complete the AIE requirement can then be chosen from two separate options; the Life Option or the Health Option. Courses under the Life Option are; FLMI 310, FLMI 320, FLMI 330, FLMI 340, and FLMI 361.

Courses under the Health Option are: ICA C1 or ICA C3, AHM 250, AHM 510, and AHM 530. Combining courses from both options will not be acceptable for the purposes of meeting the designation requirement.

This change should not create difficulty for candidates who have completed four or fewer courses. Candidates who have completed five or more courses toward the designation should review these new requirements carefully to determine which courses are needed to meet the new requirement.

By providing notice of this change well in advance of its effective date, it is anticipated that most members will be able to plan their coursework to comply with the change with little difficulty.

Members who find that meeting the new requirements will result in serious hardship should contact the Accreditation & Ethics Committee to discuss their situation. The following depicts the curriculum change.

New Life and Health Accreditation Path

Required core courses. Must take four courses from chosen path

LIFE OPTION	HEALTH OPTION
FLMI 310 – Legal Aspects of Life and Health Insurance	ICA C1- Medical and Dental Aspects of Claims or... ICA C3 – The Claims Environment
FLMI 320 – Marketing Life and Health Insurance	
	AHM 250 – Managed Healthcare: An Introduction
FLMI 330 – Management of Organizations & Human Resources	
	AHM 510 – Managed Care Organizations: Governance and Regulation
FLMI 340 – Information Management in Insurance Companies	
	AHM 530 – Network Management in Managed Care Organizations
FLMI 361 – Accounting and Financial Reporting in Life and Health Insurance Companies	

Warren Buffet: I Was Wrong!

It's always refreshing to see an industry executive admit when he's wrong, even more so when that executive is Chairman of the Board and CEO. Of course, Warren Buffet, Berkshire-Hathaway's irreproachable leader, has long been known for telling it like it is. That's why his remarks in Berkshire's annual report are always such a good read.

This year was no exception. Buffet acknowledges in Berkshire's most recent annual report (http://www.berkshirehathaway.com/2000ar/2000ar.pdf) that he was wrong the previous year when he touted GEICO's increased advertising expenditures as the "best investment that GEICO could ever make." Not only did the number of inquiries to GEICO fail to increase in proportion to the increased spending in 2000, the percentage of those inquiries that ended up as sales decreased for the first time in years.

How did that happen? Chairman Buffet comes up with four pretty good reasons:

- GEICO violated the law of diminishing returns by focusing on the frequency of its ads. "That third ad in an hour on a given cable channel," says Buffet, "is simply not going to be as effective as the first." (Translation: People got bored by those lame talking gecko ads.)
- A certain percentage of Americans do not feel comfortable with direct writers. This percentage is dwindling, says Buffet, as a new generation begins purchasing auto insurance on their own. (Translation: Drivers who need their hands held when they buy insurance are a dying [literally] breed.)
- Stricter underwriting at GEICO led to higher pricing. Policyholders need to see significant annual savings, say $200, before they'll switch companies. $50 savings just won't do it. (Translation: Customers won't switch insurers for chump change.)
- State Farm resisted raising rates to levels commensurate with their losses, which impacted on GEICO's ability to remain competitive. However over time, says Buffet, GEICO's business plan will prove superior to State Farm's. (Needless to say, State Farm did not take too kindly to those words.)

Buffet, we are convinced, can spin any negative into a positive as evidenced by these tongue-in-cheek

> Finally, there is the negative that recurs annually: Charlie Munger, Berkshire's Vice Chairman and my partner, and I are a year older than when we last reported to you. Mitigating this adverse development is the indisputable fact that the age of our top managers is increasing at a considerably lower rate — percentage-wise — than is the case at almost all other major corporations. Better yet, this differential will widen in the future.

—W.C.

Insurance Quote of the Month

"Officials are estimating the earthquake in Seattle caused more than $1 billion in damages, but only because when it hit, Bill Gates tripped and lost his wallet."

