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ENFORCEMENT OF WORKERS' COMPENSATION SETTLEMENTS

By Brian Bolton, Esq.



Brian Bolton, Esq.

Most lawyers are aware that the majority of lawsuits settle at mediation.¹ Interestingly, in Florida, the Workers' Compensation Judge of Compensation Claims (JCC) may consider only workers' compensation cases that have been mediated.² Consequently, a large number of workers' compensation matters settle rather than proceeding to

trial.³ This article explores the law governing enforcement of workers' compensation settlements, as well as methods to maintain an enforceable agreement that will not be vacated.

Upon reaching an agreement in a workers' compensation matter, as in other areas of the law, it is common for a preliminary summary of settlement terms to be approved by the parties. It is tempting to consider the mediation a success at this point. However, a successful mediation and settlement agreement is one which ends all disputes. It comes as no surprise that once a case has "settled" at mediation or through other informal negotiations, disputes arise as the parties attempt to formalize and finalize their preliminary agreement with documents containing lengthier and much more specific terminology.

Disputes over settlements are increasingly frequent in workers' compensation cases. Disputes include instances wherein an injured worker attempts to withdraw from a settlement because the parties cannot reach agreement as to specific terms, the injured worker develop "buyer's remorse," and for a myriad of other reasons.

The psychological issues involved in obtaining a successful workers' compensation settlement can be quite complex.⁴ These issues include anger directed against a former employer, disputes over the handling of claims by the workers' compensation insurance carrier, the lack of an ongoing relationship between the injured worker and the other parties, and fear upon reconsideration by the claimant of the extent of the injuries, just to name a few.⁵

Successful mediator interventions may often enable the parties to move beyond these impediments to settlement during the mediation process.⁶ However, after the mediation concludes, the psychological dynamics outlined above seem increasingly likely to disrupt the exchange and execution of documents necessary to achieve a successful, completed settlement. Further, these issues become more problematic for the lawyers because workers' compensation settlements are governed by both Florida contract law and by specific statutory provisions concerning global settlements under the Florida Workers' Compensation Statute.⁷

Application of Contract Law

In Florida, the interpretation of workers' compensation settlement agreements is governed by contract law.⁸ The elements which compose every contract (namely offer, acceptance, and agreement on essential terms) are necessary in order to have a binding workers' compensation settlement.⁹ Such agreements "are highly favored and will be enforced whenever possible."¹⁰ The

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Dear PGIT Members and Business Partners,

October 1, 2009 marked the end of the Preferred Governmental Insurance Trust's 10th year of serving and working with Florida's public entities on their property, casualty and workers' compensation insurance needs. On behalf of the Board of Trustees and the trust, let me first sincerely thank all of you for your participation, support and invaluable contribution to the success of our program. PGIT is an exciting initiative that was created in 1999 and it definitely has come a long way since that time. We have accumulated over 700 members and nearly 100 business partners. Our diverse membership includes approximately 110 municipalities, 20 county governments, 60 taxing authorities, 72 school boards and charter schools, 21 housing authorities, 225 special taxing districts and over 300 community development districts.

However, we all know the variety of challenges that the public sector inherently presents. These include continually shrinking budgets, the potential for unfunded mandates, changes in exposures, workforce reductions, elimination of valuable human services and the inevitable reality of preparing for and dealing with hurricane events, just to name a few. Our public entities are being asked to do the same or more, with less and I am happy to report that PGIT, its administrator and business partners, stand ready to assist in any way possible in this regard.

Our first PGIT conference in 2007 carried the theme, "Celebrating Successful Partnerships" and we continue to remain focused and mindful of this theme. This year's conference centered on "Navigation through Education" which I am happy to report is in full swing. We have greatly improved our website capabilities with a continuing goal of making it a "one-stop" educational resource and training tool for our members. Our administrator is now conducting monthly webinars on cutting edge topics with assistance from the Risk Advisory Board.

The trusts' recent October 1st renewal was very successful highlighted by the introduction and offering of a two year program for qualifying members which close to half of those members took advantage of through October 1, 2011. In these difficult times, we saw the opportunity to provide budgeting certainty beyond just one year by way of rate guarantees. The two year program included the allocation of a certain amount of "Members Equity" back to the members which was possible given the trust's favorable financial condition. Even with this return of member's equity, we anticipate that our surplus will reach a record level this year. Our program is about our members and we will continue to find innovative ways to keep their insurance costs down and manage their risk management programs.

