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THE ALBERTA BROKER

October–November 2019

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Vicki Livingstone

President's Message

▶ We did it! The cap is GONE! Digital pink cards are here! Two huge successes!

We started this summer by forming the Insurance Regulation Task Force in order to focus on some of the main regulatory issues our industry is facing. Our top priorities were digital documents, equivalencies and the auto crisis, including the rate cap. Other areas of concern that the task force addressed were the minor injury regulation and diagnostic treatment protocols, as well as prejudgment interest.

With these goals in mind, we drafted a white paper and presented it to the office of the associate minister of Red Tape Reduction in July and held follow-up meetings with Minister Hunter as well as Finance Minister Travis Toews in August. Both meetings were very positive. We focused on what could be considered “easy wins” for the new government: approval of electronic documents and licensing equivalencies, as well as the cap.

After years of hard work, we were finally successful in implementing electronic documents, becoming the third province in Canada to offer electronic pink cards. The Government of Alberta is taking our concerns very seriously, and some great news came at the end of August when it announced the rate cap would be allowed to just expire. This means that companies can now apply for appropriate rate with the AIRB. This by no means will solve all the problems with the auto product in Alberta but it is a great first step. Fingers crossed that the licensing equivalencies are just around the corner as well.

“We focused on what could be considered easy wins for the new government ...”

Thank you to ALL who have fought the battle for both items over the past few years. Although we have not been able to address everything the task force had in mind, I am very happy with the group that came together and all that has been accomplished so far. As we have said before, we need to continue to educate our clients and advocate with our local MLAs. We still have a lot of work to do but we ended the summer with a huge success!

And what a summer it was. From a record-breaking number of tornado touchdowns across Alberta to grapefruit—you read that right—grapefruit-sized hail. It was a much cooler and wetter summer across most of Alberta than many of us would have liked. Once again, loss ratios took a big hit for many brokers. If you escaped with little to no damage in your area, you were among the very few lucky ones. I am sure many of you out there are joining me in the hope that Mother Nature will be much kinder to us for the upcoming winter months.

Speaking of those winter months, time is sure flying by! There are only a few short months left before Christmas is upon us! If you are well organized (which I certainly am NOT), you will soon be doing all your shopping and online ordering so you can avoid the stores and crowds in December. If you are really good, you'll be long since done and can sit back and relax with a cup of cocoa while the rest of us panic. Personally, I am not sure what I would do with myself if I didn't have that stress in December. Christmas just wouldn't be the same!



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Chinook COUNTRY REPORT

BROKER NEWS

- Western Financial Group opened a second Lethbridge location on Aquitania Blvd.
- BrokerLink acquired A Plus Insurance Services.
- Ryan Steed, formerly of Arthur J. Gallagher, is now a senior marketing broker at Magna Insurance Corp.
- Scott Stevens, formerly of Marsh Canada, took a job with Ontario-based broker Steer Insurance. This is Steer's first foray into the Western Canadian market.
- Mike Alarie moved from Marsh Canada to a senior underwriting role at Travellers in Calgary.
- Wilson Beck hired Phil Shuman for its Edmonton location. Phil formerly worked for Lloyd Sadd and also ran for the United Conservative Party in the last provincial election.
- Aaron Suggett, formerly of Aon, now works as an account manager at Gallagher Insurance.
- Victor Lang moved on from Wilson M. Beck Insurance Group to become the COO of Apollo Insurance Solutions.
- Nicole Castle, formerly of Foster Park Brokers, started as an account executive at Rogers Insurance in Calgary.
- Bill Forsythe returned to Marsh Canada as SVP after leading AJG for the last few years. He reports to Jordan Bannister, western regional sales leader.
- PrimeOne Insurance welcomed two new brokers to its team as of

August 15, 2019: Dwight Clink, who brings 20-plus years insurance experience, will be focusing on commercial lines, and new personal lines broker David Mead, who brings 20-plus years of customer service in the real estate field.

COMPANY NEWS

- Intact and On Side Restoration are joining forces to strengthen repair and restoration services for insurance customers across Canada. The transaction is expected to close on or before October 1, 2019, subject to conditions and regulatory approval.
- Intact has also proposed the acquisition of The Guarantee Company of North America and Frank Cowan Company. Subject to conditions and regulatory approval, the transaction is expected to close sometime in the fourth quarter of 2019. The Canadian owner of Frank Cowan Company will continue to own and operate other businesses, including Cowan Insurance Group.
- Randy MacFarlane is the new executive VP and COO of SGI Canada.
- Kate Hogan is the new western Canadian director for Gore, responsible for personal/commercial insurance and business development.
- Tyler Finch has been serving southern Alberta brokers as the new national D&O specialist for Intact. Based out of the Montreal office, Tyler will focus on growing public D&O.

BUILT TO LAST

- Bow Valley Insurance Services is celebrating 40 years in business. Congratulations, Kirit and team!

GIVING BACK

Magna Insurance recently hosted a golf tournament in support of Renfrew Educational Services. The event raised a spectacular \$30,000 in support of specialized education programs for kids.

Using the Intact Better Communities Program, Costen Insurance recently supported the Autism Aspergers Friendship Society of Calgary by donating \$5000.

Ing and Mckee Insurance is another brokerage with a strong corporate philosophy of community involvement and supporting kids. The brokerage has been a big supporter of the United Way, community playgrounds and most recently, the Central Alberta Women's Outreach Society. "We have an obligation to assist future generations," said Jonathan Wenger as he spoke about their support of the society's programs that are geared towards helping kids meet the challenges of today's society. Using the Intact Better Communities Program, Ing and Mckee will be presenting a \$10,000 cheque to the Women's Outreach Society in aid of children and youth from Red Deer and central Alberta.

Thank you to everyone who contributed to the *Chinook Country Report*. Your stories are always appreciated and welcomed.

MICHELLE HAMMEL
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Business Development
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A photograph of a man in a white button-down shirt, smiling broadly and looking to his right. In the background, a woman is partially visible, also smiling. The setting appears to be an office or a professional meeting. The text is overlaid on the lower half of the image.

APPRECIATION AT WORK

The “Pay” That Everyone Is Looking for in
Today’s Work Environment

by Oliver Baezner



I think that we can all agree that the world is moving faster. We seem to be accelerating and not slowing down. The same is happening in our companies. We are asking our employees to do more with less—more service, tasks and learning with less resources, time and fellow staff. We ask them to pick up the slack when others are behind or failing. It's no wonder many don't feel valued and appreciated in their places of work.

According to the late George Addair, founder of Omega Vector, there are four basic human needs:

1. Approval
2. Acceptance
3. To feel important
4. Comfort and pleasure

If we have these four basic human urges and if we felt appreciated in our workplace, then we would feel approved of, accepted and important and even our desire for comfort and pleasure might be met. If appreciation is so important, then why isn't it prioritized and practiced more in the work environment? Many companies have employee recognition programs (ERPs). They take people and bring them up on stage, have awards and employee of the month programs, and yet people are still not feeling appreciated. The problem is that most ERPs don't work because these programs are too generalized. They often fall flat and are not how people truly want to feel appreciated.

