



Houston...We've Got a Conference!
Risk Management Super Heroes conference right around the corner!

First of all, let me personally thank everyone for "carrying the load" while many of us have been dealing with the aftermath of Hurricane Ike. I need to say that again...THANK YOU PRIMA family for your words of comfort, understanding and getting the job done while I was quite involved both personally and professionally due to Ike.

In my position as President-Elect, I am supposed to be the Conference Planning Chairman, but Ike has been more than a distraction. The good news is that Conference Planning has moved forward and, as usual, I expect it to be what YOU expect it to be...**BIGGER AND BETTER THAN EVER!**

If you haven't registered.....it is not too late, and if the Marriott is booked there is plenty of room in the overflow hotel.

Don't forget to start the conference right and come dressed as a SUPER HERO for the opening night reception, and take full advantage of a quality line of educational sessions and our largest exhibition ever!

Yes, we will reminisce a little about Ike, but also celebrate good times and good friends! I look forward to seeing you all in my town!*Submitted by David Kester*

Letter from the President.....	2
PRIMA Membership Now	
Half Off.....	2
Sponsor Highlight: Cigna.....	3
2008 Chapter Sponsors.....	3
Sponsor Highlight: Holmes	
Murphy.....	4
2008 Board of Directors.....	4
Member Services On	
The Move	4
City of Mesquite Hosts Risk	
Hurricane Ike – The Name	
Says It All	5
Gov. Perry Appoints DWC	
Commissioner.....	5
Come Go On A Diamond	
Hunt!.....	6
DFW Airport Welcomes the	
French.....	6
Risk Tip.....	7
FEMA Modification of	
Disaster Aid Public Entities...	7
When Domestic Violence	
Comes To Work.....	8
Court Rejects Law Firm's	
Charge of Bad Faith.....	9

Texas Chapter PRIMA 2008 Awards Program

It has been a presidential election year with campaign promises, slogans, and candidate debates. But there's no debating when it comes to Texas Chapter PRIMA 2008 Awards!



Texas Chapter PRIMA recognizes exceptional members for their ongoing successes in risk management, safety, and innovative programs. The Risk Manager of the Year and Risk Management Associate of the Year awards honor those who exemplify the risk management profession. Risk Management Achievement Awards recognize public entities that solve problems through creative risk management programs.

This year we recognize our 2008 Risk Manager of the Year, Gary Urban, Risk Manager, City of Waco. Our 2008 Risk Management Associate of the Year is Barbara Russell, Garland ISD. In 2008 Texas Chapter PRIMA will award three Risk Management Achievement Awards to: DFW Airport for their program Connecting the World in Risk Management Excellence submitted by Seven R. Frances; Rockwall ISD for their Safety Coordinator's Program submitted by Dr. James Parker; and Texas Health and Human Services Commissions for their program HHS Workplace Violence and Training Program submitted by Regan Rychetsky.

Awards will be presented at this year's Texas Chapter PRIMA Conference in the Woodlands on November 19th-21st.

Submitted by Dan Mansour, 2008 Awards Chairperson

A Message From The President



Melissa Sullinger

Can you believe that it is already November and conference is just around the corner? Well it is that time of the year and again we aim to please. This year's conference will be packed with excitement for all. I want to take a moment to say a huge thank you and job well done to President-Elect David Kester, his wonderful planning committee, and the board members that have worked tirelessly to ensure that a conference of this magnitude will come off seamlessly to all. Many kudos to each of you for stepping up and taking on this challenge. As far as the actual conference goes, there are a few things you might want to know:

First, as everyone can see from the brochure, the education tracks are outstanding, great job Secretary Rychetsky and team. It is going to be very difficult this year to decide which sessions to attend, but I am sure that each one that you attend will be useful to you and your entity.

Second, everyone must attend the opening of the exhibition hall. We will have lots of fun and exciting sponsors and exhibitors that are dying to meet you and give you money, yes I know that's a change, but just wait and see. The money you receive will be used to play in the Joker's Den of Sin at the Opening Night reception. The more money you earn the more chances you have of winning the great door prizes, including a Nintendo Wii that will be given away at the end of the night. There will be lots of laughter, food and fun, to include music, karaoke, dancing, and lots of networking with old and new friends.

