



## President's Message – May 2014

As we welcome in the Spring (finally) we also welcome the new members to our executive, and say farewell to others. We had a good turnout for the Elections and Fun Night and welcome Michelle Manolache and Gillian Reain into the executive as Directors and Ryan Potts as Secretary. Stephanie Storer was re-elected to her position as social director. We say farewell to Dale Stuart and to Stephen Tucker, who will be taking over the position of KW representative on the OIAA executive as Mike McLeod assumes his role as secretary of the Toronto OIAA executive. Congratulations to all!

As there is no May out of town meeting this year, we will be having another excellent educational topic presented by Dan Strigberger of Miller Thomson on Out of Province Accidents. I encourage all of you to come and mingle, have some great food and get some valuable information on this topic.

June brings our golf tournament and the registration forms are again contained in this bulletin. Space fills up fast so do make sure you get your forms in as soon as possible. We will be at Ariss Valley again this year and look forward to making this tournament the best yet. We are looking for hole sponsors and door prizes for the event. Please contact myself or Laura Potts for more information.

I am looking forward to seeing you all out at our last two official meetings for the year. Now all we need is a wee bit more sunshine and wee bit less rain!

Cyndy M. Craig, CIP CRM

KW-OIAA President

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## **2013-2014 Executive Committee**

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### **Secretary**

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Jennifer.brown@economical.com

**If you have any questions, concerns or comments, please do not hesitate to contact any of the above committee members.**



## Schedule of K-W Chapter Monthly Meetings 2014

Date

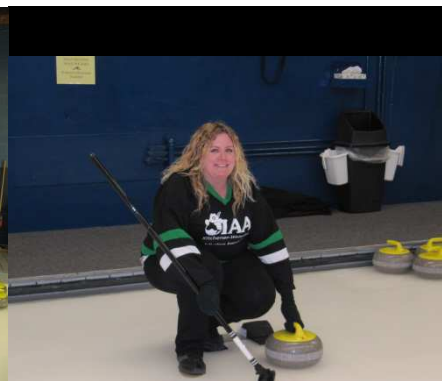
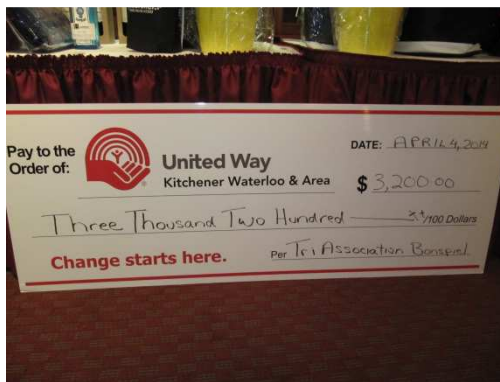
Topic

May 29<sup>th</sup>, 2014

Accidents Outside of Ontario

June 26<sup>th</sup>, 2014

Annual Golf Tournament



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## ***How Did That Happen?***

### **A Primer on When to Consult a Forensic Engineer.**

Let's face it; the volume of claims that adjusters are faced with is not decreasing. And with more pressure on adjusters to minimize third-party costs and resolve claims quicker, it may be tempting to try and avoid the cost of a forensic engineering investigation. Knowing whether or not to engage a forensic engineer is a critical skill for an adjuster. This article will provide some guidance on when to engage a forensic engineer to help resolve a claim more effectively.

### **How to Decide if a Forensic Engineer Is Necessary**

It's not always the size of the loss that determines whether or not you need the services of a forensic engineer but it is a key consideration and great starting point. In some cases such as low value, high volume type claims it won't make good economic sense to formally investigate the cause of the claim. Next, consider are the nature and circumstances of the loss. For example, if the size of the claim is much greater than expected based on the reported cause or if the cause is not logically linked to the reported damage, you may consider getting the opinion of a forensic engineer. Claims that might give rise to subrogation, loss transfer negotiations, mediated settlements or litigation should be carefully reviewed. Even if the claim appears straightforward, an origin and cause investigation is typically easier and generally more successful when initiated as soon after the loss as possible. The closer to the time of the incident that the investigation occurs, the greater likelihood that more evidence will be available and that it can be reviewed "in situ". Witness recollections are generally more accurate at that time as well. It might be prudent to request that a forensic engineer perform a simple gathering and documenting of all evidence in case it is required at a later point in time. Large, complex, multi-party losses should always be considered for formal investigation.

