Fall URB INSIDER

A Quarterly Publication of the Underwriters Rating Board

Regulatory News

# Very Rainy Day Funds

Fall, 2007

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The New York State Insurance Department has recently proposed a regulation requiring "Very Rainy Day" Funds about which Superintendent Eric Dinallo made an announcement and the Department issued a news release on October 4, 2007. Under this proposed regulation, insurance companies providing homeowners, business and other property insurance in New York State would be required to create a catastrophe reserve fund to help pay claims caused by hurricanes and other natural disasters.

"Most people probably think that the extra money they pay on their homeowners insurance for hurricane protection goes into a 'very rainy day fund' to pay claims when hurricanes hit," Eric Dinallo said. "In fact, because of current insurance accounting and tax rules, if there is no hurricane, the extra money goes to insurance companies' profits. That leaves the companies with no reserves to pay huge claims from big hurricanes and consumers angry over ballooning profits and rising premiums."

In part, Dinallo went on to say, "I'm in favor of tax-deferred reserves for hurricanes, but the industry will only achieve that change if it acts first and gains credibility." The new reserve would cover losses related to natural catastrophes such as hurricanes, wind, hail, earthquake, winter storms (snow, ice, freezing) or tsunami. The regulation would require companies to reserve the amount they now charge policyholders for catastrophe protection, less any taxes paid and the cost of reinsurance. The Insurance Department is conducting outreach by circulating a working draft of the proposed regulation to the insurance industry and consumers. It will then go through the formal proposal process, which includes publication in the New York State Register and a formal 45-day comment period for written comments.

"I believe a hurricane reserve fund is an important part of the solution. But I am happy to start a discussion with insurance companies, consumers and legislators about possible improvements to this proposed regulation and to develop other ideas. A decision to do nothing would be a bad decision. The current system doesn't work for companies or consumers," Dinallo said. To view the news release issued by the Depart-

## What's In This Issue





# Terrorism Extension News

The Terrorism Risk Insurance Revision and Extension Act of 2007 (TRIREA) has been passed by the House of Representatives and was referred to Senate committee.

There has been some information that the President has indicated he will bill. The Senate drafted a compromise version of the bill recently.

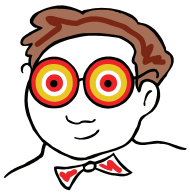
The pending statute amends the Terrorism Risk Insurance Act of 2002 to extend the Terrorism Insurance Program. Both versions revise many of the requirements of the existing legislation. ◆

# Duty to Defend and Indemnify But Not For Maintenance

**P**laintiffs seek a judgment declaring that defendant General Security Insurance Company is obligated under the terms of a commercial general liability policy to defend and indemnify them in a pending personal injury action. In the underlying lawsuit, the plaintiff alleges that he severely injured his eye while riveting metal to a van for the purpose of converting it into a "Mr. Softee" ice cream truck. Plaintiffs owned the van.

The policy excludes coverage for bodily injury "arising out of the ownership, maintenance, use or entrustment to others of any . . . 'auto' . . . owned or operated by or rented or loaned to any insured." General Security moved for summary judgment declaring that it was not obligated to defend or indemnify plaintiffs because the conversion work performed by the injured party constituted "maintenance." Plaintiffs cross-moved for summary judgment, arguing contrariwise.

Without written opinion, Supreme Court denied General Security's motion and granted plaintiffs' cross motion for summary judgment, and judgment was entered declaring that General Security was obligated to defend and indemnify plaintiffs. Upon appeal, the Appellate Division affirmed, reasoning that because General Security had not submitted the policy schedule defining the term "auto," it had not demonstrated that the van fell within the relied-upon policy exclusion.



The case was affirmed, but for a different reason. The work performed by the injured plaintiff did not constitute "maintenance" of an auto. "Maintenance," as that term is used in an insurance policy, means performance of work on "an intrinsic part of the mechanism of the car and its overall function" (Farmers Fire Ins. Co. v. Kingsbury, 105 AD2d 519, 520 [3d Dept 1984] [removing tire from rim constitutes maintenance] [citation omitted], *lv denied* 64 NY2d 607 [1985]; *see* Pennsylvania Millers Mut. Ins. Co. v Manco, 63 NY2d 940, 942 [1984]. Riveting metal to a van in furtherance of its conversion to an ice cream truck aids in transforming the auto's function, an activity distinct from "maintenance." Guishard v. General Sec. Ins. Co., 2007

# The Proximate Cause Issue In Auto Liability

**P**laintiff Melanie L. McCulley (hereinafter plaintiff) and her husband, derivatively, commenced this action to recover damages for personal injuries sustained in a January 2001 motor vehicle accident at the intersection of Cherry Avenue and Delaware Avenue in the Town of Bethlehem, Albany County. Following a trial on the issue of liability, the jury found that although defendant was negligent in the use and operation of his vehicle, his negligence was not a substantial factor in causing the collision. Thereafter, plaintiffs moved to set aside the verdict, claiming that it was inconsistent with defendant's negligence. Supreme Court denied the motion and these appeals ensued.