Dr. Paul White, co-author of *The Five Languages of Appreciation in the Workplace*, conducted a study of numerous corporations. The study revealed that 51 per cent of managers felt they were doing a good job in recognizing work well done, but only 17 per cent of their team members stated they felt recognized by the manager for doing good quality work. When I talk to owners and leaders, I completely understand they already have a lot on their plate and now I'm asking them to add one more thing: make sure their employees feel

appreciated. The good news is that appreciation doesn't have to come just from leaders; it can also come from peers. In fact, employees can even appreciate their boss. The nice thing is that appreciation can flow in all directions within an organization.

Take a moment and think about the most thoughtful gift anyone ever gave you, the most encouraging thing someone ever said to you or the most thoughtful action anyone ever did for you. I bet that regardless of what you thought of, it brought back a flood of positive emotions and you remembered exactly how you felt in that moment. Even though you remembered it from possibly years or even decades ago, in that moment you felt truly appreciated and valued.

According to the book, *The Five Languages of Appreciation in the Workplace*, by Dr. Gary Chapman

“... 79 per cent of North American employees cited lack of appreciation as the reason they left their jobs ...”

and Dr. Paul White, there are two foundational facts.

1. People want to feel valued and appreciated in their jobs.
2. Most people do not feel appreciated.

According to the authors' research, 79 per cent of North American employees cited lack of appreciation as the reason they left their jobs and 65 per cent reported they received no recognition or appreciation at their workplace within the last year. If you want to retain your employees and have them do good work, the key is to ensure they feel appreciated.

In October 2014, The Boston Consulting Group completed one of the largest studies on employee happiness ever done—over 200,000 employees in 189 countries. What they found was that the number one thing employees wanted was to be

appreciated for their work and number two was that they wanted to have good relationships with their colleagues; so we could make the argument that they want to feel valued and appreciated by colleagues. Number three was work/life balance and number four was having a good relationship with their superiors. Again, making the argument that they want to feel valued and appreciated by their boss. In fact, an attractive fixed salary didn't come until number eight.

So, if appreciation is so important, why isn't expressed more? It is possible that one of the reasons is that we don't know how to do it. We've never been taught how people actually want to be appreciated. As Dr. Paul White explains:

“Fortunately, we've been able to identify four key components that enable supervisors and colleagues to

convey true appreciation for team members, regardless of their position.

Appreciation must be:

Communicated regularly.

Once or twice a year at an employee's performance review or rewards at the 'Team Member of the Month' ceremony doesn't get

it done. People need consistency in the fact that they are valued. The frequency will differ according to the individual and the setting.

Individualized and personal.

A blast email to the team saying, 'Good job, team! Way to get the job done,' doesn't say anything to the shipping clerk who worked late to get the order out. Having a group ice cream social to show appreciation to supervisors often feels like a cheap, convenient way to say 'Thanks' to a big group all at once. What does the individual bring to the workplace that you value?

Are the language and specific actions meaningful to the recipients? Do you realize

that between 30 to 40 per cent of all

continued on page 12

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employees don't want to go up front to receive their reward or that going to an unstructured, social gathering is more like torture for many introverts? We found that even if you get the language of appreciation correct for a person, there are still many actions within the language that can hit or miss the target of an individual.

☑ Perceived as authentic. The biggest complaint about employee recognition programs is that they feel contrived and impersonal. 'They don't really mean it. They are just doing it because they are supposed to.' If the message isn't perceived as genuine, it is a waste of time."

We all have a primary appreciation language and if we aren't being appreciated in our primary language, then the appreciation misses the mark. The five appreciation languages are: words of affirmation, quality time, acts of service, tangible gifts and physical touch.



Words of Affirmation

For words of affirmation to be effective, and for the other person to feel appreciated, they first and foremost need to be expressed in a one-on-one setting. It must be genuine and must be specific about why you're feeling appreciative.

A couple of years ago, I had an assistant working for me who went way above and beyond on a project we were working on. I knew her primary appreciation language was words of affirmation. I bought her a card with a picture of the Eiffel tower on it and put in a gift-card for a high-end French restaurant. Inside the card I wrote, "I couldn't get you a trip to Paris; how about a nice French restaurant?" I also added some nice words about how much work she

had done and that I truly appreciated her extra effort. A year and a half later, she still had the card on her desk and yet the tangible gift, which was the gift-card, still hadn't been used. It shows you the power of appreciating people in their primary language.



Quality Time

Quality time also needs to be given in a one-on-one setting, and you need to be very present with the other person. It will not work if you are on your computer or busy on your phone. The research also shows that men and women often spend quality time differently. Generally, men prefer

employee who had some very specific industry knowledge and, as a result, the company had brought him over from another country. This individual was not performing very well in the organization. When I spoke with the employee, he said he just wished the owner would sit down and have coffee with him like his old boss. He mentioned they would talk about sports, business, current affairs—it didn't matter. I asked the owner to sit down with him for 30 minutes every Friday. Of course, the owner said he didn't have that time to give. I told him he didn't have a choice because if he didn't, his employee wasn't going to make it and would end up leaving the company. Within a few months, the employee's performance had turned around; he

was producing dramatic results and the owner was blown away with what a difference spending that time with him had made.



Acts of Service

The third appreciation language is acts of service. For these people, they just want someone to come in and help them out when they are feeling overwhelmed in their work. This is a time to go in and say, "I see that you have a lot on the go. I have about an hour, what can I help you with?" And then go do what they ask you to help them with. It is important to remember this is not the time to start coaching them on a better way to do things. It's just a time to do it the way they want it done and help them through their challenge. My current executive assistant comes into my office on a regular basis and asks what she can take off my plate. I am so grateful and I feel so valued, because that is my primary appreciation language.

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to attend a sporting event, see a movie or hang out in a social setting together; whereas women like to connect on a deeper, emotional level. Quality time needs to be done on a regular basis.

Several years ago, I was working with an organization that had an



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Tangible Gifts

The fourth appreciation language is tangible gifts. These gifts really need to be meaningful to the other person. It can't just be another pen or mug with the company logo on it. Employees have had enough of that. It must be a gift that is meaningful to the individual, so it's imperative you know what the other person likes. If they like movies, then a gift card to take their loved ones to the movie theatre would hit the mark.

Tangible gifts is the second last language of appreciation in the workplace for most individuals, so there won't be many people with this as their primary language. It's common to have a few employees who have this as their number one, but you won't have many.

Years ago, I had an employee that loved coffee. I would stop at the coffee shop I knew she liked and get her a coffee made just the way she liked it. When I walked in, she would run around her desk and give me a hug like I had given her a million dollars. I knew it was meaningful to her because I was getting her something she liked, from a place she liked, the way she liked it. I didn't need to memorize her order; I kept it in my contacts so that it was there when I needed it.