I am pleased to report that the trust welcomed 30 new members, which are highlighted in this edition, and enjoyed an overall renewal retention rate of over 95%.

In closing, we are already busy working and strategizing for our next decade of being of service to Florida's public entities.

As we approach the holiday season, please be safe and enjoy!

Best Regards,

Ed Wolf
Chairman, Board of Trustees

ENFORCEMENT OF WORKERS' COMPENSATION SETTLEMENTS

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construction of a workers' compensation settlement agreement, like any other contract, is generally a question of law, unless its terms are susceptible to more than one construction. In that case, a factual issue is presented regarding the intended effect of the settlement, which is then to be determined by the JCC.¹¹

The Florida Workers' Compensation Statute confines the application of contract law as it may be applied to workers' compensation cases. Fla. Stat. 440.20(11)(a) governs settlement of denied claims in which a claimant is not represented by counsel. This statute section provides that upon joint petition of the parties for a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses future payments of compensation expenses, and any other benefits provided under this chapter, settlement shall be allowed at any time in any case in which the employer or carrier has filed a written notice of denial within 120 days after the employer receives notice of the injury. The JCC must give consideration to the interests of all interested parties, and the JCC may or may not enter a compensation order approving the parties' proposed settlement agreement.

Fla. Stat. 440.20 (11)(b) governs accepted workers' compensation claims, that is, claims in which a claimant has been receiving benefits and the accident has not been contested. This section also involves claimants who are not represented by counsel. Upon joint petition to the JCC, the parties may enter into a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses, future payments of compensation expenses, and any other benefits allowable under the statute at any time after the claimant has reached maximum medical improvement (MMI). The JCC must determine if settlement will definitely aid the rehabilitation of the injured worker or otherwise is clearly for the best interests of the person entitled to compensation, and the JCC retains the discretion to enter an order approving the settlement. In contrast, Fla. Stat. 440.20(11)(c) provides for settlements involving represented claimants and does not require JCC consideration, except for the approval of an attorneys' fee.¹²

Enforcement

The JCC cannot enforce a settlement agreement into which the unrepresented claimant entered under Fla. Stat. 440.20(11)(c). In Vallecillo v. Bachiller Ironworks, 982 So. 2d 734 (Fla. 1st DCA 2008), the Court reversed and remanded a summary final order dismissing the claimant's

petition for benefits based upon a prior settlement. On appeal, the First DCA reversed and remanded, holding that the parties' alleged settlement was invalid since the claimant was unrepresented at the time of the alleged settlement, and the alleged settlement was never approved by the JCC. The Court explained that any settlement involving an unrepresented claimant does not fall within the parameters of Fla. Stat. 440.20(11)(c) and consequently is invalid if not approved by the JCC.

In Calderon v. J.B. Nurseries, Inc., 933 So. 2d 553 (Fla. 1st DCA 2006), the claimant refused to execute global settlement documents after agreeing to do so at mediation and after accepting a cash advance on the settlement. The trial court enforced the agreement and the First DCA affirmed. In a dissent, Justice Ervin wrote that the agreement was not enforceable as the mediation agreement was not sufficiently specific and mutually agreeable as to every essential element. The agreement was undeniably non-specific. The majority however explained that the agreement was voidable at the other party's election but not void.

In Quinlan v. Ross Stores, 932 So. 2d 428 (Fla. 1st DCA 2006), the appellate Court held that a mediation agreement was not enforceable as it contained language demonstrating that the parties did not intend for the agreement to be full, final and enforceable and that subsequent documents need to be prepared and signed. It is important then to express the finality of the agreement in any preliminary agreement.

A JCC may enforce verbal settlement agreements. In Bonagura v. Home Depot., 991 So. 2d 902 (Fla. 1st DCA 2008), the parties entered into an oral settlement agreement under Fla. Stat. 440.20(11)(c) after engaging in settlement discussions by phone and through correspondence over the course of about 30 days. The claimant further requested and received an advancement on the settlement proceeds. The claimant thereafter attempted to rescind the agreement after reflecting further about the seriousness of his back injury. The parties were both represented by counsel, and testimony established that both attorneys were fully authorized to enter and conclude settlement negotiations, and reached a valid, binding oral settlement agreement, which included an advancement on the settlement proceeds which the claimant deposited into his bank account. The Court stated that the oral agreement was without contingencies.¹³ The Court upheld the settlement of the workers' compensation

claim and directed the JCC to order the parties to draft a written settlement agreement in accordance with its holding.¹⁴ Binding the parties with consideration such as an advancement can be key to enforcement.