Last, do not forget that there will be drawings conducted at each of the breaks in the exhibition hall and at the closing sessions for lots of great prizes.

On another quick note, Hurricane Ike was not my friend either. This has been a very difficult and trying month for my city and all of the governmental entities in the gulf coast region. Personally, I would like to be sure that the board, our membership, and sponsors know how much your support has meant in this time of devastation, learning (many lessons learned), and picking up the pieces. As we have all discovered, we are a state where resilience is not an option and we take care of one another. A huge thanks to the inner state for taking such great care of all our citizens. It makes things much easier for those that stay behind when we know our citizens are safe with you. Way to go Gulf Coast and South Texas regions, we did not allow Ike or Dolly to win. Our communities may still be fighting the uphill battle of clean-up and aftermath; but, we have definitely affirmed our "business and life as usual" spirit.

*From Melissa Sullinger, President-Texas PRIMA
melissa.sullinger@baytown.org*

PRIMA MEMBERSHIP NOW HALF OFF



PRIMA has created a new membership initiative specifically for its chapter members. As a member of a local PRIMA chapter, you know the benefits that come from being part of a group. Now you can join PRIMA National for half price and reap the benefits of a national network of public sector risk managers. If you are not currently a PRIMA National member, now is the time to join. For more information on this initiative, please visit the Chapter section of www.primacentral.org.

From now until December 31, 2008, join PRIMA for 50% off! That's right, YOU can join PRIMA for half price! Don't delay...put the power of PRIMA membership to work for you today!

For more information, contact Allyson Little, membership-marketing manager, at 703-253-1270 or alittle@primacentral.org. This offer is available to new PRIMA members only and only for GOVERNMENT members.

SPONSOR HIGHLIGHT: CIGNA

CIGNA HealthCare is a leading health services company that is proud of their industry-recognized innovation that lets them meet the health care needs of employees and the productivity and financial needs of organizations.

Readers of Business Insurance magazine chose CIGNA as offering the nation's best health plans and employee assistance programs in 2008. The awards recognize the company that the magazine's subscribers believe offers the *best combination of quality, service, value, and innovation*. Here are some reasons why:

CIGNA's Prescription Drug Price Quote tool received two awards from Consumer Health World for 2008's *Best Innovation Stimulating Consumer Engagement and Best Application for Enhancing Patient Access for Information*. The awards are presented to recognize excellence and advancement in service, products, and programs that enhance consumers' abilities to manage their health care expenditures and enhance health care quality.

CIGNA's leadership in quality care and transparency continues. CIGNA was the first national health care plan to earn "Distinction" status across all of its 23 accredited plans for their consumer information on physician and hospital quality and cost through the National Committee for Quality Assurance's (NCQA's) Physician and Hospital Quality Program.

And CIGNA is the only national health insurance company with exclusive rights to the University of Michigan's Health Management Research Center's proprietary risk analysis tool which enables them to find high-risk individuals faster, schedule earlier interventions, and ensure resources are allocated to optimize impact and health status.

CIGNA is also the only carrier to offer a turnkey solution for on-site medical services including an employee clinic that will help the *organization* save claim dollars.

And finally, for the fifth consecutive year, CIGNA is the highest ranking, national health plan on both preventive and chronic care measures.

For more information about what CIGNA HealthCare is doing in the government and education arena, visit www.healthiergov.com or call Brian Dickerson at 972.582.7650.

Submitted by Seiler, Tracy

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SPONSOR HIGHLIGHT: HOLMES MURPHY

Holmes Murphy ranks among the nation's top independent insurance brokerage firms. Through more than 75 years of growth they've maintained a one-on-one approach to client services. Their Employee Benefits group is committed to delivering the right solutions, at the right price, to employers and their employees.

Holmes Murphy believes that what sets them apart is how far ahead they move their clients. Their services can be best evaluated by considering a few specific capabilities. These capabilities include: comprehensive scope of services and the ability to provide them unsurpassed expertise and experience of the team assigned to client accounts unmatched depth and breadth of public entity experience; exceptional value, innovative technology to support and comply with insurance industry standards and requirements; and the ability to impact, measure, and report the benefits and outcomes of the members benefit programs.