Not every claim requires a full investigation which could entail a site visit and evidence gathering, lab analysis and a written report. A review of the evidence and a verbal opinion may be all that is needed to provide "peace of mind" and a speedy resolution of the claim.

The following scenarios illustrate situations where a forensic engineer's expertise will be useful.

#### ***The claim involves multiple parties***

There are often situations where multiple insurers are involved in a claim. Take the situation where a small factory experiences a fire-related loss. There could be a number of parties involved including; the insurer of the factory, the insurer of the company that installed or most recently tested the fire suppression system and the insurers of any neighboring businesses whose operations were affected.



*You are suspicious about the nature of the incident i.e. staged collision, fire with multiple origin-points; claim is near the maximum amount covered in the insured's policy.*

We'd like to give everyone the benefit of the doubt that their version of events is correct, but the application of engineering principles and the use of technology by qualified experts are often the best method of determining the cause of a loss. If a claim is going to be declined, a diligent investigation is owed to the insured and having third-party validation of the reasons will be useful.

*The other party has engaged the services of a forensic engineer*

The expression "it never hurts to get a second opinion" comes to mind. It is not uncommon for information gathered during an investigation to be interpreted differently by experts. While every opinion should be unbiased, it doesn't mean that every interpretation of the causes of a loss will be the same.

*The claim may end up in court*

If a negotiated settlement cannot be reached, you need to consider your position well before you are in court. Using a qualified forensic engineer may mean the difference between a favorable or unfavorable judgment.

*The claim involves the failure of a specific product or piece of machinery*

While the claim of your insured might be valid, the loss might have been the result of the improper installation or repair of machinery by a 3<sup>rd</sup>-party or faulty product design. A forensic engineer can help you ascertain whether there is a subrogation opportunity or not.

## **Developing Your Checklist**

### **HIRE A FORENSIC ENGINEER?**

- ☒ **Large dollar value**
- ☒ **Multiple parties**
- ☒ **Witness statements vary**
- ☒ **Fire shows multiple origins**

A checklist can be useful to help decide whether to consult a forensic engineer or not segmenting items on your list by the type of failure/loss may be useful. Use the following questions to start your list.

### **Structural**

- Were there recent renovations on the structure
- Was the structure built to code

### Electrical

- Was the damage caused by a power surge
- Was the equipment properly installed and tested

### Mechanical

- Did a lack of prescribed maintenance lead to the failure
- Were the materials designed for use in that environment
- Were only authorized replacement parts used during maintenance & repairs

### Fire & Explosion

- Was there lightning nearby at the time of the fire
- Does the burn pattern indicate multiple origin points

### Accident Reconstruction

- Do witness statements differ considerably
- Were environmental factors involved
- Does data from the on-board electronic control modules support witness statements

### Personal Injury (Biomechanical)

- Are the injuries consistent with the accident or a loss of balance
- Did a building code violation contribute to the injury

Use this article as a starting point and, build your checklist over time. Talk to colleagues and peers outside your organization for their suggestions. Don't be shy; a forensic engineer can provide a free initial phone consultation to help you decide!

**Steve Hawken P.Eng., C.F.E.I., C.F.I.I.**

**Steve is President of Arcon Forensic Engineers and has over 20 years of experience investigating fires, explosions, electrical malfunctions and product failures.**



## KW OIAA - JOHN MCHUGH MEMORIAL GOLF CLASSIC REGISTRATION FORM



### ARISS VALLEY GOLF AND COUNTRY CLUB

**Thursday June 26th, 2014**

**Shot Gun Start at  
10:00am**

Once again the KW Chapter of the Ontario Adjuster's Association is pleased to be hosting their Annual Golf Tournament at Ariss Valley Golf and Country Club. Please join us for a day of golf and fund among your industry friends.