Physical Touch

The final appreciation language is physical touch. When I mention this in large corporations the human resources people will start to cringe. Physical touch is quite common in a large part of our culture in North America. We use it daily--when we shake hands with each other or give a fist bump, high five or pat on the back coupled with words of appreciation. These are great ways to appropriately use physical touch in the workplace.

Physical touch is the least common appreciation language in the workplace. We realize that likely we are not going to get our physical touch needs met at work. Cultural nuances come into play with this as well. When I would travel for work to Quebec, it was common for the opposite sex to kiss on both cheeks when greeting each other.

It's important to remember that we can receive appreciation in all five languages, but we really won't feel truly appreciated unless it is in our primary language. It also needs to be individualized and delivered personally. The nice thing is if we start appreciating people around us, we

“Creating a culture of appreciation makes great ‘business sense,’ but the return on investment can be quite significant ...”

also benefit from that kind gesture. It's like Voltaire said, “Appreciation is a wonderful thing. It makes what is excellent in others belong to us as well.” St Francis of Assisi also said, “For it's in the giving that we receive.”

People generally won't walk into the office and say, “I require appreciation today.” There are certain cues we can watch for.

- **Discouragement**—people lose heart, they don't try anymore and things just don't matter. They might even be ready to give up.
- **Irritability and resistance**—they can be upset about something or become resistant to new procedures or instructions.
- **Absenteeism or tardiness**—self-explanatory and easy to spot.
- **Cynicism and sarcasm**—they start to communicate in a negative way, lack trust or possibly lash out in a passive aggressive manner.
- **Apathy or passivity**—they become passive, shut down and believe trying doesn't matter.
- **Social withdrawal**—people become less communicative, they don't go

for lunch or hang out anymore and they separate themselves from the team.


- **Negative work environment**—the overall environment is categorized by negative communication styles. It is toxic; not a great place to be at and impacting everyone who works there. How can we start recognizing what people's appreciation language is?

The easy way is to use your eyes and ears. Pay attention to what they do and listen for what they are asking for. People will often do for others what they are really looking for themselves. So, if they bring in coffee or bake fresh muffins, they may enjoy tangible gifts.

The person who is suggesting lunch together or grabbing a beer may enjoy quality time. They may share a story about how a loved one made them feel appreciated. Observe, then start experimenting by using one of the appreciation languages and watch their response. Are they like my former assistant who didn't use the gift card for a year and half but kept the card with the kind words on her desk?

Another, more accurate, way is to use the online assessment tool available at mbainventory.com. The “Motivating by Appreciation (MBA) Inventory” reveals the users' primary, secondary and least valued languages of appreciation, along with the specific actions they value most within their primary language. The report will also let users know how they rate when compared to over 175,000 employees who have already taken the assessment. (We are giving away 5 complimentary MBA Inventory—Expanded Version assessments. See the “Enter to win” box page 12. You can use it yourself or give it to one of your team members.)

Creating a culture of appreciation makes great “business sense,” but the return on investment (ROI) can be quite significant: reduced absenteeism, decreased tardiness, increased staff retention, reduced conflict, improved employee morale, increased productivity and profitability, higher customer satisfaction, happier management and

improved overall company culture. Now that's an ROI I'm sure you'd appreciate. 



OLIVER BAEZNER
Business coach, workshop facilitator and keynote speaker, founder and owner of Sonic Breakthrough Coaching. Oliver spent

over 25 years in leadership and management roles, specializing in business turn-around with some of Canada's largest corporations including Energizer Canada, Calgary Co-op and Shoppers Drug Mart. He is also the former vice-president of Calgary's own Big Rock Brewery.

As a business coach, Oliver has worked with a variety of leaders and organizations to achieve their goals, including conducting "appreciation language identification" team workshops.

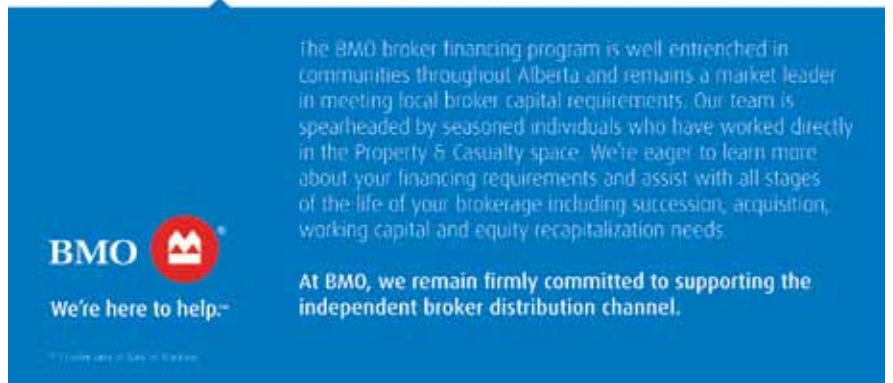
In cooperation with IBAA, Oliver has developed a "virtual" peer-group program where brokerages get together monthly to support each other with their business challenges, while also receiving continuing education credits. Contact IBAA for more information on this program.

You can contact Oliver Baezner at 403.995.0480; info@SonicCoaching.com; www.SonicCoaching.com.