Holmes Murphy specializes in a wide variety of plans and lines of coverage, including: insured and self-funded health plans, group life insurance, accidental death and dismemberment insurance, dental plans, short- and long-term disability plans, vision plans, voluntary benefits, and cafeteria plans.

For more information about Holmes Murphy Employee Benefits, call 800-247-7756 and ask for the Public Entity team.

Member Services On The Move

As our Texas PRIMA President, Melissa Sullinger, has stated: "Membership is the heart and soul of our organization". What a true statement that is! In order to maximize the opportunity to improve services to members, the Member Services committee has been moving and shaking, making personal contacts with folks who have not yet renewed their memberships. This will give some insight into what we may be able to provide in a new and better way. We have also identified regions of the state that have very few Texas PRIMA members. Our plan includes making personal phone calls to entities within those underserved regions, again, in hopes of sparking interest to become a member and providing valuable feedback on the needs of those entities within the regions.

We also have a new feature on the Texas PRIMA website. The "non-members stay in the know" button has been added. Non-members who may be perusing the home page can click this button, which adds them to the Texas PRIMA e-mail distribution list.

Development of the mentoring program is off and running! Members were given a survey, which was helpful in determining if mentoring was for you. The survey results are being used to select mentors based upon experience, expertise and willingness to participate. If you have questions or comments, contact Gary Urban at garyu@ci.waco.tx.us

It's amazing how much our members work together via electronic means, never having actually seen one another! It was recommended that photos of members be included on the Texas PRIMA website along with the member contact information; that way you can put a face with the name. You can post your photo on the website home page: click on the "view/edit my profile" button on the left navigation bar. When your profile comes up, click on "edit", then select "add picture". What a great idea!

Submitted by Donna James-Spruce

Hurricane Ike - The Name Says It All....

It finally happened....the BIG one. It may not have been a category 5, category 4 or even a category 3, but it was BIG!

In September 1983, Hurricane Alicia hit the upper Texas Gulf coast as the last “major” hurricane to hit the Houston/Harris County area. Our neighbors to the East and further South in Texas also have been recently hit by storms such as Rita in 1995 and Dolly earlier this year.

Each year we watch and we wait and follow the 5-day forecasts of the National Hurricane Center as soon as storms come on their “radar” screen. I had e-mailed Donna James-Spruce just three days before Ike hit the coast, as it appeared that Corpus Christi was in the cross hairs. Ike shifted about 200 miles from its projected path with a direct hit on Galveston and the Houston area.

For those who were impacted in any way, I do not have to tell you that this storm was HUGE! The eye went directly over my house and lasted an incredible 3 hours! Those who were in the direct path incurred tropical storm force winds for 24 hours and hurricane force winds for nearly 8 hours.

We are still counting...but Ike is being reported to be the third highest cost storm in U.S. history (following only Andrew in 1992 and Katrina in 2005).

While things in Houston and Harris County were pretty difficult...especially with massive power outages that lasted up to three weeks, our thoughts and prayers remain with those in Galveston, the Boliver Peninsula, and other coastal areas.



David's daughter and a friend stand on one of three huge trees that fell on his mother's house and property.

seen the scenes of Gaidos setting white clothed tables for rescue workers just a week or so after the storm. Various businesses proudly display “WE ARE OPEN” and there are several signs that proclaim “WE WILL RETURN AND SO WILL THIS ISLAND!”

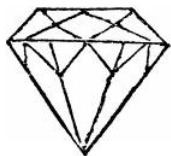
I believe that with all my heart and I believe we will be part of that come back next year when Texas PRIMA returns to Galveston! Yes, Galveston....WE WILL RETURN!

Submitted by David Kester

Governor Perry Appoints DWC Commissioner

Gov. Rick Perry named Rod Bordelon of Austin as the Commissioner of the Workers' Compensation Division at the Texas Department of Insurance for a term to expire Feb. 1, 2009. Bordelon most recently served as public counsel and executive director at the Office of Public Insurance Counsel (OPIC). OPIC is currently under Sunset Advisory Commission review.

Submitted by Tim White, Harris & Harris



Do you sometimes feel that you are in a rut? Have your work days lost their excitement? Well, you need a new adventure to put that old enthusiasm back into your risk management program.