**Please note that the Registration deadline is Friday June 6, 2014**

#### **Itinerary for Thursday June 26th, 2014**

|                 |  |
|-----------------|--|
| <b>8:30 AM</b>  | Registration Opens - Breakfast                             |
| <b>10:00 AM</b> | Shot Gun Start   |
| <b>12:00 PM</b> | As your foursome passes by the clubhouse stop in for lunch |
| <b>4:00 PM</b>  | Approximate time for dinner                                |

#### **Players Golf Package**

\$100 per member and \$125 for non-member based on per person membership Status. Fees include one round of 18 holes of golf, use of cart, breakfast, lunch and Dinner

**Receipt of completed form and payment in full will reserve your spot on a first come, first served basis**

Spaces are  
limited

**\*\*\* please note that soft spikes and dress code will be strictly enforced \*\*\***

#### **Sponsorship Opportunities**

**\$100.00**

Each year the KW OIAA works closely with a local Children's Organization this year we will be working with Kids Ability again.

**\*\*\* All funds raised for hole sponsorship will go directly to Kids Ability \*\*\***

#### **Directions**

Ariss Valley Golf and Country Club is located just outside of Guelph on Road #86 (Elmira Road). They are #5700 on Road #86 North of Guelph between Marden Road and County Road 51.

519-824-1551



# KW OIAA - JOHN MCHUGH MEMORIAL GOLF CLASSIC REGISTRATION FORM



## ARISS VALLEY GOLF AND COUNTRY CLUB

**Thursday June 26 - Shot Gun Start at 10:00am**

### Sponsorship Opportunities - \$100

|                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | I would like to sponsor a Par 5     | Contact: Cyndy Craig<br><a href="mailto:ccraig@archinsurance.com">ccraig@archinsurance.com</a><br>647-293-5436 |
| <input type="checkbox"/> | I would like to sponsor a Par 3     |  |
| <input type="checkbox"/> | I would like to donate a door prize |  |

\*spots are filled on a first come, first served basis

\*\* funds raised on sponsorship opportunities is donated to Golf Tournament Charity

|                                |                              |   |  |  |                         |
|--------------------------------|------------------------------|---|--|--|-------------------------|
| <b>Player 1</b>                |                              |   |  | OIAA Members \$100 Non-Members \$125   |                         |
| Name <input type="text"/>      |                              |   |  | Based on per person membership status  |                         |
| Employer <input type="text"/>  |                              |   |  | <b>Other Ticket Options</b>  |                         |
| Telephone <input type="text"/> |                              |   |  | Extra Breakfast, lunch and dinner  |                         |
| Email <input type="text"/>     |                              |   |  | tickets at \$40.00 per person  |                         |
| Member <input type="text"/>    | Chapter <input type="text"/> | Extra Dinner ticket(s) \$28.00 per person |  |  |                         |
| <b>Player 2</b>                |                              |   |  | Register by Friday ay June 6th, 2014   |                         |
| Name <input type="text"/>      |                              |   |  | <b>Payment Information</b>   |                         |
| Employer <input type="text"/>  |                              |   |  | Golf Total   | <input type="text"/> \$ |
| Telephone <input type="text"/> |                              |   |  | Extra Tickets Total  | <input type="text"/> \$ |
| Email <input type="text"/>     |                              |   |  | Total Amount Enclosed  | <input type="text"/> \$ |
| Member <input type="text"/>    | Chapter <input type="text"/> |   |  |  |                         |
| <b>Player 3</b>                |                              |   |  | <b>Contact Us</b>  |                         |
| Name <input type="text"/>      |                              |   |  | Cyndy Craig <a href="mailto:ccraig@archinsurance.com">ccraig@archinsurance.com</a><br>647-293-5436 |                         |
| Employer <input type="text"/>  |                              |   |  |  |                         |
| Telephone <input type="text"/> |                              |   |  |  |                         |
| Email <input type="text"/>     |                              |   |  |  |                         |
| Member <input type="text"/>    | Chapter <input type="text"/> |   |  |  |                         |
| <b>Player 4</b>                |                              |   |  | Laura Potts <a href="mailto:lpotts@tdinsurance.com">lpotts@tdinsurance.com</a><br>226-750-9350     |                         |
| Name <input type="text"/>      |                              |   |  | Mailing Address is:  |                         |
| Employer <input type="text"/>  |                              |   |  | PO Box 40079   |                         |
| Telephone <input type="text"/> |                              |   |  | 75 King St South   |                         |
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Cognitive Demands Analysis  
Job Coaching  
Hand and Upper Limb Assessment and Treatment  
Social Work Assessment and Treatment  
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Labour Market Research  
Transferable Skills Analysis  
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## **Shhh!! Its Better She Doesn't Know**

One of the most frequently asked questions I receive in this industry in regards to [workplace violence](#) from clients is "will I be breaching their privacy?" Chances are if you're asking the question you already know the answer. The real question that should be asked however is "what repercussions would the organization absorb if I don't tell the potential victim(s)?"