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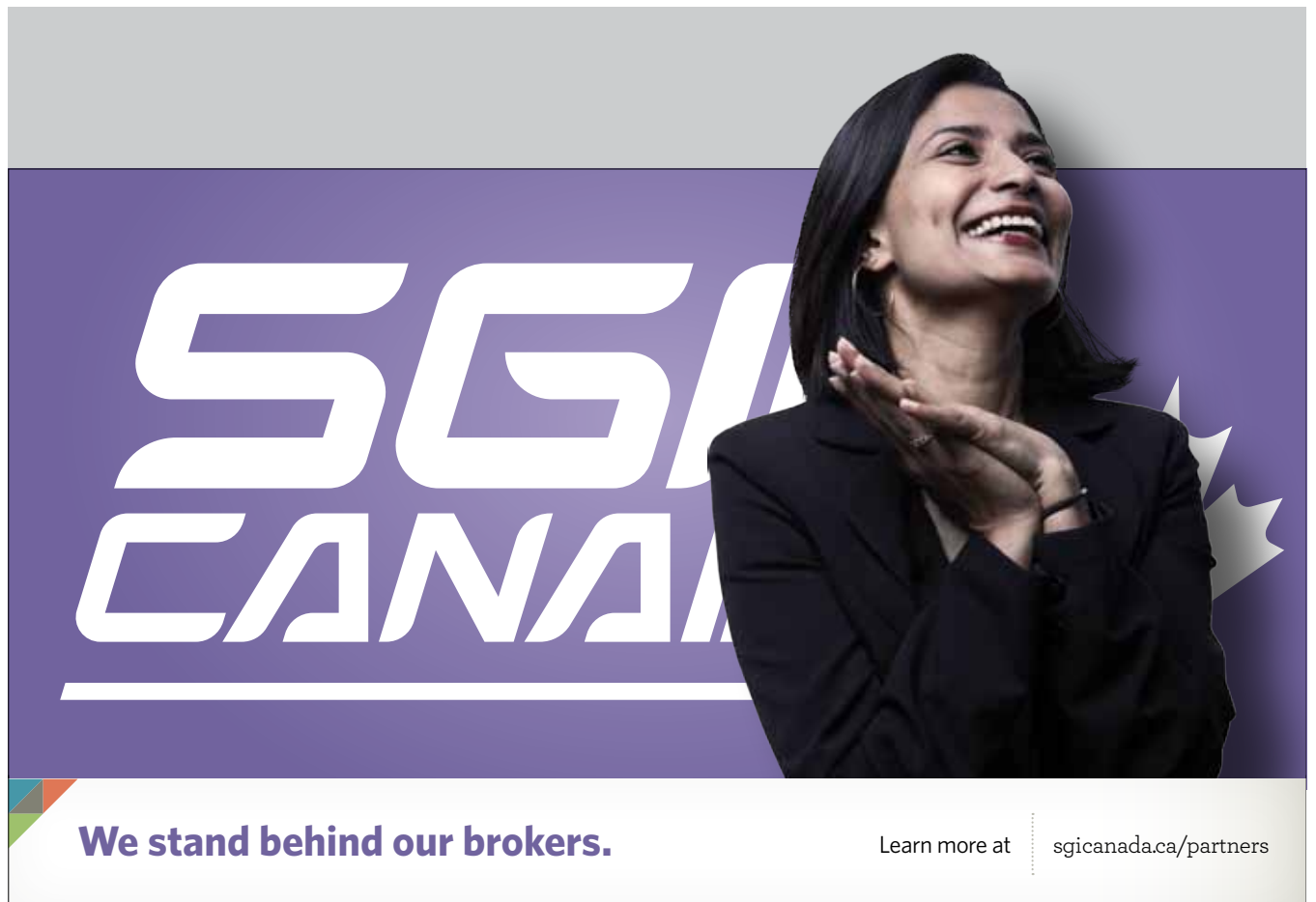
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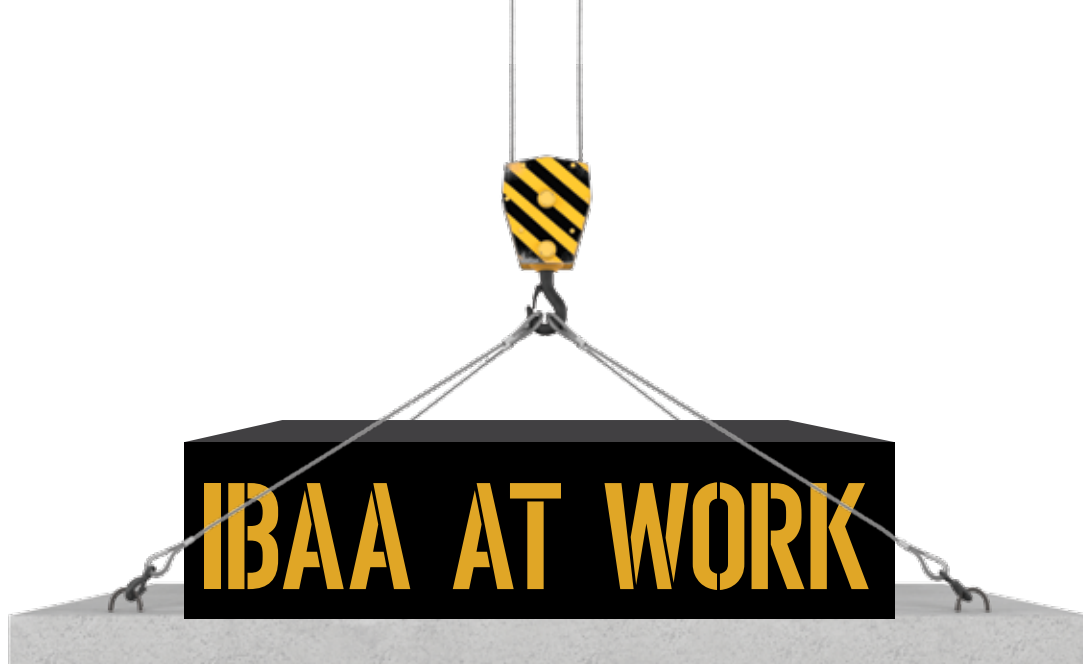
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What's going on behind the scenes at IBAA?

GOVERNMENT RELATIONS

By now, you will all have heard the news that pink cards are legal in Alberta and the rate cap has been allowed to expire by the current government. IBAA was instrumental in making both events happen. As our president Vicki Livingstone indicated in her column, IBAA's task force presented a white paper to Minister Hunter and Minister Toews in July 2019.

For those who haven't read it, a full copy of the paper can be found on our website at www.ibaa.ca (members only). It details the first phase of recommendations for improvements to our auto system, along with a request to allow equivalencies for broker licensing, as in other provinces. IBAA will be reconvening the task force in the near future to tackle items that don't qualify as "low-hanging fruit" in its efforts to improve the Alberta insurance system as a whole. We will continue to work with relevant stakeholders, like IBC and AIRB, to make inroads in creating efficiencies not only for auto, but for property as

well. Work on the GRID, adequate rating territories and flood mapping are amongst the issues we'd like to discuss with the government. In the end, we hope to have an insurance model that works for insurers, brokers, and most importantly, consumers. It is they who have been adversely impacted by the unnecessary complexities of our current system.

IBAA has also been at the AIC Educator's Roundtable working on a way to improve licensing exam pass rates in the province.

While much criticism has been leveled at the exams, responsibility also rests with the industry for the low pass marks. Our experience with students reveals that some use outdated texts that were purchased and shared around an office, without checking to ensure they were current. AIC has seen students studying from photocopied material. We have encountered students who, despite our cautions, come to class unprepared, have not done the readings or homework, or expect the facilitator to "spoon-feed" them all the information required to pass the exams.

This has resulted in AIC's the development of a certification process to narrow down to the students who have done the required work and are ready to write.

PROFESSIONAL DEVELOPMENT

The new certification process is designed to help students be successful in their attempts to pass Alberta broker licensing exams. Students will be provided with extra online study materials and the opportunity to test their knowledge with a series of quizzes to test comprehension of the required material. They will not be allowed to fast forward through the material or advance in the online info without achieving 100 per cent pass rates on each quiz.

At the end of the course, whether in class or self-study, students will face a final exam structured as closely as we are able to the AIC exam. Students will need to achieve 80 per cent or better on the exam to be certified to write the AIC exam.