If you want excitement, come with me on a diamond hunt. A diamond hunt, you say? Yes, a diamond hunt is just the thing. There is a true story retold by Earl Nightengale about “Acres of Diamonds.”

The story begins with a very dissatisfied farmer in South Africa. He hears people telling stories about finding diamonds in South Africa and becoming rich overnight. He thinks, “I am never going to get anywhere on this farm.” So he sells his farm and begins looking for diamonds. Years later he has not found any diamonds and he dies destitute. One day the new owner of the old farm discovers some strange looking rocks on the farm. When he has them analyzed, he finds that they are diamonds. They are everywhere on the farm. In fact, he finds that there are literally acres of diamonds there. This farm became the richest diamond mine in Africa, and one of largest diamonds ever discovered was found on this farm!

The old farmer sold his property, which literally contained acres of diamonds. Are there diamonds right where you live and work? I bet there are. With these tough economic times, maybe you can find acres of diamonds right where you work.

Did you know a return to work program can reduce your workers’ comp cost by a minimum of 25%? How about your benefits program? Is there a way you can coordinate a “go generic” campaign with Walgreen’s or Wal-Mart? Could a health fair help?

You can start finding these diamonds and more at the Texas PRIMA Conference at the Woodlands, November 19-21 in Houston, Texas. At the conference you will get the tools you need to dig for these treasures and you will find the enthusiastic spirit of other risk manager treasure hunters who are also superheroes. Come join us and start digging for diamonds!

Submitted by Alan Smith

DFW Airport Welcomes the French

DFW International Airport recently hosted Stephane Bihoreau, Insurance Manager for Aeroports De Paris, for an Insurance and Risk Management Presentation by Norma Essary, VP Risk Management for DFW Airport. Among the topics discussed were the current insurance marketplace in the United States versus Europe, the changes in terrorism risk, airport security, the liabilities associated in managing airports, and loss prevention. Mr. Bihoreau stopped at DFW Airport as part of a tour of international airports in order to learn about creative ideas in airport insurance and risk management. DFW Airport recently won the title of “Best Airport in North America” for the second year in a row by the Airports Council International (ACI).



Pictured from left to right: Johnny Fontenot, McGriff, Seibels, & Williams; Steve Francis, DFW Airport; Stephane Bihoreau, Aeroports De Paris; Norma Essary, DFW Airport; Timothy Bologna, DFW Airport.

Risk Tip - It's not how smart you are, it's what you are smart at.

Mortgage-Backed Securities (MBS), Credit Default Swaps (CDS), Lehman and AIG. What is the difference between a Lehman Investment Banker and a pigeon? A pigeon can still make a deposit on a Mercedes. OK, now everybody knows the extent of my sense of humor.

For a great summary of the financial decisions that got us where we are today, "Google" Chris DesBarres and read what he wrote for the financially challenged with attention deficit disorder. I felt like he was writing directly to me!

According to Mr. DesBarres, a year ago, most financial analysts (and risk managers), would have fallen down laughing if you had told them AIG, one of the world's largest insurers, would suffer a crisis forcing them to the edge of bankruptcy that only a government takeover could avert. This credit crisis, however, has affected the financial sector in ways that nobody dreamed of, especially those in the risk management profession.

Many of us are now being challenged, and rightly so by our organizations, to determine if our carriers are worthy of their current rating and capable of paying a future claim. These trying times require us as risk managers to question insurance carriers and, (gasp!) have them provide proof of their financial capabilities beyond what their current rating indicates. This requires a face-to-face kind of work, and involves taking a detailed look at financials, as well as investment portfolios. Needless to say, this exercise cannot be done over lunch, during a round of golf or combination of the two.

This kind of work may be the risk manager's responsibility, but it cannot be done alone. It requires a team of stakeholders and experts (brokers, internal and external auditors, etc.), committed to the task. Additionally, it would be helpful if one of those stakeholders is your director of finance, who can corroborate the findings as discovered.

Once it has been determined that your carriers are either in a position to meet the future needs that arise out of accidental loss to your organization, or, cannot meet your requirements, the findings and required action plans need to be communicated to all stakeholders in a way to allay concern. This must be done in a way that is descriptive of the level of confidence in maintaining business continuity through financial relationships. The benefit of this being done well is that it gives you confidence in your current situation or it properly focuses your attention and actions. Either way, it is beneficial to your organization.

