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"Here are the values that I stand for: honesty, equality, **kindness**, compassion, treating people the way you want to be treated and helping those in need. To me, those are traditional values."

ELLEN DEGENERES, TV HOST & ACTRESS

CONTENTS

President's Message How Secure is your Gold? Subrogation 101

+

2017 RIMS Canada Conference Update
2016 ORIMS Christmas Luncheon Highlights



2016 ORIMS HOLIDAY LUNCHEON
Pictures and full event recap inside.

Cover Photo Credit Steve Wilson @stevewilsonlive

JAN 2017 EDITION

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"As much as we need a prosperous economy, we also need a prosperity of **kindness and decency."**

CAROLINE KENNEDY

JAN 2017 EDITION

contents

president's message	01.
how secure is your gold?	03.
subrogation 101	06.
ORIMS 2016 holiday luncheon highlights	11.
2017 RIMS canada conference update	15.
editor's note: a special thank you	16.

let's start a kindness movement

TINA GARDINER, ORIMS PRESIDENT

Last month a video was circulating on social media showing Ellen receiving a Presidential Medal of Freedom from President Obama. Regardless of your political standing and opinion of the USA election results you have to admit that is quite a juxtaposition with other recent media stories of protests and election fall-out. Ellen was emotional and humble and in my opinion a very deserving recipient.

Honesty, equality, kindness, compassion, treating people the way you want to be treated and helping those in need... is that not how all our mothers wanted us to be? Would the world not be a wonderful place if we were all like that! OK sure I may have rose coloured glasses on but why is it so difficult for us to be kind to one another?

With the holiday season behind us; a time of goodwill and peace; perhaps we can all include kindness and compassion in our New Year's resolutions. Think of this in three sections:

For beautiful eyes, look for the good in others; for beautiful lips, speak only words of kindness; and for poise, walk with the knowledge that you are never alone.

AUDREY HEPBURN

Look for goodness in others and give goodness back. It makes people happy when they are treated with kindness and a smile. Think about how many happy people will be in our lives when we treat everyone with kindness. Our world becomes a brighter, lighter place to live. Kindness creates connection and makes people feel cared about, makes them feel important and that they matter. Be compassionate! Be kind!

No act of kindness, no matter how small, is ever wasted. AESOP

Be kind to one another for no other reason than to be kind. When you do something nice your body releases endorphins so you feel good too! Have a contest with yourself and see how many people you can make smile each day. Kindness is good for the soul and dwells in our hearts. Kindness begets more kindness! Let's all be part of the movement...a wave of kindness!

Kindness is the language which the deaf can hear and the blind can see.

MARK TWAIN

Kindness makes everyone feel good! We can all use some kindness in our life no matter who we are and what our circumstances might be. Pay it forward. In order to be kind, you need to notice what is going on around you.

You have to pay attention to find opportunities to insert your own brand of kindness and caring. And the ripples of kindness are truly endless.

The bonus of a kindness movement is what kids will learn from our example. Showing kindness to friends, acquaintances and strangers increases the chance that kids will be kind as well. Often we treat children with kindness, but can have a short fuse with strangers, "bad" drivers, pushy shoppers, or others outside of our family circle and often we demonstrate this attitude in front of children. This "us and them" thinking can actually devalue others. Kindness breeds tolerance and understanding and hopefully a gentler, more accepting world.

As we enter into 2017 I wish for you and yours health, happiness and prosperity but mostly, I wish you KINDNESS.





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The search for a “safe haven” leads many to buy gold, but keeping it secure is another problem

ANTON ANTONOV, UNDERWRITER FINE ART & SPECIE INSURANCE, XL CATLIN

Gold is often considered a barometer for what is happening economically, politically and even culturally. *“For the first time on record, investment has been the largest component of gold demand for two consecutive quarters... this has been in no small part due to demand from Western investors across the spectrum from retail to institutional and for bars, coins and ETFs,”* according to the World Gold Council.

In addition, The Economist noted that in 2016, the price of gold surged over 15%, making this its best start to the year in over three-and-a-half decades. The most likely contributing factor to gold’s rally according to the World Gold Council and The Economist is market turmoil: *“the US election, the UK referendum on EU membership and the possible implications of the “Brexit” outcome.”* All this uncertainty has powered gold demand to 579 tonnes for the first half of 2016, compared to 2.6 tonnes recorded during the same period last year.

When things are in turmoil, the natural tendency for individuals and businesses is to turn to something secure and stable.