Simply put, if the safety of an employee or employees is at risk then the privacy issue should be trumped. This would be the equivalent of seeing someone through a window getting hurt and not breaking down the door, the trick is we need to make sure our eyes are clear and what we assess is accurate.

Would it be justified to tell everyone on the same shift that an individual they are working with has an assault charge from 10 years ago? Absolutely not. Would it be justified to tell everyone that a recently suspended worker has a long history of violence when he is not on his proper medication? I would argue yes.

The most recent case we encountered was that of a public personality who was being stalked at work. Although when in the public eye it is almost expected to a certain degree, the employer of this particular victim decided that it would be in their best interest to keep her in the dark of the threats that were received through email. Even though the emails were focused on the one individual they assumed they were just members of the public trying to get attention. It wasn't until the particulars of the emails became extremely personal including the victim's family members that they made the logical decision to inform the personality of the imminent danger she may be in.

Although the IP addresses were scattered (making the employer think there were multiple authors of the threats) the domain of the single offender was eventually discovered and an arrest was made. The offender was known to police and had been diagnosed with schizophrenia and was in fact intent on making these threats a reality. A further [investigation](#) uncovered news articles and personal photos of not only the personality but her family members as well, in his possession. The offender was charged and eventually sentenced to a mere 19 days plus time served; however, the employer was now aware of the severity of the issue, as were the police.

The victim in this case chose the route of forgiveness in relation to the employer and somewhat understood their intent to shield her from unnecessary stress. Since then however the employer has gone above and beyond equipping the victim with a portable SOS device complete with a [GPS tracker](#).

This incident of workplace violence is certainly on the extreme end of the scale and similar to an episode of *Criminal Minds*. The offender in this situation was obsessed with being a part of the personality's life regardless of what route was required. Quite often in these workplace violence situations the offender is someone that is known to the victim, whether an ex or a co-worker. With that said, either situation is not and should not be treated as any less of a threat. [Communication](#) is imperative from the onset in these scenarios.

In having dealt with these types of people throughout my career, it is my opinion that in most cases this type of behaviour can be narrowed down to neurosis and psychosis. The difference; the neurotic sees the castle in the sky.....the psychotic moves in.



## **TORONTO DELEGATE REPORT**

Toronto OIAA Delegate Elections were held on April 9<sup>th</sup> and two Toronto delegate positions for the term of August 2014 – 2016. Congratulations to Carrie Evans and Matt Rienzo who were elected to the GTA delegate positions. The elections were held in conjunction with a seminar with the IBC on the topic of Weather Related claims and Regulatory Changes.

As there is no provincial conference in May this year, the OIAA is hosting a vendor appreciation night at the Blue Jays game on May 14<sup>th</sup>. The OIAA Open Annual Golf Tournament takes place June 4<sup>th</sup> this year at Deer Creek Golf and banquet facility. Registration is now open for the golf tournament on [www.oiaa.com](http://www.oiaa.com).

Without Prejudice Magazine is always looking for great articles so if you would like to become a published author please send me an article and I will submit it to the WP editorial team for consideration. We issue 2200 magazines 10 months of the year distributed throughout the province so the magazine is a great vehicle to share information and ideas. We are looking for articles approximately 2000-2500 words in length with content that is of interest to our readers and not self-promoting. A head shot and brief bio should also be provided prior to publishing.

Please take a moment to check out our New Website at [www.oiaa.com](http://www.oiaa.com) and let us know what you think on Twitter @PresidentOIAA. You can also find the Ontario Insurance Adjusters Association on facebook and stay connected.

