

INSURANCE PROFESSIONALS OF SUSSEX COUNTY

# The Voice

JUNE 2011

## President's Message

Greetings Everyone,

Wow I can't believe another year has gone by so quickly! It's been my pleasure serving the group as President. The support and guidance I received will be unforgettable to say the least. I have had the honor to meet and work with such great people during my term.



I believe in our organization with all my heart. I look forward to the future for all of us.

I wanted to give a warm welcome to Eva Costa who will be our new President! Congrats Eva! Eva is a long time member who has served on many levels I know she will do wonderful.

To wrap things up, I wish everyone a wonderful and fun summer. Enjoy the breeze on your face and the sun shining in your soul. The wind across the lakes and the sprinkle of the waves crashing on the shore.

I also wanted to thank everyone for the kind wishes during my pregnancy and the gifts after Leila's birth.

To a very successful future together,

Kindest Regards,  
Nadia Hatzinas

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*See You  
In  
September!*

We have a new name! We are now NAIW (International) dba

## International Association of Insurance Professionals

## HOT TIPS

### How Fake Claims Work

**Hurt off the job.** Workers get injured off the job, but say they are hurt at work so their workers' comp policy covers the medical bills. A person might hurt his neck lifting a heavy box while cleaning the attic or maybe sprains an ankle during a softball game. Then he pretends the injury happened at the loading dock at work.

**Inflated injuries.** A worker has a fairly minor job injury — maybe a slight twinge in her lower back — but insists her back is seriously sprained. This lets the worker collect more workers' comp money and stay off the job longer.

**Fake injuries.** Some workers simply invent injuries. Soft-tissue injuries such as muscle problems with the back and neck are popular scams. They are hard to disprove, and thus are easier to get away with.

**Old injury.** Sometimes a worker with an old injury that never quite healed will claim he just got hurt on the job. A damaged knee or shoulder, for instance.

**Malingering.** Basically, this is goldbricking. The worker stays at home longer by pretending he is still disabled, even though he has healed enough to return to work.

Read more at: [http://www.insurancefraud.org/workers\\_comp\\_scams.htm](http://www.insurancefraud.org/workers_comp_scams.htm)

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# Why Bragging May Create a Greater Legal Duty of Care

By Steven Plitt | May 19, 2011

It has often been said that every attorney has a little larceny in his heart. In similar fashion, it could be said that every insurance agent has a little puffery in his heart regarding his book of business, background and competence. When an insurance agent tells a prospective client that he or she has written a significant amount of business in the particular industry that the prospective client is in, will the agent be subjected to a heightened duty of care under the law? This question was recently addressed by the California Court of Appeals in *Williams v. Hilb, Rogal & Hobbs Ins. Services of California, Inc.*, 177 Cal.App.4th 624, 98 Cal.Rptr.3d 910 (2nd Dist. 2009).

## The Insurance Expert

In the Williams case, Rhino Linings USA Inc. (Rhino USA) was an enterprise with dealerships throughout the country; the dealerships were engaged in the business of installing spray-on linings onto the beds of pickup trucks. The insurance customer, John Williams purchased a dealership from Rhino USA, opening the business as Rhino Linings of Santa Fe Springs (RLSFS). Rhino USA referred Williams to insurance agent Robyn Thaw. Williams understood that Thaw knew the Rhino Linings operation very well and that she had a custom-made insurance package specific to the Rhino Linings operation. Williams understood that Thaw was the go-to person to take care of the insurance needs for Rhino Linings dealerships. Williams, who was in California at the time arranging a lease for the site of the business, called Thaw and asked to meet with her to review the company's insurance needs. Thaw told Williams a meeting would not be necessary, because she was very familiar with Rhino Linings dealerships and programs, and was the expert on the insurance product necessary to satisfy RLSFS's insurance needs. Williams did not request any specific type of insurance (and did not know enough about what kind of insurance was needed to make a specific request); instead Williams asked Thaw for whatever insurance was needed to operate the business. Thereafter, Thaw sent Williams a blank application form by fax, indicating that the insurance program was "designed specifically for Rhino Liners dealers." Williams filled in basic information, leaving all portions relating to insurance coverages blank. He signed the application, and returned it to Thaw, who selected the insurance coverages. Thaw did not send the application (which had a section for workers' compensation insurance) back to Williams after she completed it. Thaw submitted the application to Travelers Insurance Co.