Reputation risk is the most precious asset we have to protect, both corporately and as individuals. Now is the time to perform the required due diligence, so that you are not in a weak position to defend actions or lack thereof, to those who challenge the integrity of your risk management program.

In closing, none of us were as knowledgeable as once believed, or as ignorant as we currently seem. However, most if not all of us are smart enough to recognize that we must educate ourselves regarding the true financial capability of our organization and vendor partners. We do this in order to sustain an accidental loss in a debt-financed consumer economy.

*Charles "Buddy" Gillenwater
Risk Manager, City of Mesquite*

FEMA Modification of Disaster Aid Public Entities

According to a fact sheet it issued to applicants on June 4, 2007, after the Federal Emergency Management Agency (FEMA) has covered uninsured damage that a public entity sustained in a national disaster, FEMA will limit its future assistance to that entity if the same properties are damaged in a subsequent disaster of the same nature.

After a second flood loss, for example, a public entity's eligible FEMA assistance would be reduced by the amount of damage that the entity's property sustained in the first flood – even if the deductible that FEMA previously covered was a small fraction of that first loss.

As a result, FEMA would assist a public entity suffering a second loss only to the extent that the

entity's insurance deductible for that second loss exceeds the entity's total damage in the first disaster and only if its second loss exceeds the earlier loss.

In all cases, FEMA's assistance would total 75% of the eligible damage on which it would be calculated. In addition, if the loss was due to a flood and the properties were located in special hazard zones, FEMA's aid would be reduced by the available National Flood Insurance Program (NFIP) limits – regardless of whether the public entity purchased the NFIP coverage. The NFIP offers \$500,000 limits for building damage and \$500,000 of limits for contents.

*Adapted from an article by Dave Lenckus, Business
Insurance, 08/04/08*

Part 2: Domestic Violence (See the June 2008 issue for Part 1)

It is important that employers have protocols that address workplace violence; however it is equally important to have protocols that address domestic violence in the workplace. Through awareness programs and policies, entities can create a culture in the workplace that communicates to your employees that domestic violence is a serious concern, and the entity will implement measures at work to provide for employees' safety and security.

Once the perpetrator of domestic violence (current or former partner) is in the workplace, it is a workplace issue and should be handled as such. If an employee notifies you that their current or former partner has threatened to come to the workplace and "take care of her" or "kill her", the employer must take action to mitigate the risk of a serious incident from occurring. If a violent incident occurs at your work and the employee had previously informed you of the threats and intentions of her current or former partner, your liability will decrease if a policy exists and a plan of action was taken once you were on notice of the potentially violent situation.

The policy should include the compliance with Temporary Restraining Orders, Protective Orders, Criminal Trespass Orders, and any legally binding document granted by the Court and is enforceable under State and Federal statutes to protect the victim of domestic violence and the employees of the entity.

Here are some possible signs that a worker is being abused and needs help:

- Visible injuries, such as black eyes, bruises or broken bones. Frequent "accidents" that cause absences from work.
- The worker's partner exerts an unusual amount of control over her activities. She isolates herself from others.
- The partner ridicules her publicly. The nature of these comments are volatile.
- There are changes in her behavior. She appears frightened, exhausted, or on edge. Her children seem to be easily upset. Her children experience sudden problems in school or other activities.

What You Should Know About Domestic Violence

- Domestic violence knows no socio-economic boundaries. A victim can be the wife of a doctor, lawyer, police officer, road worker or cook. It occurs in heterosexual and homosexual relationships.
- Domestic violence is not just a private matter. It is a crime with serious repercussions and impacts the workplace.
- Domestic violence can be deadly. In Texas in 2004, 115 women were killed by their current or former partner. (Most victims are women).
- "Why didn't she leave?" is a common question concerning domestic violence and it is based on the false assumption that leaving equals safety. Leaving is the most dangerous time for her. Most domestic violence homicides occur after the victim has left her abusive partner.
- Victims of domestic violence often remain in abusive relationships because of fear – fear for their lives, fear for the safety of their children, and fear of homelessness. Often the batterer is a parent and any decision to take children away from one of their parents is difficult. Often, a victim still feels strong emotional ties to her batterer. Sometimes religious or cultural values pressure a woman to keep the family together at all costs.