Contingent agreements are not enforceable. According to the Quinlan Court, if a settlement agreement is contingent upon other actions, the agreement is not enforceable. The agreement was contingent upon both parties agreement on a Medicare Set Aside Trust (MSA) amount and resolution of a Medicare lien, contingencies that were not satisfied. The Federal Medicare Secondary Payer (MSP) Statute provides that Medicare is a secondary payer of future medical payments as compared to other sources of medical payments, including workers' compensation.¹⁵ The Centers for Medicare and Medicaid Services (CMS) require that proceeds from workers' compensation settlements be set aside in the form of an MSA in order to cover future medical expenses during years of Medicare eligibility.¹⁶ By creating an MSA, CMS is assured that future medical payments will be made out of workers' compensation proceeds instead of by Medicare.¹⁷ Additionally, failure to protect the interests of CMS can result in damages against parties to a workers' compensation settlement.¹⁸ Accordingly, an MSA can be a critical element to many workers' compensation settlements and must be specifically addressed and resolved in order to have a binding agreement.¹⁹ In the Quinlan case, the specifics of the MSA were not resolved. Therefore, the parties' alleged settlement agreement was not enforceable.

According to Fivecoat v. Publix Super Markets, Inc., 928 So. 2d 402 (Fla. 1st DCA 2006), the parties must have clear and unequivocal authority from their clients to settle and enforce an agreement. The Courts are very stringent in making this determination. Thus, one should explicitly confirm with his or her client that the client wishes to enter into the agreement.

Collateral Settlements

In Brewer v. Laborfinders of Tampa, 944 So. 2d 1102 (Fla. 1st DCA 2006), the claimant settled an unrelated claim against an employer executing a very broad general release. A motion to dismiss the workers' compensation claims against the employer was filed and the JCC dismissed the workers' compensation claim based on the language of the general release. The record demonstrated that at the time Brewer executed this release, he was represented by workers' compensation counsel, but failed to inform counsel of the release before it was executed. However, the fact that Brewer did not inform his counsel, and counsel did not advise him in regard to the release, was irrelevant. "The JCC need inquire no further than to determine whether a claimant was represented by counsel

when he entered the settlement agreement, not whether he chose to take advantage of counsel's representation." All inclusive language generally bars all claims which are ripe prior to execution of the release, even those claims unrelated to the litigation that resulted in the release. The language in Brewer was broad enough to cover petitions for workers' compensation benefits.²⁰ The Brewer Court held that because the release language was unambiguous, the JCC properly excluded parole evidence.²¹ Lawyers must be extremely careful when settling claims unrelated to workers' compensation matters because of the all-inclusive nature of most releases which could easily serve to extinguish other pending claims. Conversely, workers' compensation practitioners must use caution in allowing their clients to execute a general release as part of a workers' compensation settlement due to the unknown and unintended consequences that may arise.

Conclusion

Workers' compensation settlements can be complex due to the statutory prescriptions and law governing the complete resolution of workers' compensation matters. For lawyers and mediators, it is critical to try and remove the obstacles to a successful settlement as discussed within this article. It is the responsibility of the lawyers and mediator when utilized to draft preliminary agreements that contain specific language on all agreements, leave no contingencies open, include consideration where practical that will permit enforcement and to otherwise bind the parties in furtherance of the goal to obtain a successful settlement.

Biographical Information

Brian Bolton, a Board Certified Workers' Compensation Specialist, has practiced law in Florida since 1985. He is a graduate of the University of Florida College of Law and practices primarily workers' compensation defense. Mr. Bolton is a Circuit Certified Mediator and a Partner in the Firm of Bolton and Helm, LLP He is an Adjunct Law Professor at Barry University in Orlando and past Chair, to the Florida Bar Association Workers' Compensation Board Certification Committee.

Footnotes

1 See Korobkin, Russell B., Psychological Impediments to Mediation Success: Theory and Practice, UCLA School of Law, Law-Econ Research Paper No. 05-9 (March, 2005 draft, p.12)(Also published in the Ohio State Journal on Dispute Resolution, Vol. 21, pp. 281-338, 2006, Available at SSRN: <http://ssrn.com/abstract=689261> or DOI: 10.2139/ssrn.689261).