If you would like more information or have any questions or concerns please do not hesitate to contact me at [Michael.mcleod@crawco.ca](mailto:Michael.mcleod@crawco.ca).

Regards,  
Michael McLeod, Chapter Toronto Delegate





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All funds raised are in support of the September 2014 campaign for Backpacks

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[www.sendemoff.ca](http://www.sendemoff.ca)

**Come join us for the BBQ Rain or Shine!**

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## What is SOS?

Established in 1994, **Send'em Off Smiling** strives to set children in need on a more useful path through outfitting them with the basic clothing and school supplies so that each and every child can smile on their first day of school every September. Developed by a group of local women, **SOS** has observed the impact local poverty has on school-aged children and wanted to make a difference! As a result, **SOS** spent time with local teachers to understand the importance of and recognized that a child with a good start to the school year was more likely to succeed. With this, the **SOS** program was created and backpacks are created yearly for children in the area.

### WHAT'S INCLUDED?

Jeans  
Long Sleeve Shirt  
T-Shirt  
Running Shoes  
Socks  
Underwear  
School Supplies

### Our Stats

In 2013 the SOS BBQ raised money and donated **70** back packs for local children. Since 2008: A total **183** backpacks have been donated for local children

### Kids appreciate it!

*"Thank you for donating the backpack, school supplies and the clothes. My school year is going to be great because I have a huge backpack so I can hold all my stuff in it, the clothes will keep me warm in the fall and the winter and the school supplies will help me with projects and school work. Your program made a difference to me because I was prepared and ready to go to school thanks to the donated items that helped me and my family."*

*"Thank you so much for the backpack. The clothing was exactly what I was hoping for. I can tell that the things were picked with thought to what I wanted. All of the stuff is very helpful; we have a hard time being able to get everything for school. This is a wonderful program. Thanks again."*



**DOUG DERABBIE**

**DIRECTOR, GOVERNMENT RELATIONS, ONTARIO**

### **Industry update from Insurance Bureau of Canada**

Doug DeRabbie, Director, Government Relations, Ontario

Anyone in the industry knows that severe weather is a serious problem -- not just for insurers, but governments and citizens.

The facts are alarming. Since 1983, payouts for severe weather losses in Canada have increased by more than 40 times. Back then, such losses averaged about \$400 million per year. In 2009 that figure jumped to 1 billion, where it hovered for the next four years.

Then came 2013. Insured losses from natural disasters – including the historic Alberta and Toronto floods – were \$3.2 billion, the highest in Canadian history. Governments paid billions in assistance, communities were devastated, and lives were lost.

The property and casualty (p&c) insurance industry has made adapting to severe weather a priority, and Insurance Bureau of Canada (IBC) – the national trade association for Canada’s private home, car and business insurers – is working to make Canada more resilient.

IBC is conducting research, such as a study on the [economic impact of disasters](#), to support governments’ efforts to help communities protect themselves against catastrophes. We’re also talking with all levels of government about issues such as flood programs and strategies for dealing with disasters.

We’re creating solutions like the [municipal risk assessment tool](#) (MRAT). MRAT technology combines claims information, climate predictions and municipal infrastructure data to create maps that help pinpoint where future sewer backups and infrastructure failures might occur. The tool is now being tested in Hamilton, ON, Coquitlam, BC, and Fredericton, NB with favourable results to date.

IBC is also conducting community outreach activities to provide information about loss mitigation and prevention through traditional and social media campaigns, brochures, mall displays and YouTube videos. As industry professionals on the front line, adjusters can play a huge role in this outreach by helping to dispel myths and serving as expert sources of information for consumers.

Severe weather isn’t going away, but you can be proud that your industry is taking a lead role in helping to protect Canadians.