Gold itself is considered by many as a kind of *“insurance for investment portfolios”*. Its liquidity is appealing during a financial crisis and unlike investments in the stock market, gold is tangible. You can touch it, trade it, store it or ship it. You can also steal it.

GOLD HEISTS

According to the FBI and North Carolina investigators, on an early Sunday morning in March 2015, an armored truck courier picked up a total of 275 pounds of gold - worth about \$5 million- in Miami, Florida. The truck headed north on Interstate 95 to a shipping destination in Attleboro, Massachusetts. That same evening, the armored truck stopped along a dark stretch of highway.

Three armed robbers pulled up in a white minivan and confronted the security guards at gunpoint. The guards exited the truck without their guns. The thieves tied the guards’ hands behind their backs and made them walk into the nearby woods. The thieves then cut the padlock on the truck’s trailer and offloaded five-gallon, unmarked buckets containing 10 gold bars worth approximately \$4.9 million.

The bars weighed between 25 and 27 pounds each. One curious thing about the robbery was that the thieves left behind another \$5 million in silver, supposedly because the silver shipment weighed about 75 times more than the gold haul.

“... gold is highly portable and requires a relatively small area to securely store it.”

STORING IT

As noted in the example above, gold is highly portable and requires a relatively small area to securely store it. For individuals, there are several options for storing your gold once you take possession of it. Most people prefer to store their gold at home, because they worry about the difficulty of accessing their gold in the event of an economic crisis. They also feel that physical possession is the only way to ensure true ownership.

CEO and Founder Mike Maloney, author of *Guide to Investing in Gold and Silver* is quoted as saying, *“If you can’t hold it, you don’t own it.”*

CONTINUES PAGE 04

Gold's high value and high density opens up all sorts of storage possibilities. The most obvious consideration to address is the storage space. American Gold Eagles are sold in 1 oz. increments and when ordered in large quantities are shipped in tubes containing 20 coins. A single tube of Gold Eagles fits into the palm of your hand and is about 3.5" in height with the approximate diameter of a dollar coin. For example, 60 – 1oz. gold coins are a bit over \$100,000 US and can easily fit inside the cardboard tube of a roll of paper towels and weighs a little over four pounds. A million dollars in gold would only weigh 40 pounds or so and could be easily carried off by one person without much effort.

On the other hand, keeping a significant amount of gold in your home can be risky if you don't take the right precautions to protect your investment. Just as when storing any valuable or cash in your home, it is important to keep your precious metals safe from theft, fire or other catastrophic events.

- Buy and appropriately-rated safe for the home
- Install a central station home alarm.
- Don't share the safe combination or home alarm codes with anyone.
- Keep all purchase receipts or records of sale.

PROTECTING IT

Fortunately, the current property market – and more directly, the specialized specie market – offers the necessary capacity and the valuation and risk management guidance to go along with it.

Available with policy limits of up to \$300 million at XL Catlin, specie coverage is tailored to the needs of individual investors as well as financial institutions, metals and mining companies, metals traders, refineries, transporters and storage facilities.

Financial protection against loss is the key benefit of purchasing an "all-risk" specie policy, but it is not the only benefit. Today's insurance market recognizes the value of minimizing losses with up-front loss prevention.

Many carriers will work with their clients – businesses and individuals – to advise on safety, security and storage issues, provide guidance on valuation, and review transportation contracts to lessen contingent risks.

Should a loss occur, carriers will ensure claims are handled by managers and adjusters experienced in preserving the value or recovery of gold and other precious metals.



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Anton Antonov is an Underwriter of Fine Art & Specie Insurance at XL Catlin. He is based in Canada and has been with XL Catlin since 2007. Connect with him by email: anton.antonov@xlcatlin.com.