2 See Fla. Stat. 440.192(9) and Fla. Stat. 440.25 (Procedures for conducting mediations)(440.25(3)(b)(The results of the private mediation conference shall be binding and neither party shall have a right to appeal the results.)

3 See Florida Workers Compensation Executive Summary, 2000, found

at: http://www.myfloridacfo.com/WC/pdf/2kAR_ExecutiveSummary.PDF; See Also Chapter IV Florida Workers Compensation Executive Summary, 2000 at: <http://www.myfloridacfo.com/WC/PDF/2kssSettlementAwards.pdf>; See Statistics for 2000 and 2008 located at The Florida Workers' Compensation Claims Database and the statistics may be viewed at: http://www.fldfs.com/WCAPPS/Claims_Research/Stats_Search.asp.

4 See Korobkin; See also Fall, 2007 New Hampshire Trial Bar News, Vol. 29, p. 169, "Of Potted Plants and Personal Injury: a Contrarian View of Mediation;" May, 2008, Wisconsin Lawyer, Vol. 81, No. 5, I'm too mad to settle! Working with Angry Plaintiffs in a Mediation."

SECTION 111 OF THE MEDICARE, MEDICAID AND SCHIP EXTENSION ACT OF 2007 (MMSEA)

In recent years, Medicare has been making significant changes to assure that it does not pay for medical care when in fact; there is another primary payer for those services such as workers' compensation or liability insurance. The most current change resulting from these new initiatives is the Coordination of Benefits Contractor (COBC) will be requiring the reporting of claims for those who are Medicare-eligible under the following statute:

Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (P.L. 110-173), adds new mandatory reporting requirements for group health plan (GHP) arrangements

and for liability insurance (including self-insurance), no-fault insurance and workers' compensation.

See 42 U.S.C. 1395y (b) (7) & (8).

Who is Medicare-eligible and what are the reporting triggers?

Any person, who is age 65 or older, receiving SSD, has End Stage Renal Failure or ALS is considered Medicare-eligible. Medicare's future interests need to be considered if the claimant has applied for SSD, has been denied SSD benefits but anticipates appealing that decision, in the process of appealing and/or re-filing for SSD benefits, is age 62 and 6 months, or has End Stage Renal failure.

Timely reporting of these claims is required and failure to timely report them results in punitive fines. In fact, those fines are \$1000.00 per day until the claim is reported. As you can see, they are quite serious about compliance as demonstrated by the level of fines. Please be assured that PGCS, as your reporting agent, is on top of these reporting requirements and are ready to report the claims data on your behalf.

For the most current and official information regarding Section 111, you can visit the CMS website which is: <http://www.cms.hhs.gov/MandatoryInsRep>.

WELCOME NEW PGIT COUNTY AND DISTRICT MEMBERS:

Highlands County
Alva Fire District
Pinellas Suncoast Transit Authority
Sanford Airport Authority
Spring Lake Improvement District

Tice Fire Rescue
Loxahatchee River District
Collier County School District
Lee County Port Authority

WELCOME NEW PGIT MUNICIPAL MEMBERS:

Village of Bal Harbour
City of Bay Harbour Islands
City of Cooper City
City of Key West
Town of Miami Lakes
City of St. Augustine