Students who purchase the text for self-study purposes will also receive the extra online study materials; however certification will ONLY mean that they have purchased the most current study materials and nothing more. Students who purchase our textbook for use with courses provided by outside educators will be certified by their provider and not IBAA. We hope that this will provide us with higher pass rates and a better idea of where each course type stands, which will allow for ongoing improvement for students.

In addition, after many years of requests, AIC has agreed to provide us with background resources for use as the backbone of our course materials moving forward. These will be available to all providers in mid-2020.

IBAA is still working on having equivalencies accepted as in other

provincial jurisdictions. In the end, we hope that this collaboration with AIC will provide students with a higher success rate and employment in broker offices sooner.

“While much criticism has been leveled at the [AIC] exams, responsibility also rests with the industry for the low pass marks.”

MARKETING

IBAA has some exciting changes coming to its office. We have a couple of staff members with untapped

talents that we are looking to have them show off for us and strengthen both our brand and our website. Rochelle Mighty has a background in social media and in developing videos and associated materials. Rob Barnes has proficiency in technology. We'd like to give them the opportunity to make use of these skills.

As a result, Rochelle will be putting together some fun materials to promote our courses and our convention. Our long-term hope is to bring our social media in-house. Rob has expressed an interest in spearheading the launch of our new online education platform and completely revamping our website. We are thrilled to have both of them more involved, not only to assist in these areas of need but also to continue to use and demonstrate their skills. Stay tuned for more info!

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In 2019, the Automobile Insurance Rate Board (AIRB) is celebrating its 15th anniversary. Throughout its history, the AIRB has developed strong relationships with industry stakeholders, like IBAA. However, in my first year with the AIRB, I have discovered our role in the industry is still unknown or often misunderstood. I would like to take this opportunity to share who we are, what our role is and how we can work more closely with IBAA and its members in the future.

Who are we?

The AIRB is an independent automobile insurance rate regulator formed by the Government of Alberta as part of the automobile insurance system reforms in 2004. One of the AIRB's primary functions is to regulate both basic and additional coverage for personal and non-personal automobile insurance including commercial and miscellaneous vehicles such as motorcycles, all-terrain vehicles, motorhomes, etc., to ensure Albertans are charged a justified rate for their risk profile. The AIRB understands the importance of a competitive market and believes it fosters affordability, stability, availability and a higher level of service.

What role do we play in Alberta's automobile insurance market?

Rate Regulation

The AIRB monitors factors contributing to the development of insurers' rates and establishes benchmarks to be utilized when reviewing the actuarial soundness of insurers' rating programs. Prior to implementing a change to an insurers rating programs, the insurer must submit a rate filing and receive approval from the AIRB. These filings are reviewed by AIRB staff; once completed, recommendations are developed and are presented to the Board Members for approval. If the Board Members approve the changes to the rating program, insurers can implement the changes on the insurers' proposed effective date.

Consumer Education

Consumer education is also part of the AIRB's mandate. Each year, the AIRB works with the consumer representative to obtain consumer's thoughts and opinions on Alberta's automobile insurance market. The consumer representative's final report is presented at the AIRB's annual review meeting and, in accordance with the legislation, a copy is sent to the president of Treasury Board and the minister of finance. Currently, the AIRB relies on its website as the primary means of providing consumers with access to reliable information regarding automobile insurance in Alberta in order to facilitate informed decision making. We are currently developing strategies to expand our focus on consumer education.

Insurer Rate Changes

Although the AIRB has some influence over the automobile insurance rates charged in Alberta, we do not initiate the rate changes nor dictate the rates insurers are charging. The AIRB is responsible for regulating the overall premium level of each insurer. The rates charged to individual policyholders are beyond the scope of the AIRB's mandate. Although some filings can result in small changes in an insurer's overall rate level, individual policyholders may experience changes in rates above the approved overall rate level. The AIRB fields calls from consumers inquiring about changes to their premiums but it is our preference to have consumers deal directly with their agent or broker who not only has the expertise, but has access to their policy information in order to adequately respond to their inquiries.

Looking ahead

As we look to the year ahead, the AIRB is excited to expand our efforts toward providing better consumer education in Alberta. We believe the AIRB and IBAA have a shared interest in a robust automobile insurance market with well-informed consumers and are interested in exploring opportunities to collaborate, where appropriate.

LAURIE BALFOUR,
Executive Director
Automobile Insurance
Rate Board
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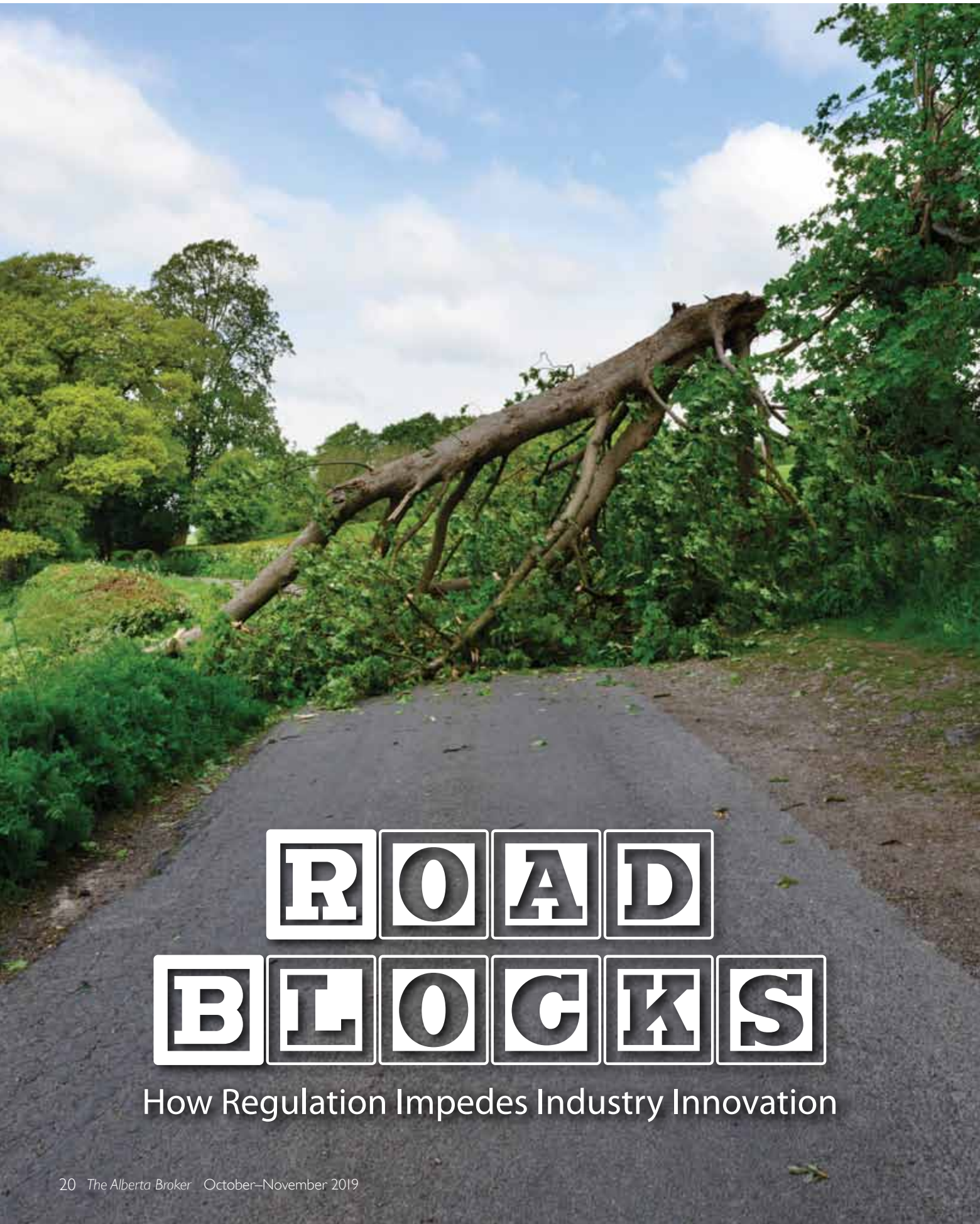