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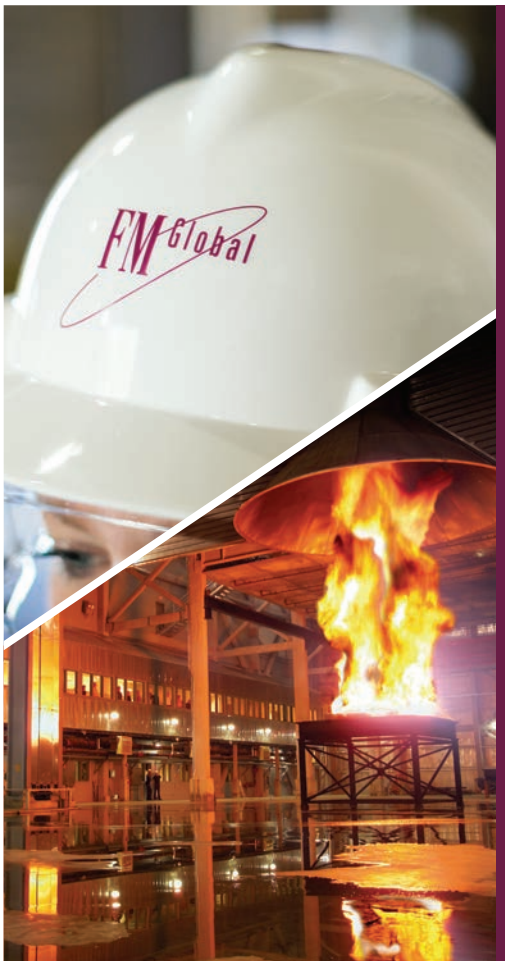
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subrogation 101: what you need to know

ADAM GRANT, PARTNER, MCCAGUE BORLACK LLP

Subrogation is the mechanism by which an insurer can recover monies that it has paid to its insured by bringing an action in the name of the insured as against a third party who is responsible for the loss.

The right of subrogation is established contractually, at common law, and in section 278(1) of the Insurance Act. Most insurance policies contain language which broadens the right of subrogation beyond that granted by statute and common law.

WHEN CAN THE INSURER PURSUE SUBROGATION?

At law, the insurer's right of subrogation arises only when the insurer has paid the insured for some portion of its loss. Moreover, until the insured is completely indemnified for all insured and uninsured losses, the insured has the right to control the action.¹ In order to give the insurer command over a subrogation action, standard terms of the insurance policy will often contain language that stipulates that the right of subrogation is triggered as soon as the insurer assumes liability for a loss, rather than once the insurer has paid any portion of the loss.

This wording will also often give the insurer the sole right to control the action, and settle claims without the insured's instructions.

Occasionally, the insured may also initiate an action against the same third party. If both the insurer and the insured commence separate actions, the rule against multiplicity of actions may prevent one of the actions from proceeding. Insurers need to be mindful of this possibility and alert the insured of their intent to pursue a claim in order to prevent the failure of their action.

Where the insured does pursue its own claim, it has an obligation to protect the subrogated interest of the insurer. Likewise, the insurer is obligated to protect any uninsured interest of the insured in its subrogated actions.

WHAT CLAIMS ARE SUITABLE FOR SUBROGATION?

Not all payouts by an insurer for insured losses are fit for litigation and determining what claims are appropriate to pursue is not always a quick or easy task. Some subrogation opportunities are not obvious and will require investigation and creative thinking.

“Some subrogation opportunities are not obvious and will require investigation and creative thinking.”

The insurer's first step, after determining the cause of the loss, is to determine who the potential wrongdoers are. In simple terms, the insurer should consider what, if any, third party could be responsible for the wrongdoing. In legal terms, this party would be liable for the loss. Liability describes the state of being actually or potentially subject to a legal obligation.

Some questions to consider in the determination of liability include:

- Who had last access to the area or the product?
- Who manufactured the product?
- Who was the supplier?
- Who did the installation? Was it a contractor, or a subcontractor?
- Who was responsible for maintenance?
- Was there a contract?

Beyond this, the insurer should then examine if and how the loss could have been prevented entirely.

CONTINUES PAGE 07.

¹ Zurich Insurance Company Ltd v Ison TH Auto Sales Inc, 2011 ONSC 1870 (CanLII).

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SUBROGATION 101 / CONTINUED FROM PAGE 06.

One consideration is if the parties could have foreseen the problem prior to the loss. This involves further questions, including:

- Could the problem have been noticed during movement through the supply chain from the manufacturer to the retailer?
- Was there something that could have been done during the design, installation, inspection, and/or maintenance steps that could have identified a deficiency or prevented the loss?
- Was municipal and/or administrative approval obtained?

The insurer should then consider whether parties may have been able to mitigate the loss. These parties would not be responsible for the entire loss, but may be responsible for some portion of it, as they could have prevented the damage being as significant as it was. Among the questions to ask include:

- Was the emergency response adequate?
- Was the suppression/alarm system designed and/or functioning properly?
- Was there adequate security present in the area?

EXAMPLE: SPRINKLER SYSTEMS

Sprinkler system failure is a relatively common cause of water damage, and nearly always yields subrogation potential. Failure of the system is almost always due to freezing and bursting of the lines. However, the insurer should not rush to blame cold weather for these freeze-ups.