footnotes continued from page 4

- 5 Id.
6 See Korobkin.
7 See Fla. Stat. 440.20(11)(a-c).
8 See Bonagura v. Sedgwick & Home Depot., 991 So. 2d 902 (Fla. 1st DCA 2008)(h/n 3); Nicholas v. Hartford Ins. Co. of the Midwest, 985 So. 2d 217, 219 (Fla. 1st DCA 2002).
9 Id. (see headnote 2 citing to Gibson v. Courtois, 539 So. 2d 459, 460 (Fla. 1989).
10 See Robbie v. City of Miami, 469 So. 2d 1384, 1385 (Fla. 1985).
11 See Brunswick Corp. v. Cummings, 648 So. 2d 787 (Fla. 1st DCA 1994) (h/n 2)(citing Wood & Wood v. Dort, 625 So. 2d 42 (Fla. 1st DCA 1993).
12 Fla. Stat. 440.20(11)(c)(Effective October 1, 2001).
13 Id. at 904.
14 Id. at 905.
15 See ABA, Health Care Law: Medicare Set-aside Process in Workers' Compensation Cases Online, January 13, 2009 at <http://www.abanet.org/poladv/priorities/medicareasetaside/>. See also 42 U.S.C. ss. 1395y.
16 Id.
17 Id.; See Also Congressional Research Service Report to Congress, March 6, 2008, "Medicare Secondary Payer: Coordination of Benefits."
18 Id.; See also "Medicare Reimbursement Problems", Defense Research Institute Journal, February, 2008, p. 9.
19 See Janet Shaw v. Harbourside Healthcare and Liberty Mutual Ins., Case No. 1D07-6298 (Fla. 1st DCA, February 8, 2008) OJCC #: 03-003875DBB, which involved an MSA issue wherein the parties agreed to settle under Fla. Stat. 440.20(11)(c) at a private mediation. The employer/ carrier agreed it would fund the estimated MSA allocation and would and did fund additional amounts as CMS determined that a higher allocation was necessary. The claimant tried to rescind the agreement due to her declining health but JCC Diane Beck found that the agreement was binding, not contingent and that the claimant had "buyers remorse" and could not withdraw from the settlement.
20 See Patco Transport, Inc. v. Estupinan, 917 So. 2d 922, 923 (Fla. 1st DCA 2005).
21 See also Churchville v. GACS, Inc., 973 So. 2d 1212, 1215 (Fla. 1st DCA 2008)(A court may look beyond the language of a contract only when the document's terms are ambiguous.); Plumpton v. Cont'l Acreage Dev. Co., 830 So. 2d 208 (Fla. 5th DCA 2002); Sottile v. Gaines Constr. Co., 281 So. 2d 558, 561 (Fla. 3d DCA 1973), rev. denied, 289 So. 2d 737 (Fla. 1974)(a general release which is not restricted by its terms to particular claims or demand will ordinarily be regarded as embracing all claims or demands which had matured at the time of its execution.

THE SAFETY SOURCE



PGIT Academy
On-Line Learning Center

PGIT Academy's On-Line Learning Center is a members-only platform that provides access to over 100 safety, human resource, and business skills courses that are available 24/7. The center also hosts a learning management system to help members manage their on-line training course assignments and records.

To get things started, PGIT will be providing each of its members with the following upon activation of new account:

- Assist in setting up an assigned On-line Training Center Administrator
- Assistance in inputting of other key user information, such as managers and main users into the on-line training system
- General first time log-in and utilization assistance to Administrators
- First 5 course launches for FREE...additional launches may be purchased at 50% to 80% off retail upon depletion of 5 free introductory course launches.

To find out more on this exciting new educational member tool, or to activate a new On-line Learning Center account, please contact us via email at

Onlinelearning@pgit.org, or call (321) 832-1658.

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The Effective Business Writer
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PANAMA CITY TURNING VEGETABLE OIL INTO SAVINGS

Rich Caprario

*Equipment Maintenance Service Manager,
City of Panama City*

Submitted by Gerald Stanford Agency

The City of Panama City is Going Green to save some green. By producing diesel fuel from used vegetable cooking oil, with their Biodiesel processing plant. The City Commission gave approval for this pilot project in January of 2009. The process is as follows: Used vegetable cooking oil is collected from large green collection boxes with one gallon jugs inside. The jugs are provided for folks to take home, fill, then bring back to said box, and repeat the process. Local restaurants are also donating their oil. The oil is picked up on a weekly basis and processed into biodiesel fuel.

The benefits of choosing to initiate the Biodiesel program, the Commission will: Lower operating costs of the City for diesel fuel and cleaning supplies. Bring in Federal dollars for Green Initiative support. It has involved our citizens in a positive manner-creating a Green partnership, also help improve the environment by lowering vehicle emissions, improved fleet performance and help keep cooking oil out of the commercial and residential sewer systems, thereby saving costly repairs due to clogged lines.

The process of converting cooking oil into diesel fuel creates by-products that further reduce the City's cost of operation. This is accomplished by using the glycerin that is created as an end result of the chemical process used in making Biodiesel fuel. The glycerin is used to make a very good soap, The City uses this soap in its daily operation, thereby reducing costs of outside purchase of soap.

This project has been steadily ramping up. The residents donating the used vegetable oil are the ones who are making this program work and many thanks go out to them. So far the City has produced in excess of 3500 gallons of Biodiesel fuel.