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How Regulation Impedes Industry Innovation

Alberta's insurance market is in a state of flux. The availability of new technology and the presence of new ideas could take Alberta's insurance professionals through a period of positive transformational change, and our industry can emerge from this period stronger and better.

Albertans have certainly made it clear that they want change. A recent survey of more than 800 Alberta drivers found that 70 per cent feel insurers should be more innovative, offer more products and offer more services electronically. And 87 per cent of drivers believe they should have more control over their rates based on how they drive.

So, what's holding the P&C insurance industry back? With more than 525 provincial regulatory provisions to abide by, our industry's hands are often tied. Insurance professionals want to offer many of the dynamic, modern products

that are available to consumers in other jurisdictions, but we're not allowed to. To be blunt, our industry is over-regulated. This over-regulation stifles our ability to innovate and remain competitive with insurance companies in other jurisdictions.

Brokers and other insurance professionals are not allowed to take advantage of common technology that would make the lives of Albertans

financial transactions on their smartphones and communicate with their bank via email but are still forced to receive official communications from their insurer via Canada Post. Insurance customers aren't even given the option to choose whether they'd like to receive correspondence electronically, because it's against regulations. Cancellations, renewals and other changes to a policy must all

be made via paper, even as other institutions are able to provide services electronically.

Albertans have indicated they want options to manage their own premium, and usage-based insurance (UBI) would help with this. This technology allows insurers and consumers to measure distances driven, braking and acceleration, and then use the data collected

through a smartphone app or another UBI-enabled device to tailor a driver's premium to their unique circumstances. Allowing consumers

“With more than 525 provincial regulatory provisions to abide by, our industry's hands are often tied.”

more efficient, and this seems to apply only to the insurance industry.

Consider other parts of the financial services sector. Albertans can make



Image from IBC Museum of Outdated Technology government lobby campaign.

the ability to opt-in to this type of product not only gives drivers more control over their premiums, it provides them with feedback on their driving performance, which can help them become safer drivers.

There are regulations restricting how consumers can enrol in UBI and the ways that insurers can use the data that UBI collects. The approval process for using this type of technology is also lengthy and cumbersome. These restrictions limit Albertans from seeing the full benefits of this innovative technology. Meanwhile, drivers in other jurisdictions can already take advantage of this technology to their benefit.

As an industry, we recognize that we will likely always face regulation, but regulation that supports the status quo is a disincentive to change and innovation. Insurance Bureau of Canada (IBC) and its members are laser focused on addressing issues that stem from over-regulation. It's a vital issue. Over-regulation doesn't just stifle our ability to innovate, it has also created financial issues for many in our industry. In 2018, 99 per cent of private passenger vehicle insurers in Alberta had a combined loss ratio of 100 per cent or more, with some operating at 129 per cent. Alleviating some of the strain brought on by the way our industry is regulated will strengthen the market and make lives better for Albertans.

Consumers want regulation to protect them from risk, but not from change. With that in mind, our industry is engaging the new government and Alberta's regulators as they look to cut red tape and enhance competition.

This past spring, in an effort to modernize the industry, Insurance Brokers Association of Alberta and IBC co-hosted a reception for newly elected MLAs where both organizations launched the Museum

of Outdated Technology (MOOT) campaign (see sample image on page 21). MOOT used humour and facts to show just how outdated the rules insurers had to follow were and called for more innovation in the insurance industry, including the option of electronic proof of auto insurance.

On August 12, hot on the heels of the MOOT campaign, the Alberta government announced that effective immediately, drivers in the province could use an electronic version of their pink card to show proof of auto insurance on their smartphones. This change offers drivers a new convenience and gives them choice in how they store their documentation.

This development is an excellent first step and shows that the government is committed to bettering the lives of Albertans. We need to keep moving

forward and encouraging regulation that allows insurance professionals to serve Albertans in ways that are modern, efficient and tailored to individual needs. Ultimately, it's our most important stakeholders who suffer the most: our consumers.

While financially things in the Alberta market are dire, there is an opportunity for our industry, the government and consumers. It's an opportunity to improve the auto insurance system for the drivers who count on it, and we can do this by giving our customers what they've been asking for: choice, innovation and affordable, tailored products.

CELYESTE POWER
Vice President, Western
Insurance Bureau
of Canada
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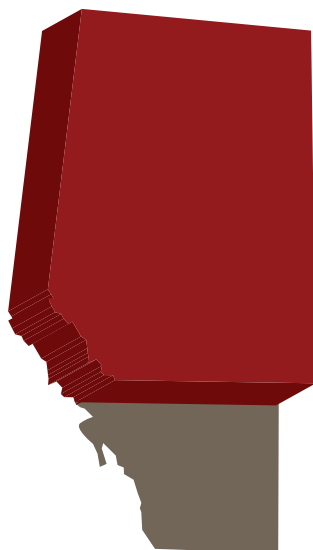
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NORTHERN EXPOSURE

BROKER NEWS

- Stalco Insurance Ltd is proud to announce the purchase of Mason Agenices in Kitscoty, AB. Katherine Delisle and her staff are remaining on to take care of business.
- The IBAA Edmonton office moved to a new location in September. You will find its new location at 103, 9830-42 Avenue.

COMPANY NEWS

Lisa Wong, previously at Peace Hills, moved to SGI Canada as intermediate commercial property underwriter.

INDUSTRY PARTNERS & PROFESSIONAL ORGANIZATIONS

- The Edmonton Insurance Association hosted a “Night at the Races” on September 27, at the new racetrack that opened by the airport this past year.
- Congratulations to the Blue Goose Edmonton Pond for winning the Gordon R. Crowther Charity Award at the 2019 convention held in Indianapolis. This award is given to a “pond” for outstanding charity work and is chosen by the previous award recipient. It is not based

solely on the overall monies raised; also considered are the number of items donated and the hours spent volunteering. Visit their website at EdmontonPond.org for upcoming events in October and November.