Wet sprinkler systems are only permitted for use in heated spaces. They should therefore not be able to freeze. There are a number of reasons why a sprinkler system may fail, including inappropriate heating levels, improper design and/or construction of the building envelope, an improperly designed, built, and/or inspected sprinkler system, and the failure to conduct annual inspections. Simply put, wet sprinkler systems should be protected from freeze-ups. If one does freeze, someone has likely done something improper, leading to the failure.

The same holds true for dry sprinkler systems. These systems are intended for unheated spaces, so they contain pressurized air instead of water. If one of these systems fails as a result of a freeze-up, the insurer should consider how the water got into the system, whether the sprinkler was designed and/or constructed with a proper slope, whether the sprinkler system was properly inspected, and whether annual inspections were completed in order to determine what led to the failure. The answers to these questions could identify one or more parties liable for the failure of the sprinkler system.

CONTINUES PAGE 08.

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ESTABLISHING LIABILITY

To establish liability at law, the insurer must prove that the third party breached a responsibility they owed to the insured. The most common way to establish this breach is to pursue a claim in negligence.

To establish liability at law, the insurer must prove that the third party breached a responsibility they owed to the insured.

To succeed in a negligence claim, the insurer must show, on a balance of probabilities, that:

- The wrongdoer had a duty of care/responsibility to the insured;

- There was a breach of the standard of care;
- The wrongdoer caused that breach; and
- The insured suffered damages.

However, should a successful claim in negligence be unavailable, liability can also be established through breach of contract. The insurer should consider whether a party was required to complete work under a contract, including general contractors, property managers, security providers, or other work falling under the Sale of Goods Act.

A third potential avenue to establish liability is through a nuisance claim.

Nuisance is the unreasonable interference with the use and enjoyment of land in possession of another. Some examples of nuisance are: smoke damage to an insured's property caused by fire on a neighbour's property, sewage back-up caused by a contractor performing work on the public sewage system, and the leaking of a neighbour's fuel tank onto the insured's property. However, not all parties can be legally pursued for nuisance. Nuisance claims against a municipality related to water and sewage damage, for example, are prohibited by s. 449 of the Municipal Act.

CAUSATION


It is not enough for the insurer to claim that the third party was negligent. The insurer must establish, on a balance of probabilities, that the injury would not have occurred "but for" the negligence of the defendant.

In most cases, it is critical to obtain an expert opinion on the cause of the loss, as it represents an objective, detailed assessment which will guide the subrogation investigation. Some simple cases will not necessarily require an expert opinion, but most of them will.

While the legal or ultimate burden remains with the plaintiff, there are cases where the evidence will justify an inference of causation in the absence of evidence to the contrary provided by the wrongdoer. For example, it has been held that an inference of negligence against a manufacturer is compelling where the defect arose during the manufacturing process, which was controlled by the wrongdoer.

CONTINUES PAGE 09.

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It is not always necessary to prove that a third party caused the loss in a specific way. Liability can be established if one can eliminate all reasonable possibilities other than the third party's liability. This is known as inferred liability, and can include cases where there is only one supplier and installer, where the third party had sole access to origin of the loss, or where the third party was the sole entity doing work on an element that caused the loss.

DAMAGES

In addition to establishing legal liability, the insurer must also prove damages, including the quantum of damages being claimed, in order to be successful in their action against the wrongdoer. Depreciation of the value of the goods may reduce the quantum that is recoverable. The insured may also have to prove that there was an attempt to mitigate their damages.

Certain items will likely not be recoverable in the claim. Expert reports and investigation expenses, for example, might not be included in the quantum of damages; however, they may be recoverable as disbursements and/or in a costs award.

Once the insurer has determined the amount that can be reasonably recovered, the insurer should assess whether the quantum is worth pursuing in comparison to the anticipated costs of investigating, negotiating, and litigating the claim. It may be that the damages are not significant enough to warrant the costs associated with pursuing the claim.

EARLY INVESTIGATION STEPS

There are a number of steps an insurer should take early in an investigation to determine whether a claim is appropriate for subrogation. While not all subrogation claims are easily established, the insurer can determine the viability of a claim by conducting a quick and effective investigation.

It is in the insurer's best interests to retain a well-respected expert as early as possible to assess the cause of the loss. However, it is not always beneficial to obtain a written report immediately.

CONTINUES PAGE 10.