During the lawsuit it was established that Thaw had considerable experience with insurance for Rhino Linings dealerships. Rhino USA had become a client of Thaw's in the early to mid-1990s, and by 1999, Thaw was handling the insurance needs for some 50 to 100 Rhino Linings dealerships. Thaw helped design and develop the Rhino Linings dealership insurance package with Travelers Insurance Co. Thaw participated in risk analysis with the Travelers underwriters, and visited Rhino USA, observing the product that was sprayed on the truck beds and the equipment used by the sprayer, including the breathing apparatus worn during application of the lining. She was aware that sprayers had the most dangerous jobs and that it would be important for a sprayer's employer to know if the business' insurance provided no coverage for a sprayer's on-the-job injuries. Thaw knew that workers' compensation insurance was mandatory in California. Additionally, Thaw attended informational seminars for new dealerships given by Rhino USA, and spoke at the seminars about the insurance needs of Rhino Linings dealerships.

Thaw submitted Williams' application to Travelers and sent a proposal to Williams including, among other coverages, commercial general liability coverage. The proposal was accepted by Williams. The proposal did not include workers' compensation coverage and did not include any coverage for injury to an employee such as the sprayer who dealt with toxic materials used for lining the truck beds.

The Court began its analysis of the errors and omissions (E&O) claim by recognizing that ordinarily an insurance agent's duty is to use reasonable care, diligence and judgment in procuring the insurance requested by the insured. The Court found, however, that the rule regarding the agent's duty changes when, among other things, the agent assumes an additional duty by either express agreement or by holding himself out as having expertise in a given field of insurance being sought by the insured customer. The agent assumes additional duties by holding himself out as having expertise in the type of insurance sought by the insured.

The trial court found that Thaw held herself out as having expertise in the insurance needs of Rhino Linings dealerships. The insurance needs of a Rhino Linings dealerships included coverage for bodily injury to employees who deal with toxic materials and workers' compensation insurance. The Court found that Thaw's failure to advise Williams of the necessity for such insurance and the fact that the insurance was not included in her proposal and ultimate insurance package breached the duty she assumed by holding herself out as an expert on the product necessary to satisfy Rhino Linings dealerships' insurance needs.

On the surface it would appear that the Williams decision represents a significant expansion of the standard of care for insurance agents because the Court held that because of puffery regarding the agent's connection to the industry in which the insured operated, the agent was liable for not procuring a type of insurance that was never requested. Upon closer examination, however, the facts of the Williams case demonstrate that the sales agent not only claimed an expertise in business insurance, but was effectively the principal insurance agent for the entire Rhino Linings industry.

## Crossing the Line

The Williams case highlights the question of when an insurance agent crosses the line touting the agent's expertise to a prospective client. Does the agent cross that line by telling the prospective insured who owns apartment complexes that many apartment complexes are within the agent's portfolio of clients? Is it enough to cross the line where the agent represents that they sell a lot of business owners policies (BOPs)? How about situations where the agent expresses a familiarity with the business risks of a particular insured without representing to the prospective client that the insurance agent caters to that particular business type?

Some degree of sales puffery is healthy in the overall insurance marketplace. It is important for potential customers to know that insurance agents have particular areas of specialized experience or familiarity in deciding to purchase insurance from that agent. In making self-laudatory statements regarding the agent's specific experience with a particular industry, the agent needs to understand that in some circumstances such sales puffery can impose a higher standard of care apart from the normal standard of care for insurance agents within the community.

*Plitt is a licensed insurance agent and an attorney with the Phoenix law firm of Kunz Plitt Hyland Demlong & Kleifield practicing in the field of insurance law. Tel: 602-331-4600. His column, Essentials, appears from time to time on [www.ClaimsJournal.com](http://www.ClaimsJournal.com) and [www.InsuranceJournal.com](http://www.InsuranceJournal.com).*



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## Re-examining the Transformation of Insurance in 2011

June 21, 2011 | [Subscribe Now](#) By **ROBERT REGIS HYLE, PROPERTYCASUALTY360.COM**

The issue of the aging workforce had a simple solution back in 2008. Everyone's 401(k) went into the tank and any talk of retirement was delayed. That may have given some IT departments a false sense of hope, but as the stock market has gradually rebounded, people of a certain age are once again contemplating the next step in their lives.

The delay helped in another regard as well. It also allowed insurance carriers to get another two or three years closer to replacing some of their legacy systems. No one likes to lose institutional intelligence, but as long as it doesn't involve aging solutions carriers will somehow manage to get by.

There are problems on the opposite end of the spectrum as well. If companies are looking to add fresh talent to their IT department they better have some interesting systems that will challenge today's programmers and developers.

You can't go out and replace a system just to appease a few new employees, but you can make sure that the new generation of IT workers is challenged by their work and engaged with systems that will allow policyholders and business users to operate in an anytime/anywhere environment.