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A tall, white, tapered lighthouse stands on a rocky island. The lighthouse has a dark roof and a glass-enclosed lantern room at the top. The sky is filled with soft, colorful clouds in shades of blue, orange, and pink, suggesting a sunset or sunrise. The ocean is visible in the background, extending to the horizon.

Come From Away

The View From the Rock

It is indeed an honour and a privilege to put pen to paper for my first official “Viewpoints” article as president of the Insurance Brokers Association of Canada (IBAC). This is only the third time in the history of IBAC that a broker from Newfoundland and Labrador will have led our association and held this prestigious position. Having to follow in the footsteps of Rex Anthony and Lloyd King is a daunting task, but one for which I am most definitely up to the challenge.

People Making a Difference

I want to express my sincere thank you and appreciation to our outgoing president, Chris Floyd, and to our

past chairman, Scott Treasure for their exceptional work, prodigious leadership and unwavering passion for our vocation. I am truly looking forward to working with our talented incoming executive committee and the terrific staff at IBAC to continue advancing issues that are important to brokers and consumers alike, from coast to coast in our great country.

Challenging Times

It's a very interesting time to be a broker! A hardening market, momentous changes in capabilities relating to technology, changing weather patterns that represent more frequent and severe storms and escalating pressures on the broker channel provide us all with challenges,

but more importantly, opportunities. IBAC has worked hard over the past year to ensure that we continue to enhance our brand as brokers and bring forward issues that are important to Canadians.

Broker Value

Our value as brokers is significant! Not only do we help our customers find the right coverage to help protect the things that matter most to them, we are also significant contributors to thousands of communities across Canada. IBAC recently commissioned Deloitte to conduct a socio-economic impact study. In that study, it was determined that the 38,000 brokers throughout Canada provide considerable economic and social

contributions to the communities in which we do business. Brokers in this country contribute over \$5.4 billion dollars to Canada's GDP and have created over 58,000 full time or equivalent employment positions. In addition to that, the study revealed that over 90 per cent of brokers contribute financially to charities and community groups. These are truly remarkable numbers that should make us all proud of the great work we do in our communities.

Be Prepared

Another important project undertaken by IBAC in the last couple of months has been the "Big If"/"Si Jamais" campaign. This campaign was designed to create awareness among Canadians with respect to natural disasters, specifically earthquake and flood. Canada has over 300 earthquakes per month, most of which are never felt and have no impact; however this is a remarkable statistic. With high concentrations of our population living on or near fault lines, we thought it was critical to address this issue so that brokers and consumers know the facts. In addition to earthquake risks, many Canadians live on or near flood plains or in areas that are susceptible to both pluvial and fluvial flooding risks. Both earthquake and flood coverage are underpurchased in the insurance market. Our goal is to create awareness of the potential coverage gap, but more importantly to educate consumers on properly managing their risks and protecting their assets.

What Unites Us

The challenges and changes continue, as they inevitably will. One constant amongst the continuous change, is the brokerage community's level of passion, determination and genuine care for the Canadians that they work for and represent. I've travelled all over Canada in my various roles with IBAC and it always fills me

with pride to hear and see how much brokers really do care about what they do. Let's continue to be proud of who we are and what we do and let's continue to do what we do best: help protect the things that Canadians value the most.

The Year Ahead

I'm genuinely looking forward to the next 12 months and meeting with as many brokers as I possibly can. We

will continue to engage our members, our insurer partners and all other stakeholders to ensure that the value proposition of the broker channel remains prominent.

KENT ROWE
President,
IBAC
ibac@ibac.ca



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New Uncertainty for Auto Insurers

Court Limits Voiding
of Policies Due to
Misrepresentation

Insurance contracts are contracts requiring the utmost of good faith. At common law, automobile insurers can typically rescind (i.e., treat as void *ab initio* or “from the beginning”) an auto insurance policy based on a misrepresentation or material non-disclosure of the insured who is applying for insurance. Comparatively, an automobile insurer cannot rescind a contract if it discovers a misrepresentation or non-disclosure on an insurance application after a collision has already occurred.

However, in *Merino v. ING Insurance Company of Canada*,¹ the Ontario Court of Appeal ruled that an insurer, despite having elected to rescind an auto insurance policy prior to any accidents occurring, could still be sued by a third-party claimant for compensation for injuries sustained in a subsequent motor vehicle accident caused by its insured.

Timothy Klue (“Klue”) and his wife, Sonia Abou-Khalil (“Abou-Khalil”) were joint owners of a vehicle. On May 29, 2002, they had applied for insurance coverage on their vehicle, and ING Insurance Company of Canada (“ING”) had issued a one-year policy.

However, ING’s underwriting investigation revealed misrepresentations in the application regarding Abou-Khalil’s driving record.

As a result, on July 2, 2002, ING sent a registered letter to Klue and Abou-Khalil advising that, because of the non-disclosure of Abou-Khalil’s previous driving record, the insurance coverage was “void from the inception date” and their right of indemnity was forfeited. Both Klue and Abou-Khalil read the letter and because they believed their vehicle was uninsured, they did not drive it.

Unfortunately, Klue drove the vehicle on September 12, 2002 after having lost his job and consuming alcohol, and in doing so, Klue struck a pedestrian, Karlay Merino (“Merino”), who suffered catastrophic injuries.

Merino and others filed a statement of claim against Klue and Abou-Khalil on August 19, 2004, and they obtained a judgment for \$2,000,000 on July 28, 2011. Having been told by ING that Klue and Abou-Khlali were uninsured because their insurance policy had been rescinded, the plaintiffs also sued Ms. Merino’s mother’s insurer, Allianz, in the same action pursuant to the uninsured automobile coverage it

provided. After non-pecuniary accident benefits of \$181,107 paid by the Société de l’Assurance du Québec were deducted, the plaintiffs obtained a net award of \$18,893 against Allianz. ING did not seek to be added to that action.²

On April 16, 2012, the plaintiffs commenced an action against ING under s. 258(1) of the Insurance Act.³ Section 258(1) of the Insurance Act provides as follows:

Any person who has a claim against an insured for which indemnity is provided by a contract evidenced by a motor vehicle liability policy, even if such person is not a party to the contract, may, upon recovering a judgment therefor in any province or territory of Canada against the insured, have the insurance money payable under the contract applied in or towards satisfaction of the person’s judgment and of any other judgments or claims against the insured covered by the contract and may, on the person’s own behalf and on behalf of all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

As such, the plaintiffs sued on the basis that ING’s insurance contract with Klue and Abou-Khalil had not been properly terminated by ING and that Klue and Abou-Khalil were insured by ING on the date of the accident with Merino.

On an application for summary judgment, the motions judge had to decide whether ING was

entitled to rescind the insurance contract with Klue and Abou-Khalil and, if so, whether the rescission had the effect of precluding the injured plaintiff, as an innocent third party, from making a claim against ING under s. 258 of the Insurance Act.