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Once the expert has completed his investigation, the insurer or adjuster should obtain a verbal report as to the cause of the loss. This may identify other areas that the expert should investigate further, or may make it clear that there is no prospect of subrogation.

In the former case, the investigation can be completed without a report having already been prepared, and in the latter case, the insurer can save the cost of having such a report prepared.

It is vital that the site of the loss and any potential evidence be secured immediately. The insurer should also collect witness reports and any public investigation records, such as those from the Ministry of Labour, the TSSA, or the Office the Fire Marshal.

The insurer may also consider inviting potential third parties to participate in the investigation and even conduct joint inspections for efficiency and expediency. Where relevant evidence is in the possession of others, they should be put on notice immediately and be requested to preserve and produce the relevant evidence.

Another important step is to obtain all relevant documents from the insured, such as any contracts, leases, maintenance records, or design drawings associated with the loss.

While mitigating damages is important, all relevant evidence must be secured. This includes any pipes, plumbing fittings, sump pumps, tanks, sprinkler heads, or any other items linked to the loss.

If an item failed, or worked improperly, and caused the loss, it should be preserved for testing. It is imperative that the insurer does not let repair contractors destroy the evidence.

Being aware of the best practices regarding subrogation will allow insurers to pursue all viable subrogation claims and to maintain the maximum amount of evidence to aid in any future litigation.

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2016 ORIMS CHRISTMAS LUNCHEON HIGHLIGHTS

record-breaking turn-out & over \$10,000 raised for the daily bread food bank

Another year, another successful lunch! The ORIMS Christmas lunch took place on December 8th at the Westin Harbour Castle. The event had an incredible, turnout of 740 risk and insurance professionals in attendance.

A grand total of \$10,000 was raised through raffle sales were in support of the Daily Bread Food Bank. Gail Nyberg, Executive Director of the Daily Bread Food Bank was in attendance to accept the proceeds. Thank you to everyone who donated non-perishable items and gift cards!

This year's centerpieces were comprised of books and craft kits, designed by Laura Jordan, which were donated to SickKids.

ORIMS also wishes to recognize the generosity of our sponsors: **AIG** (Platinum); **LIBERTY INTERNATIONAL UNDERWRITERS**, **LLOYD'S** (Gold); **VERICLAIM**, a Sedgwick company, **CRAWFORD & COMPANY**, **CHUBB** (Silver) and **MCCAGUE BORLACK** (Bronze).

We would also like to recognize the continued support of our raffle prize donors: **AON**, **MARSH**, **FM GLOBAL**, **CAMERON & ASSOCIATES**, **CRAWFORD & COMPANY**, **MCCAGUE BORLACK**, **ZURICH**, **WILLIS TOWERS WATSON**, **INTEGRO**, **TEMPLE INSURANCE COMPANY**, **THE BOILER INSPECTION & INSURANCE COMPANY**, **OXFORD PROPERTIES GROUP**, **PAUL DAVIS RESTORATION CANADA**.

A special thank you to the ORIMS President, Tina Gardiner, for her great emcee skills; to the ORIMS Social Programs Director, Gloria Dang; and the following volunteers for their hard work in making this event happen:

Ann Hildreth, Marsh
Stephanie Roidi, Willis Towers Watson
Cora Fellows, BFL Canada
Brian Polimeni, Georgian Claims
Rubie Ling, WSIB
Marie Winger, Fedex
Joseph Mellen, Marsh Canada
Julie Draper, Marsh Canada
John Wells, Marsh Canada

PHOTO GALLERY View more photo's from the event on the following page.



2016 ORIMS CHRISTMAS LUNCHEON PHOTO GALLERY

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2017 RIMS canada conference update

With the guidance of the RIMS Event Marketing Teams in New York, the Toronto 2017 Local Organizing Committee ("LOC") has been very busy planning a Conference that all attendees will benefit from and enjoy. The committee members are:

April **Savchuk** Co-Chair
april.savchuk@yamana.com

Karin **McDonald** Co-Chair
karn.mcdonald@hydroone.com

Kris **Geelen** Industry Chair
kceelen@oxfordproperties.com

Carrie **Green** Treasurer
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sara.mikolich@sympatico.ca

Aliya **Ramji** Secretary
ramjia@yorku.ca

Lisa **Morine** Communications Chair
morinel@mcmaster.ca

THEME

The theme of the 2017 RIMS Canada Conference is "**Community**" and a very innovative conference brand has been developed to reflect this. In keeping with the theme, the LOC is excited to show off all of the best that Toronto has to offer to our Canadian, American and European guests. We look forward to demonstrating how our Community – just like the risk and insurance community – is strengthened by, and values, its diversity.