Oil Collection Box at Texaco station



Bio Diesel Processor

IN THE SPOTLIGHT



LOCAL COMMUNITY REDEVELOPMENT PROJECT WINS TOP STATE AWARD

The "Urban InFill Housing Development Program," adopted in 2006 by the Boynton Beach Community Redevelopment Agency (CRA), has earned the state's top honor as best Florida redevelopment project for its purchase, construction and reselling of nine homes to low-or-moderate-income families. The project's key goal is to create affordable housing and improve neighborhoods within the Boynton Beach Community.

The Boynton Beach CRA was presented with the state's highest award for successful redevelopment, the President's Award, on October 29, at the 2009 Florida Redevelopment Association (FRA) Annual Conference in Orlando. The President's Award recognized and highlights Florida's "best of the best" redevelopment projects as chosen by the outgoing FRA president each year.

In an attempt to improve neighborhoods, the CRA began by purchasing six vacant lots from home owners and partnering with local non-profits to redevelop each lot. To make the homes affordable to buyers, the CRA sold the lots to different non-profits for \$10 each, but required design standards, affordability levels and a development timeline.

The newly-built homes all include three bedrooms, two baths, impact-glass windows, standing-seam metal roofs, granite countertops, stainless-steel appliances, washer-and-dryer units, an irrigation system, landscaping and a one-car garage. To date, nine homes have been constructed and sold back to low-to moderate-income families. The project not only has added new homes to the community, but it raised the value of surrounding homes, reduced illegal dumping and increased security.

"I am proud of our team's hard work in Boynton Beach and FRA's recognition of the Urban Infill Housing Project," said Lisa Bright, Executive Director of the Boynton Beach CRA. "It feels like we have won an Academy Award."

FLORIDA ASSOCIATION OF SPECIAL DISTRICTS NAMES ASSOCIATE OF THE YEAR

Brian Cottrell of Public Risk Insurance Agents (PRIA), was named Associate of the Year by the Florida Association of Special Districts at the annual business meeting on June 4th, 2009 at the Renaissance Resort at World Golf Village in St Augustine, Florida

PGIT HONORS RISK MANAGER OF THE YEAR

On May 7, 2009, the PGIT Board of Trustees honored Renee' Stockwell, City of Bradenton, as the Risk Manager of the Year at the 2009 PGIT Membership conference. Renee' began her career at the City of Bradenton. She joined the PGIT Risk Advisory Board in 2004. The City of Bradenton joined the PGIT program in 2002. Renee' serves as the Chairperson of the PGIT Risk Advisory Board.

The PGIT Risk Manager of the Year award is given to an individual who exemplifies the standards and commitment of sound risk management practices within their entity.

PUBLIC RISK UNDERWRITERS WELCOMES ANN HANSEN

Ann Hansen joined the PRU team on October 5, 2009, as Director of Operations. Many of you know Ann from her years of experience with the PGIT program on the retail agency side of the business. She began her partnership with PGIT members in 2001 working with RMA in Lake Mary and was instrumental in shepherding their growth into the Public Risk Insurance Agency (PRIA).

Our retail agent partners are an integral part of the success of the PGIT program.

Anne's expertise in agency operations will be invaluable in strengthening and enhancing the communications and services with PGIT agents, members and PRU staff.

PATTY TIPTON HONORED BY SOCIETY OF CERTIFIED INSURANCE COUNSELORS

On the 40th Anniversary of the Society of Certified Insurance Counselors, Patty Tipton of Brown & Brown Leesburg was honored by the Society for her 30 year career contribution. The society honored the "Career CICs" whose pioneering spirit and steadfast dedication has formed the foundation of a program that has endured and thrived since 1969. The CIC designation is a reflection of the continuing quest for education and improvement.



PROTECT YOUR EYES

by Dr. Isabel Perry, "The Safety Doctor"

It only takes a second to injure your eyes. The injury could result from one moment of carelessness, or from something over which you have no control. Protecting your eyes is not only your employers responsibility, it is yours. Regular eyeglasses are never considered eye protection in the workplace.

Every year approximately 100,000 workers have eye injuries, costing industry over \$330,000,000. Yes, over \$330 million. Here are some other statistics:

- 9 out of 10 injuries could have been avoided using safety procedures and the right eye protection
- 3 out of 5 workers who were injured wore NO eye protection
- 40% of those wearing eye protection had the wrong type. Many types of eye protection can be used. Wearing regular glasses by themselves is dangerous because they are not made to sustain any type of impact.