— Jon Stewart, "The Daily Show"

Regulatory Roundup

By
Stroock & Stroock
& Lavan LLP

U.S. Supreme Court holds that Washington statute governing the impact of divorce upon nonprobate asset beneficiary designations is preempted as it applies to ERISA plans

The U.S. Supreme Court ruled on March 21, 2001 that a Washington statute governing the impact of divorce upon nonprobate asset beneficiary designations is preempted by the Employee Retirement Income Security Act of 1974 ("ERISA") to the extent that the statute applies to ERISA plans. The statute at issue provides that the designation of a spouse as the beneficiary of a nonprobate asset is automatically revoked upon divorce. "Nonprobate asset" is defined under the statute to include, among other assets, a life insurance policy, employee benefit plan, annuity or similar contract or individual retirement account. The court held that the statute is expressly preempted by ERISA's preemption section, 29 U.S.C. § 1144(a), because it "binds ERISA plan administrators to a particular choice of rules for determining beneficiary status." The court was particularly concerned that the statute prevented plan administrators from simply making payments to the beneficiary specified in plan documents by requiring plan administrators to "familiarize themselves with state statutes so that they can determine whether the named beneficiary's status has been 'revoked' by operation of law." The court rejected respondents' argument that the statute should be saved from ERISA preemption because it permits employers to opt out by including in-plan documents language contrary to the statute. The court also declined to uphold the statute as it applies to ERISA plans on the ground that the statute governs family law and probate law, both of which are traditional areas of state regulation. See Egelhoff v. Egelhoff, 2001 U.S. LEXIS 2458.

TEXAS – Court of Appeals upholds, with modification, a temporary injunction prohibiting the disclosure of insurer quarterly market reports

The Court of Appeals of Texas, Third District, Austin, recently upheld, with modification, a trial court's temporary injunction ordering the Texas Department of Insurance not to release quarterly market reports filed by certain Texas automobile insurers ("Appellees"). The quarterly market reports at issue include information regarding written premiums, vehicles canceled or not renewed by the insurer and the number of vehicles on policies at the end of the previous and current quarter. According to news articles, Appellees objected to the disclosure of the reports because they include zip code and other proprietary information that could compromise an insurer's marketing strategies and adversely impact competition. The court rejected the assertion by the Center for Economic Justice and David Birnbaum ("Appellants") that the trial court abused its discretion in ordering the injunction because the insurance companies had failed to prove two of the six common law elements that would entitle the quarterly market reports to trade-secret protection. The court also held that the quarterly market reports, even after the amendment of the Texas Public Information Act, remain subject to trade-secret protection pending a trial on the merits. The court did, however, modify the trial court's injunction to "delete any holding that [the quarterly market reports] are trade secrets and to reflect that the insurance companies are only entitled to trade-secret protection pending final hearing on the merits." See Center for Economic Justice v. American Ins. Assoc., 2001 Tex. App. LEXIS 832.

WASHINGTON – State Senate introduces privacy legislation that is stricter than Gramm-Leach-Bliley

The Washington Senate has introduced Senate Bill 5503 relating to the privacy of personal financial information. The Bill has generated controversy over requirements that are more restrictive than the privacy provisions contained in the Gramm-Leach-Bliley Act ("GLBA"). For example, Senate Bill 5503 would prohibit a financial institution from disclosing nonpublic personal information to either an affiliate or nonaffiliate unless the financial institution provides the consumer with an opportunity to "opt out" while GLBA imposes a similar "opt out" requirement only with respect to nonaffiliates. Senate Bill 5503 is also more restrictive than GLBA by prohibiting a financial institution

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The New York-based Stroock & Stroock & Lavan LLP Insurance Regulatory/Corporate Practice Group includes Donald D. Gabay, Martin Minkowitz, William D. Latza, and Vincent Laurenzano, an insurance finance consultant. They gratefully acknowledge the assistance of Todd Zornik, law clerk. This column is intended for informational purposes only and does not constitute legal advice.

from disclosing (other than to a consumer reporting agency) consumer account number information to an affiliate or nonaffiliate for marketing purposes, which GLBA only prohibits with respect to nonaffiliates. A violation of Senate Bill 5503 would constitute an unfair and deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, Chapter 19.86 of the Revised Code of Washington. To view Senate Bill 5503, visit www. leg.wa.gov.