SOCIAL ACTIVITY UPDATE

Kicking off the 2017 RIMS Canada Conference will be the "**Community Celebration**". Hosted at **Steam Whistle Brewery** on Sunday, September 24 at 6:30pm it will be an evening that will not easily be forgotten. The dress code will be limited to comfortable jeans, the faire will feature local cuisine from Toronto's most renowned caterers, and ample host bars will be available to toast friends old and new. Everyone is invited to join us and groove to the rock and blues of our very special guest, multi- Juno Award Winner and Canadian Music Industry Hall of Fame Inductee, **Colin James**. Toronto's Best Cover Band will follow.

AWARD CEREMONY

The Award Ceremony and Canada's 150th Birthday Celebration will be held on the Monday Morning, September 25, 2017 at the breakfast.

WEBSITE

Development of the website is well underway and will be launched shortly.

PROGRAM

Our Opening Keynote Speaker will be a Global Workforce Diversity and Leadership expert. We also have a Keynote CAT Risk Management expert, as well as several well-known Canadian Economists. A panel discussion including key members of our industry is also being planned.

In keeping with our Conference theme, we will be reaching out to the Canadian Chapter Presidents with a challenge that their chapter arrange one or more (depending on size of Chapter) concurrent programs.

BOOTH AND SPONSORSHIP SALES

Booth space and sponsorship sales for the 2017 RIMS Canada Conference opened the week of November 28, 2016 and RIMS will be managing the sales on behalf of the LOC. Inquiries relating to booth sales and sponsorship opportunities should be directed to: Matthew Whyte, Exhibition & Sponsorship Manager, RIMS by email: mwhyte@RIMS.org.

The LOC is working closely with local service providers who are not traditional Exhibitors at our Conference. An invitation will be extended to all Sponsors and Exhibitors to attend the Wednesday morning plenaries at no cost to them.

NEW EXHIBIT HALL HOURS

We are pleased to announce New Exhibit Hall hours for the 2017 event as follows:

SEP 25: 10:00AM-5:30PM

Luncheon: 10:30AM-1:30PM

Reception: 4:00PM-5:30PM

SEP 26: 10:00AM-3:00PM

Coffee Break: 10:00AM-11:00AM

Luncheon: 12:00PM-1:15PM

EDITOR'S NOTE

a special thank you

As we start a new year, I would like to take this opportunity to extend a special thanks to everyone who helped make the **PULSE** happen in 2016. My appreciation to all article contributors who provided stories of interest to our readers. My gratitude to all our sponsors and advertisers whose support made the **PULSE** possible.

To Paul Provis and Riaz Juma (**PULSE** Committee members) for all their hard work and assistance throughout the year. To my fellow board members who provided support in so many ways.

Finally, an extra special thank you to Ford Papple of Papple Graphics for the excellent job he did publishing the **PULSE**, the Wall Calendar and desk

calendar/brochure for ORIMS over so many years. We wish Ford all the best and a happy retirement.

Happy New Year!

Colleen Bryan,
ORIMS Communications Director
& **PULSE** Managing Editor

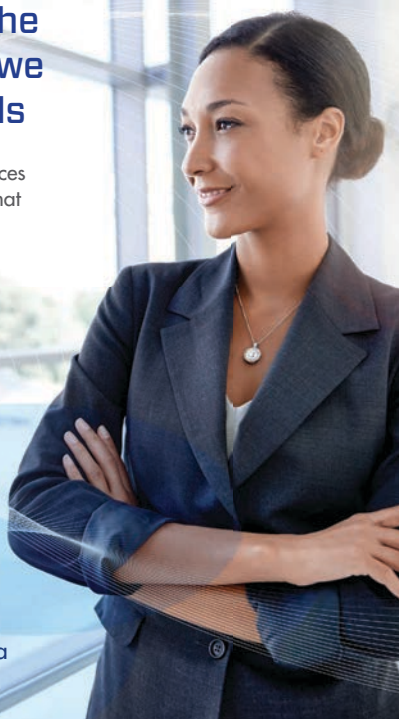


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WEBINAR ALERT!

JANUARY 17, 2017
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Visit the ORIMS website for more details!

This web-based professional development session will be held by industry experts and will cover a range of topics related to the risk management industry.

HAPPY NEW YEAR!

WISHING YOU A HEALTHY, HAPPY & PROSPEROUS 2017

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