Eye injuries are divided into three categories:

1. Physical
2. Chemical
3. Thermal/radiation

Some of the common hazards are:

- Heat
- Glare
- Splash
- Sparks

1. Physical injuries

A. High Impact Physical injuries are thought of as flying objects hitting us in the front of the eye or head area.

These might include:

- Hanging objects: ropes, chains, cables
- Protruding objects: hooks, racks, boards

Type of Protection Needed:

- High impact protection like safety glasses or goggles
- Lenses made of polycarbonate, the most impact resistant material
- If the job requires side vision, safety glasses are preferable

B. Particles at high speed

The most common injury caused by dust and debris from sanding, grinding, chipping, etc.

Type of Protection Needed: Fast moving particles smaller than a grain of sand can cause significant damage to the eye. Thought must be given to what types of particles might be flying around on a routine basis because there is a difference between impact resistance and scratch resistance.

- Plastic and polycarbonate lenses are high impact resistant but less able to resist scratches.
- Glass lenses will shatter on high impact, but are very resistant to scratches from dust and grit.
- Polycarbonate lenses that are coated with a scratch resistant surface will handle both problems.

2. Chemicals and Fumes

Type of Protection Needed:

- If working around dangerous chemicals goggles should form a snug seal around the face and have hooded ventilators
- In extremely dangerous situations, do not use ventilators
- Goggles need to be specially coated to prevent fogging

3. Heat

Type of Protection Needed:

- A face shield that covers the face and neck
- Usually made of acetate or other flexible plastic
- Might be visor style
- Extreme heat or concentrated light might require the use of a welding helmet All face shields should be used WITH other eye protection, never alone.

EYE PROTECTION BEGINS WITH SUPPORT OF UPPER MANAGEMENT

The protection of workers' eyes, as well as the effectiveness of all other safety procedures in the workplace,

begins with the active support of upper management. Several steps need to be taken:

1. An appropriate safety program must be put in place
2. Engineering controls that can be implemented, should be
 - Controls like permanently installed shields and machine guards can greatly reduce risks and ultimately save the company money.
3. Proper equipment maintenance schedules should be developed and adhered to, whether daily, weekly, monthly, or annual.
4. Training should be conducted in safety procedures and in the wearing and care of safety equipment.
 - Training plays a vital role in reducing injuries
 - All employees should know what is appropriate eye protection for each work area so that if they have to enter, they have the correct protection
 - All visitors should be required to wear protection when traveling through areas; if all employees know what's required, they can make sure that people are protected.
5. Regular status reviews of procedures is necessary to keep up to date with changes in the workplace

EYE PROTECTION MAINTENANCE

Proper care and daily maintenance of eye protection is paramount to eye safety. Some guidelines in addition to any provided by the company or manufacturer:

- Clean eyewear after each use
- Disinfect eyewear that is shared among workers
- Wash glasses in warm water with soap, rinse thoroughly, then use disinfectant and hang to dry
- Store eyewear in case to prevent scratching

Continued next page

- Special antifogging products can be used if appropriate to the work location
- Before wearing, check for damaged parts and replace any part that is scratched, faded, cracked
- Before wearing, check for loose parts and secure them
- If eyewear is assigned, be sure each person labels eyewear with their name

IF AN ACCIDENT HAPPENS NEVER RUB YOUR EYE!!!

Our first instinct when something gets in our eye or it is injured is to rub our eyes. Do not do it! You will cause more damage. Here are some guidelines on what to do:

1. Physical

A. Blows to the eye

- Do apply a cold compress immediately to the eye for 15 minutes and again each hour to reduce pain and swelling
- See a doctor if there is discoloration of the surrounding skin

B. Cuts and punctures

- Do lightly bandage and see a doctor immediately
- Do not wash eye with water

- Do not try to help and get the object out
- C. Dust and other specks in the eye
 - Do lift the upper eyelid and pull it outward and down over the lower eyelid. This should induce tears, which can wash out small particles
 - Do keep eye closed, apply a light bandage and see a doctor if the speck doesn't wash out
 - Do not try to get the speck out
 - Do not rub the eye
- 2. Chemical burns Chemicals such as caustics and acids may be extremely dangerous. Chemical irritants are less dangerous. All contact with chemicals should be treated the same way:
 - Do flush eyes with water immediately for 15 minutes. Keeping eye open as wide as possible, hold it under running water and flush it out
 - Do see a doctor IMMEDIATELY
 - NEVER BANDAGE THE EYE OR USE AN EYE CUP