CONNECTICUT – Department releases guidelines for examining financial history measurement programs
The Connecticut Insurance Department released guidelines on March 2, 2001 for examining financial history measurement programs for personal risk insurance underwriting and rating plans. The guidelines apply to programs filed with the Insurance Department on or after March 15, 2001. Under a financial history measurement program, an insurer uses credit report information and credit scoring systems or programs to measure an individual's risk of loss. The Insurance Department's guidelines are intended to assist companies and examiners in verifying the compliance of such programs with Connecticut law. The guidelines reiterate that financial history measurement programs must be filed with the Insurance Department and that such programs may be used only for new business. Insurers filing such programs with the Insurance Department must include documentation to demonstrate how the program impacts consumers in urban territories versus non-urban territories, as well as how the program impacts consumers based on their age. The guidelines also require insurers to provide certain disclosures to consumers in the event of an adverse action due at least in part to a credit report or financial history measurement program. To view the guidelines, visit www.state.ct.us/cid.

NEW HAMPSHIRE – Insurance Department issues Bulletin regarding the use of credit information for underwriting or rating purposes
The New Hampshire Insurance Department issued Bulletin 2001-002-AB on Feb. 26, 2001 regarding the use of credit reports, credit histories and credit scoring models in connection with underwriting models and rate filings. The Bulletin reminds personal auto and all homeowners insurance carriers that underwriting models and rate filings that rely upon such credit information are subject to the Insurance Department's prior approval. The Insurance Department further indicates that it is considering the adoption of proposed Rule Chapter Ins 3300, which regulates credit reports. The Rule, if adopted, would apply to insurers using credit history for underwriting or rating purposes. "Credit history," as used in the Rule, would include but would not be limited to, credit reports, credit scores or other financial information. An earlier version of the proposed Rule referred more narrowly to "credit reports or credit scores." To view Bulletin 2001-002-AB or proposed Rule Chapter Ins 3300, visit www. state.nh.us/ insurance.

NEVADA – Senate introduces legislation governing insurance market competition and rates
The Nevada Senate has introduced Senate Bill 4 regarding insurance market competition and rates. The Bill would permit insurers to file certain insurance rates, including personal auto and home insurance rates, on a file-and-use basis. Currently, such rates may not be used unless the Insurance Commissioner has not disapproved them within sixty days after filing. Senate Bill 4 would also amend existing law governing the Insurance Commissioner's authority to disapprove rates based on the absence of a reasonable degree of price competition at the consumer level. Specifically, the Bill would mandate that competition be deemed to exist unless the Insurance Commissioner, after a hearing, concludes that: (1) there is no reasonable degree of competition among insurers, and (2) the interaction among insurers is not competitive. Such a finding by the Insurance Commissioner would remain in effect for one year. Senate Bill 4 may be obtained on Lexis using the citation "2001 NV S.B. 4".

FLORIDA – Department of Banking and Finance issues cease and desist orders in connection with viatical investment transactions
On March 29, 2001, the Central Regional Office of the Florida Department of Banking and Finance ("DBF") filed for 130 cease and desist orders in connection with viatical investment transactions in which the underlying insurance policies apparently did not exist. A viatical is an interest in a life insurance policy purchased by an investor in which a terminally ill person sells his rights under the policy at a discount to obtain immediate cash. The viatical investor then redeems the policy for its full face value when the insured dies. The DBF's actions in this matter represent an extension of a previous investigation of the alleged sale of unregistered securities represented as viatical investments. For additional information about the DBF's actions in this

Editor s Note: A cover story in the March 2001 issue of *The Regulator* focused on fraudulent practices within Florida's viatical industry.

Baltimore Welcomes You!

by Debbie Rosen McKerrow
Director of Communications & Consumer Services
Maryland Insurance Administration

• The National Aquarium in Baltimore, with its coral reef, marine mammal show and Amazon rain forest!

• The Maryland Science Center, with 3-D Imax Theatre and planetarium!

• Shopping, dining and exploring at world famous Harborplace and The Galleria!

• Oriole Park at Camden Yards and the Babe Ruth Museum!