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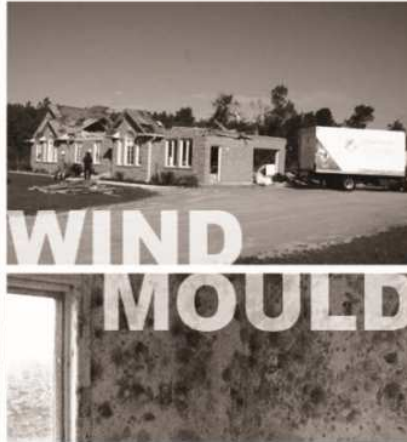
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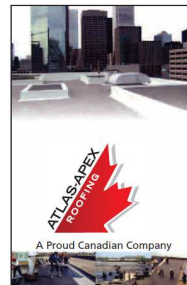
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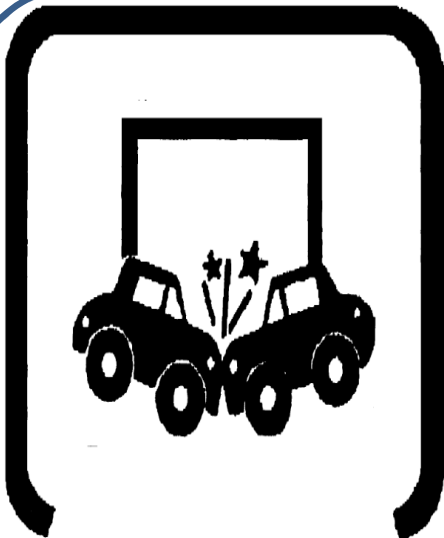
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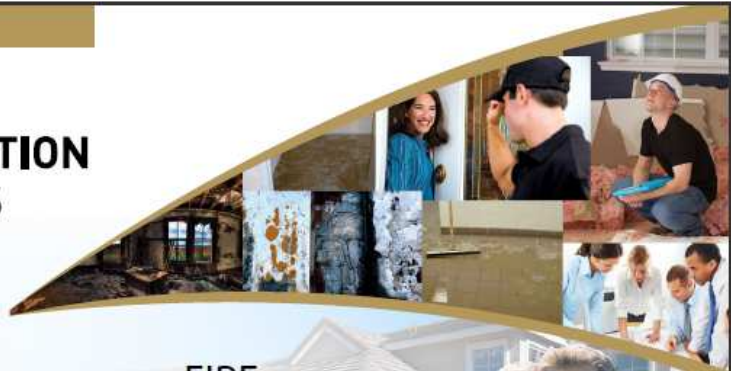
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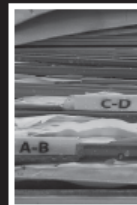
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## Designated Substances and Property Claims

Jim Walls, P. Geo. QPES4

Insurance claims that may involve demolition or reconstruction activities must comply with Section 30 of the Ontario Occupational Health and Safety Act (the Act) which requires Designated Substances and other potentially hazardous materials be identified.

### What are they?

A "designated substance" means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled.



Under Ontario Regulation 490/09 (Designated Substances), there are eleven (11) designated substances identified, each also having their own detailed regulatory requirements:

- |  |                                      |
|--|--------------------------------------|
| 1. Acrylonitrile ..... O. Reg. 835       | 7. Isocyanates ..... O. Reg. 842     |
| 2. Arsenic ..... O. Reg. 836             | 8. Lead ..... O. Reg. 843            |
| 3. Asbestos ..... O. Reg. 278/05         | 9. Mercury ..... O. Reg. 844         |
| 4. Benzene ..... O. Reg. 839             | 10. Silica ..... O. Reg. 845         |
| 5. Coke Oven Emissions ..... O. Reg. 840 | 11. Vinyl Chloride ..... O. Reg. 846 |
| 6. Ethylene Oxide ..... O. Reg. 841      |                                      |

Of these, asbestos, lead, silica, benzene and mercury are the most commonly found in buildings



### How does this impact insurance claims?

The Act specifically identifies the "owner" who is liable and can be fined (up to \$25,000 per offence) or issued a Stop Work Order by the Ministry of Labour for failure to comply with the Act. The owner can also be held liable for loss or damage suffered by the constructor and subcontractors. This can cause project delays, increase costs, and lead to potential health effects from exposure.

### What is required?

A Designated Substances Survey report must be completed and provided to contractors prior to the tendering/bidding process. A copy must also be provided to the General Contractor and all subcontractors prior to starting construction or demolition.



### Why is it required?

The purpose of the Act and Designated Substances Regulations is to protect workers. The identification of Designated Substances and other hazardous materials that may require special handling or disposal, which are often assessed as part of a Designated Substances Survey, will also allow contractors to bid accurately and conduct their work safely and efficiently. This results in cost effective claim management.