What you can do to help:

- Break the Silence. Make the Call: Call the National Domestic Violence Hotline (1-800-799-SAFE or TTY line for the Deaf 1-800-787-3224) and talk to the staff about your concerns. They can put you in touch with programs and services in your area that assist victims of domestic violence and their children.
- Become Informed: Visit the National Domestic Violence Hotline website at www.ndvh.org and gather all the information you can about domestic violence. You can also visit the [Make the Call](#) website for additional information.
- Share your Knowledge: Let the victim know they are not alone and that caring people are available to help. Encourage her to "Break the Silence" and seek the assistance of domestic violence advocates at the National Domestic Violence Hotline (1-800-799-SAFE, or TTY line for the Deaf 1-800-787-3224). They can help plan for her safety and identify her options.
- Report any Emergency: It cannot be overemphasized that domestic violence is a crime that can result in serious physical injury and even death. If you know that a battering incident is occurring, call the police immediately. Calling the police does not always mean the abuser will be put in jail. It is simply the most effective way to protect the victim and children from immediate harm.

If an employee has self-declared that they are being abused, or they have received threats from their current or former partner, it is imperative that we respond in order to protect the employee and other staff in the building. Domestic violence is a crime, and perpetrators of domestic violence are criminals.

Submitted by Regan Rychetsky, Director of the HHS Enterprise Risk Management

Court Rejects Law Firm's Charge of Bad Faith

The allegation that a carrier acted in "bad faith" has become popular with plaintiff attorneys. The *Texas Mutual Insurance Company v. Timothy J. Ruttiger* case has generated renewed interest in alleging that the carrier failed to act in good faith and fair dealing. Being aware of what is coming, carriers will want to give additional attention to conducting a full, fair, and prompt investigation in every file and documenting the basis for every significant decision.

In a more recent case, the 11th Court of Appeals upheld the trial court's decision that granted a no-evidence summary judgment in favor of the Deep East Texas Self-Insurance Fund. The circumstances of this matter are far from unique.

The Law Firm of Miller & Bicklein represented the claimant in a workers' compensation case and then pursued recovery against the responsible third party. The carrier, Deep East Texas, was not actively represented. Therefore, Miller & Bicklein represented both the claimant and the carrier. After a recovery, the law firm and carrier could not agree on the fee owed the law firm.

Miller & Bicklein sued Deep East Texas for additional attorney fees and for bad faith. The law firm alleged that Deep East Texas committed unfair insurance practices and violated the Deceptive Trade Practices-Consumer Protection Act (DTPA). The trial court awarded the firm attorney fees and granted Deep East Texas' motion for a summary judgment. Miller & Bicklein appealed, and the 11th Court of Appeals affirmed the decision of the Ector County trial court.

The Court of Appeals found that the law firm provided no evidence that it was a consumer under the DTPA and, therefore, did not have standing under the DTPA. In its cause of action for unfair insurance practices, Miller & Bicklein alleged that Deep East Texas acted in bad faith when it refused to negotiate or pay attorney fees. The Court found no evidence that Deep East Texas had made any misrepresentations or engaged in unfair settlement practices and overruled the firm's first point of error.

Additionally, the Court noted that Miller & Bicklein had sought to recover attorney fees under both Texas Labor Code, Section 417.003 and pursuant to the Declaratory Judgment Act. However, the firm failed to seek declaratory relief until it filed its amended petition. The Court of Appeals found that this was merely incidental to the request for damages and affirmed that no additional attorney fee was owed. The Court of Appeals also found that the trial court had discretion over the declaratory action and overruled the second point.

Submitted by Randy McNeel of Thornton, Biechlin, Segrato, Reynolds & Guerra, L.C., attorneys at law, 08-22-08

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About This Newsletter

This newsletter is published quarterly for the benefit of Texas PRIMA members. However, the opinions expressed in the newsletter are those of the writers and do not necessarily represent the views of Texas PRIMA. The aim of this newsletter is to provide information to our members about Chapter events and risk management issues. Please send news, information, comments, etc. to the editor via email, hdkaplan@garlandisd.net. The deadline for the next issue of this newsletter is December 5, 2008.