All these attractions and more are within easy walking distance of your beautiful conference hotel, the Hyatt Regency, which overlooks the scenic Inner Harbor and its striking sailing warship, the USS Constellation.

Residents like to call their town Charm City, and tourists from across the nation and around the world have discovered why. Nautically minded visitors can take tours of a World War II submarine and Coast Guard cutter and lightship, go for a sail on a historic skipjack (among the last working sailing vessels in the nation) or a charter schooner, and board one of the harbor's tour boats for a short circuit around the waterfront or a longer lunch or dinner cruise.

Not far from the Inner Harbor, Baltimore's popular tourist attractions include the B & O Railroad Museum and roundhouse (home of the original Tom Thumb locomotive), the Baltimore Zoo, Port Discovery (an interactive children's museum housed in the city's former Fish Market), the Pier Six Concert Pavilion, Fort McHenry (birthplace of our national anthem), the Meyerhoff Symphony Hall, the Lyric Opera House and Morris Mechanic Theatre (both featuring Broadway road shows), the Walters Art Gallery, the Baltimore Museum of Art, the Great Blacks in Wax Museum and the Baltimore Streetcar.

Familiar attractions one might find in many international hubs are here at the Inner Harbor too, including Planet Hollywood, a Hard Rock Café and the ESPNZone (from which "ABC's Monday Night Football" airs its pre-game show).

Local transportation options include the conventional—taxis, buses, light rail and Metro subway—to the less common: water taxis, pedi-cabs, mock trolleys and horse-drawn carriages. There is even an amphibious conveyance that takes riders from city streets into the harbor for a tour.

We'll see you soon.

For the latest information on Baltimore CDS topics and sessions, visit the IRES web site at www.go-ires.org

IRES 2001 Career Development Seminar

JULY 29-31, 2001 BALTIMORE
HYATT REGENCY INNER HARBOR

Official Registration Form

Fill out and mail to The Insurance Regulatory Examiners Society
130 N. Cherry, Suite 202, Olathe, KS 66061

Yes! Sign me up for the Year 2001 IRES Career Development Seminar. My check payable to IRES is enclosed.

Name

Title — First name for Badge

Insurance department or organization

Your mailing address — Indicate: ☐ Home ☐ Business

City, State, ZIP

Area code and phone — $ Amount enclosed

Seminar Fees
(includes lunch, cont. breakfast and snack breaks for

Check box that applies

- ☐ IRES Member (regulator) $250
- ☐ Industry Sustaining Member.... $400
- ☐ Non-Member Regulator $350
- ☐ Retired IRES Member $90
- ☐ Industry, Non-Sustaining Member............................. $650
- ☐ Spouse/guest meal fee $70

Spouse/Guest name

If registering after July 1, add $40.00. No registration is guaranteed until payment is received by IRES.

Hotel Rooms: You must book your hotel room directly with the Hyatt Regency. The room rate for IRES attendees is $144 per night for single-double rooms. Please call group reservations at 800-233-1234 or 410-528-1234. The IRES convention rate is available until July 13, 2001 and on a space-available basis thereafter.

Special Needs: If you have special needs addressed by the Americans with Disabilities Act, please notify us at 913-768-4700 at least five working days before the seminar. The hotel's facilities comply with all ADA requirements.

Special Diets: If you have special dietary needs, please circle:
Diabetic Kosher Low salt Vegetarian

Cancellations and refunds

Your registration fee can be refunded if we receive written notice before July 1, 2001. No refunds will be given after that date. However, your registration fee may be transferred to another qualifying registrant. Refund checks will be processed after Sept. 1, 2001.

Seating for all events is limited. IRES reserves the right to decline registration for late registrants due to seating limitations.

Call for more details:
913-768-4700. Or see IRES web site: www.go-ires.org

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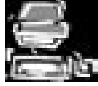
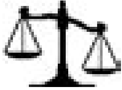
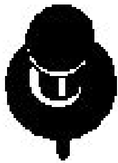


Favorite web sites.
Story, page 7



The costs of litigation.
Story, page 1



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Welcome, new IRES members!

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Derek Stepp, DE

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In next month's REGULATOR:

√ **Whither Medicare HMOs?**