### What other hazardous materials of concern may be present?

Hazardous materials such as PCB's (in transformers and electrical components), urea formaldehyde foam insulation (UFFI), ozone depleting substances (in air conditioners),



mold, and excrement from birds and bats can all require special handling and disposal.

***What do I do?***

A Designated Substances and Hazardous Materials Survey should be completed and the report provided to contractors at the bidding/cost estimate stage of the claim.

***How is it done?***

The survey involves an inspection of any building or parts of buildings that are to undergo demolition or construction activities. It involves an inspection by a specialist, the collection of samples and identification of any materials suspected of containing Designated Substances. The analysis of samples is usually conducted by a certified laboratory (asbestos, benzene, arsenic etc) or through the use of on site instruments (lead). A Designated Substances Survey report is then provided, documenting the location and composition of the suspected materials.

***What happens if Designated Substances and Hazardous Materials are found?***

If the report identifies the presence of Designated Substances and/or Hazardous Materials it will typically provide some details regarding the location and quantity. It will also provide recommendations for the appropriate handling and disposal of the materials. In some cases, such when extensive amounts of asbestos are identified the report may recommend a Quantification and Abatement Plan.

***What happens if asbestos is found?***

Asbestos is specifically controlled under O. Reg. 278/05. The Act requires special handling and disposal of asbestos during any demolition, maintenance or construction activity. If there are significant amounts of asbestos a Quantification and Abatement Plan may be necessary. This involves the detailed measurement and characterization of all asbestos materials and the preparation of a specification which details how the asbestos must be removed in accordance with regulations, in order to protect workers and avoid impacting other areas. The asbestos must be appropriately managed prior to proceeding with the demolition or construction activities. Asbestos abatement (removal and disposal) requires specialized contractors. The type of abatement depends on the type and location of the asbestos. Type 1 operations are the easiest and involve the removal of small amounts of non-friable (do not crumble) asbestos such as ceiling and floor tiles. Type 2 operations involve the removal of larger amounts of asbestos using exposure controlling techniques such as glove bags. Type 3 operations are for the abatement of friable asbestos and requires complete isolation of the area and respiratory protection for workers. The higher level operations involve higher costs and defined protocols.



**Mold**



**Collecting samples of suspected materials**



**Asbestos Insulation**

***What are my responsibilities as an Adjuster?***

The Act specifically identifies the requirements of "owners" and "constructors". Under Ontario law, a constructor is an owner or an agent of an owner who is directing subcontractors. Adjusters need to ensure that the contractor is acting as the "constructor" and that they meet their responsibilities under the Act. Constructors are required to carry appropriate insurance and be licenced for the work they are conducting. Ensure the contractor has the experience and appropriate insurance for asbestos abatement if such work is required. It is also the responsibility of the constructor / owner to ensure that if any suspect material is encountered during restoration activities that were not identified in the original Designated Substances Survey, that the specialist is called back to complete an assessment.

***Who does Designated Substances and Hazardous Materials Surveys?***

The work must be performed by a Competent Person (defined in the Act) who is usually a specialist on staff with a scientific or engineering firm.

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*Jim Walls, P. Geo. QPESA, is a Senior Geoscientist and leader of the Environment Group at R.J. Burnside & Associates Limited. His areas of practice for insurance clientele includes environmental assessment of spills, hazardous materials, groundwater supply and remediation. Jim is also a Qualified Person as per O.Reg. 153/4. R.J. Burnside & Associates Limited is a progressive Canadian-owned multi-discipline engineering and environmental consulting firm with over 300 professional employees.*

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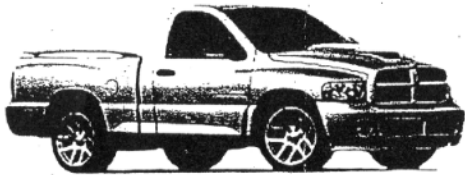
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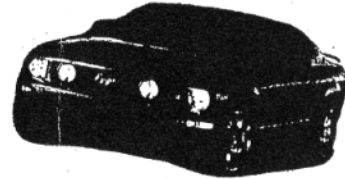
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