The motions judge dismissed the plaintiffs’ action on summary judgment. He held that ING was entitled to rescind the policy based on material misrepresentation, making it void *ab initio*, and that ING had done so effectively. The plaintiffs could not recover under s. 258(1) because the contract had been rescinded prior to the accident, and thus, there was no contract of indemnity in place at the relevant time. The plaintiffs appealed.

It is worth reviewing the key issues on the appeal and the court’s findings.

“The plaintiffs could not recover under s. 258(1) because the contract had been rescinded prior to the accident, and thus, there was no contract of indemnity in place at the relevant time. The plaintiffs appealed.”

Are the appellants entitled to recover against the respondent under s. 258(1) of the Insurance Act if the contract was not validly rescinded?

The court held that s. 258(1) gives an injured third party the right to collect on his/her judgment against the at-fault driver from that driver's insurer where the insurer issued an automobile insurance policy that provided for indemnity, regardless of any misrepresentation that the insured may have made in the application for insurance.⁴

The court held that, where an automobile insurance policy is properly terminated before the accident, s. 258 does not apply. However, in this case, the court found that ING did not terminate the contract in accordance with the provisions of the Insurance Act and the relevant regulations.

Is an automobile insurer entitled to rescind an automobile insurance contract at common law, making it void *ab initio*, based on misrepresentation in the application?

Pursuant to s. 11 of the *Statutory Conditions—Automobile Insurance*⁵ (the "regulation"), an insurer has to give 15 days' notice by registered mail or five days' notice by personal delivery of its intent to terminate an automobile insurance policy. The insurer must also return the excess premium paid by the insured.

The court held that, in this case, ING did not terminate in accordance with s. 11, because the termination letter that it sent by registered mail did not give 15 days' notice of termination and there was no return of premium because no premium had been paid. Non-compliance with the regulation meant that the contract remained in force, and s. 258(1) of the Insurance

Act remained applicable.⁶

Moreover, s. 233 of the Insurance Act also remained applicable. Section 233 states:

- (1) *Where,*
- (a) *an applicant for a contract,*
- (i) *gives false particulars of the described automobile to be insured to the prejudice of the insurer, or*

- (ii) *knowingly misrepresents or fails to disclose in the application any fact required to be stated therein;*
- (b) *the insured contravenes a term of the contract or commits a fraud;*
- or

continued on page 30

The advertisement features a large, dark wooden door standing in a field of tall grass and yellow flowers. The door is slightly ajar, revealing a silhouette of a horse in the distance. The background is a soft, hazy sky. In the top right corner, the Portage Mutual Insurance logo is displayed, consisting of a stylized map of Alberta inside an oval, with the text "Portage Mutual Insurance" and a trademark symbol. Below the logo is the tagline "Facing the storm with you". The main text of the advertisement, "Our door is open for business.", is written in large, white, sans-serif font on the right side. At the bottom left, it says "Contact your marketing rep:" followed by the phone number "1-800-661-3625" in a larger font. At the bottom right, there is a logo for the Insurance Brokers of Alberta, with the text "Proud Supporter of Brokers Displaying this Symbol" next to it.



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continued from page 28

- (c) *the insured willfully makes a false statement in respect of a claim under the contract, a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.*
- (2) *Subsection (1) does not invalidate such statutory accident benefits as are set out in the Statutory Accident Benefits Schedule.*
- (3) *No statement of the applicant shall be used in defence of a claim under the contract unless it is contained in the signed written application therefor or, where no signed written application is made, in the purported application, or part thereof, that is embodied in, endorsed upon or attached to the policy.*

The court held that s. 233 did not allow a misrepresentation to “void” an insurance contract. Instead, it only affected the obligations flowing between the insured and the insurer—its operation did not terminate the insurer’s obligations altogether.

Prior to the uniform automobile insurance legislation of 1932, which introduced the concept of compulsory minimum third-party liability automobile insurance, the effect of misrepresentation was to void the insurance contract. However, that is no longer the law, and under s. 233, a misrepresentation does not render the contract void. Consequently, the court held that allowing an insurer to rescind at common law for misrepresentation (as the motions judge had done) would undermine ss. 233 and 258 of the Insurance Act.

As such, the court held that an “automobile insurer in Ontario does not have the option of unilaterally rescinding a contract of insurance at common law *ab initio*, but is bound by the statutory scheme contained

in the two Acts [the Insurance Act and the Compulsory Automobile Insurance Act⁷] and the regulation. The rights and obligations of insurers and insureds, as well as those of injured third parties, are governed by those statutory provisions.”⁸

If the contract was not validly rescinded, is the appellants’ recovery limited to the statutory minimum of \$200,000 under s. 251 of the Insurance Act, based on the defence of knowing misrepresentation, asserted under s. 258(11)?

Every motor vehicle liability policy is required to insure for liability to a minimum amount of \$200,000 for any one accident. In this case, while Klue had signed the application for insurance, Abou-Khalil had not, and Klue had not signed as her agent. Since Abou-Khalil had not signed the application, ING could not rely on the defence of knowing misrepresentation contained in ss. 233(1)(a)(ii) and (3). Therefore, the plaintiffs’ entitlement was not limited to the \$200,000 minimum liability limit. They were entitled to the policy limit of \$1,000,000.⁹

Are the appellants barred from recovery under s. 258(1), based on the doctrine of waiver or abuse of process, because they initially pursued uninsured motorist claims against Allianz?

The court refused to give effect to the grounds of appeal relating to waiver or abuse of process.

The Take Away

The *Merino* decision is important because the court found that an automobile insurer in Ontario could not rescind an automobile insurance contract at common law *ab initio*. Because ING did not give 15 days’ notice of termination, their termination letter did not terminate the contract under s. 11 of the regulation. The contract remained in force, and the plaintiffs were ultimately able to sue ING under s. 258 of the Insurance Act to recover the amount of their judgment. Further, without being able to establish that Klue had knowingly misrepresented facts in the application or that he had acted as agent of Abou-Khalil, ING did not have a defence under 258(11) of the Insurance Act. As a result, the insurer was found liable for the policy limits.

As a result of this decision, automobile insurers in Ontario must comply with giving advance notice as prescribed by the regulation and can no longer rescind without prior notice based on an alleged misrepresentation by those applying. Although this decision is not binding on Alberta courts, it is certainly persuasive. We can expect to see great interest in pursuing an appeal to the Supreme Court of Canada for further direction.

¹ 2019 ONCA 326 [*Merino*]

² *Ibid* at para 2

³ R.S.O. 1990, c. I.8 [LA]

⁴ *Merino*, supra note 1 at para 28

⁵ O. Reg. 777/93

⁶ *Merino*, supra note 1 at paras 33-34

⁷ R.S.O. 1990, c C.25

⁸ *Merino*, supra note 1 at para 52

⁹ *Ibid* at para 66



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