Whether it is IT staff, underwriters, or agents, insurers are finding a greater demand for more functionality and more freedom from the wired world.

There are many challenges that companies have to recognize. Some companies retain archaic policies on today's communication tools—particularly Facebook and Twitter. These companies don't recognize the business value, only the social agenda. What they fail to realize is that a new generation of technology users doesn't distinguish between work and social life.

Not every Facebook post involves asking a friend to help solve a business problem, but the fact that younger users don't see walls around them is alarming to some hierarchies.

Technology and social agendas are changing. Not all of us like it, but we better try and understand it if we want to continue making a difference in the world around us.



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## 5 steps high achievers use to make the to-do list an already-done list

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By **Joelle K. Jay**

Posted: May 23, 2011

High achievers... go-getters... type-A personalities... Whatever you call them, one thing is certain: these people want to do it all, and they want to it all...right now.

While having many lofty and simultaneous goals is a good thing, doing too many things at once can make you feel overwhelmed and stressed out. There

just never seems to be enough time to make everything happen. But that doesn't stop high achievers. They are determined to make everything happen, even if doing so ruins their day and everyone else's in the process.

Realize that the answer to getting everything done isn't about doing less, especially since high achievers gain great happiness from getting many things accomplished. They're determined to do whatever it takes to meet their objectives. Rather, this is about having a system in place that can simplify the process of doing many things fast-one that will bring you progress as well as peace.

If you're ready to supercharge the completion of your 'to-do' list without becoming overwhelmed or alienating others, the following five-step process will help you get it all done, with less stress and greater results.

### 1. Make a mess.

If you're like most high achievers, you likely have numerous sticky notes, lists, files, piles, papers, and a host of other items spattered around your office, on your desk, and in your computer. Each one is meant to help you move forward to reaching your goals; however, as the piles and files grow, they become overwhelming, no matter how neatly you may have them organized. Therefore, begin by getting all of your ideas and notes in one place. Make a big pile of all the papers and items in the middle of your office floor or on your desk. Don't leave anything out.

### 2. Sort and purge

Now it's time to roll up your sleeves and start digging. Go through your pile of "stuff" and look at each item to determine what you should keep and what you can toss. For each item, ask yourself,

- Is this idea or information still important to me?
- Can I retrieve this information from elsewhere should I ever need it?
- Is this information duplicated somewhere else?

Will this information or idea help me reach one of my goals?

As you decide which items to keep, put them in separate piles or files as they relate to a particular goal or task.

### 3. Organize your list

Look through all your "keep" papers and ideas to get clear on which goals are truly important to you and what steps you need to take. Put all your ideas and action items into one organized list, preferably on one page. You

don't have to painstakingly detail every action step at this point; the objective is to simply create one coherent 'to-do' list rather than have multiple ones floating around your office.

#### 4. Rank the list in chronological order.

Redo your list one more time, now paying special attention to the order in which you feel you should do things. At this point, you can also add more detail to your action items. In other words, you can list not only what to do, but also how to do it, who to call for help, which resources you may need, etc. You may feel as if you're wasting time here by going over the same tasks, but trying to rank your initial ideas in chronological order is difficult until you can see them all on paper at once.

#### 5. Get going

Now that all your ideas are organized, all you have to do is take action and tick off the tasks as they're completed. No more thinking, planning and organizing; it's already done. And most important, no more confusion of what to do when. Just look at the list, take the top task, and knock it out. What could be easier?

#### Mission Complete

This process works for a variety of scenarios, including special event planning, home and family goals, work and business projects, as well as long-range strategizing for professional and personal objectives. And while it's designed for high achievers who tend to have many high priority tasks going on at once, it works for anyone who simply wants to end the stress and chaos of having incomplete tasks hanging over their heads. By taking the time to complete this five-step process, you can finally meet all your goals and achieve the results you want.

*Dr. Joelle K. Jay (<http://joellekjay.com/>) is an executive coach specializing in leadership development and the author of *The Inner Edge: The 10 Practices of Personal Leadership*, in which shows leaders how to improve their effectiveness by learning to lead themselves. Her newsletter, *The Inner Edge Quarterly*, offers articles, exercises, tips, quotes, and success stories from real leaders to help you excel. To register, visit [www.TheInnerEdge.com](http://www.TheInnerEdge.com) and click on Newsletter, or email [Info\[at\]TheInnerEdge.com](mailto:Info[at]TheInnerEdge.com) [Info@TheInnerEdge.com](mailto:Info@TheInnerEdge.com).*





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Left to Right—Linda Rosenkrans, Michele Benson, Nadia Hatzinas, Diana Garrera, Donna Wiik & Eva Costa.



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