- Do flush eyes with water immediately for 15 minutes. Keeping eye open as wide as possible, hold it under running water and flush it out
- Do see a doctor IMMEDIATELY
- NEVER BANDAGE THE EYE OR USE AN EYE CUP

A FINAL WORD OF CAUTION

1. Face shields, by themselves, don't provide enough protection for your eyes.
2. Contact lenses, by themselves, don't provide enough protection in

an industrial setting.

3. Contact lenses should not be worn in a hazardous environment unless accompanied by appropriate safety eyewear protection.
4. Plastic lenses are advised for protection against possible molten metal splashing.

Protecting workers in the workplace from injury is everyone's responsibility:

1. Get the right eye protection
2. Use it
3. Work safely
4. Know what to do in case of an accident
5. Work together to make and keep your workplace a safe environment for everyone

Eyesight is precious; do everything you can to protect your eyes and the eyes of everyone you work with!

Dr. Isabel Perry is an internationally-known safety expert, motivational speaker, author and safety educator. Based in Orlando, Florida, she can be reached at 407-291-1209 or via e-mail at Isabel@TheSafetyDoctor.com.

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NATIONAL SAFETY MONTH WINNER

Submitted by **Kristi D. Caravella**, Assistant Town Administrator, Town of Davie

A huge round of applause please for the Planning & Zoning Division of the Town of Davie!!! They are this years National Safety Month winner.

With 100% participation in this year's National Safety Month Safety Games the Planning & Zoning Division has taken necessary steps to learn about maintaining a safe workplace. The Safety Committee along with Human Resources and Town Administration has presented the Planning & Zoning Division with a Safety Award in recognition of their outstanding effort in making the Town of Davie a safer place to work.

We would like to remind employees that safety should be their top priority year round, and that it is the responsibility of all employees to take the necessary steps to reduce the risk of serious injury and death.

Congratulations to Planning & Zoning and to all employees who participated in this year's safety games.



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AUTO ACCIDENT REPORTING KITS

Automobile accident kits are available for PGIT members and are designed to assist drivers in collecting accurate data at the scene of an accident. This data will also aid in the claims process. At least one kit should be stored in each insured vehicle's glove compartment or other easily accessible storage area.

Please contact Mike Stephens @ 321-832-1658 or email mstephens@publicrisk.com if you have any questions or need assistance.

	FLORIDA AUTO INSURANCE IDENTIFICATION CARD Preferred Governmental Insurance Trust
Policy: PK FL1 0000000 09-06 Effective Date: 10/01/2009	
Year: Make/Model: HIRED AND NON-OWNED ONLY	
<input checked="" type="checkbox"/> Personal Injury Protection Benefits / Property Damage Liability	<input checked="" type="checkbox"/> Bodily Injury Liability
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Address: 10000 Neighborhood Road, Friendly, FL 32200	
Agency: Members Insurance Agency Phone: (XXX) XXX-XXXX This card is valid until 10/01/2010	
THIS CARD MUST BE KEPT IN THE INSURED VEHICLE AND PRESENTED UPON DEMAND	
IN CASE OF ACCIDENT: Report all accidents to your company/agent as soon as possible. Obtain the following information:	
<ol style="list-style-type: none">1. Name and address of each driver, passenger and witness.2. Name of insurance company and policy number for each vehicle involved.	
MISREPRESENTATION OF INSURANCE IS A FIRST DEGREE MISDEMEANOR	

PRU STAFF

The PRU Staff is available to assist you whenever needed.
Below is a listing of their direct dial numbers and email addresses.

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VISIT US AT OUR FOLLOWING WEBSITES

WWW.PGIT.org WWW.Publicrisk.com WWW.PGCS-TPA.com

ATTENTION MEMBERS: WE WANT TO PUBLISH YOUR SUCCESS

Share your best practices, risk management expertise, and your entity's success stories in the next PGIT 411 newsletter. Let us celebrate the accomplishments of your entity and employees in our next newsletter.

If you are interested in submitting an article or kudos, please contact:

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