Defendant testified that while traveling south on Cherry Avenue, he noticed plaintiff, about 100 yards ahead of him, apply her brakes as she entered the intersection at Cherry Avenue and Delaware Avenue. While defendant admitted that he did not slow down, he testified that he saw plaintiff make a right-hand turn onto Delaware Avenue. According to defendant, as he continued through the intersection, plaintiff's car suddenly appeared on his right and he swerved to the left to try to avoid an impact. Plaintiff, on the other hand, denied turning to the right and, although she has no memory of exactly how the accident occurred, she testified that she put on her left turn directional and proceeded to make a left-hand turn once she reached the intersection.

The responding police officer testified that plaintiff indicated at the scene that upon entering the intersection, she mistakenly turned right, corrected her turn while still in the intersection and turned the car to the left, at which point she was broadsided by defendant. Moreover, according to the officer, defendant's version of the accident was consistent with statements from eyewitnesses.

Under the circumstances herein, the court concluded that defendant's negligence in operating his vehicle was not "'so inextricably interwoven as to make it logically impossible to find negligence without also finding proximate cause'" Schaefer v. Guddemi, 182 AD2d 808, 809 [1992], quoting Rubin v. Pecoraro, 141 AD2d 525, 527; *see* Muff v. Lallave Transp., 3 AD3d 693, 694-695 [2004]), particularly in light of the proof regarding plaintiff's right-hand turn and corrective maneuvers while in the intersection. Viewed in a light most favorable to defendant, and according the jury deference in resolving the credibility of the witnesses, the evidence did not so preponderate in favor of plaintiffs that the jury could not have reached the verdict on any fair interpretation of the evidence *see* Lolik v. Big V Supermarkets, 86 NY2d 744, 746 [1993]; Brown v. Dragoon, 11 AD3d 834, 836 [2004], *lv denied* 4 NY3d 710 [2005]; Carter v. Wemple, 267 AD2d 641, 642 [1999]; Ruso v. Osowiecky, 256 AD2d 839, 841 [1998]). McCulley v. Sandwick, 2007 NY Slip Op 06513. ◆

# Motion Burden

**P**laintiff and defendant were involved in a motor vehicle accident in the Village of Hamilton, Madison County. Plaintiff commenced this action alleging that she sustained a serious injury in the accident.

Following disclosure, plaintiff moved for partial summary judgment on the issue of liability. Supreme Court denied the motion and plaintiff now appeals.

The case is affirmed.

The proponent of a motion for summary judgment has the initial burden to come forward with proof establishing entitlement to such relief (*see* Winegrad v New York Univ. Med. Ctr., 64 NY2d 851, 853 [1985]; Jones-Barnes v Congregation Agudat Achim, 12 AD3d 875, 876 [2004], lv dismissed 4 NY3d 869 [2005]). If that threshold burden is met, the opponent must respond with competent evidence raising a genuine factual issue (see Chunn v Carman, 8 AD3d 745, 746 [2004]). The evidence is viewed in the light most favorable to the nonmovant (See Secore v. Allen, 27 AD3d 825, 828-829 [2006]).

The accident occurred on Utica Street, which is located in a commercial area and has a turning lane in the center of the street between two travel lanes.

Plaintiff testified that she was proceeding south in her travel lane when defendant suddenly pulled out as he attempted to cross the street from the west side to the east side. According to plaintiff, defendant crossed the northbound lane and the center turning lane before striking the left rear of her vehicle despite the fact that she blew her horn and attempted evasive action. This proof satisfied plaintiff's threshold burden.

In opposition, however, defendant submitted his deposition testimony in which he related that he crossed only as far as the center turning lane, he observed plaintiff coming at a rapid speed in that center lane, he stopped his vehicle, and his vehicle was then struck by plaintiff.

The varying versions of the accident present factual issues for trial (see Ramos v Rojas, 37 AD3d 291, 292 [2007]; Secore v Allen, supra at 828-829). The fact that plaintiff submitted an affidavit from a police officer who stated that he interviewed both parties and that they both related to him a scenario similar to the one claimed by plaintiff does not compel a different result since defendant testified that he never spoke with the officer (seeRamos v Rojas, supra at 292).

To the extent that plaintiff claims that certain photographs require that her motion be granted, it is noted that the

# Property Owner Duty

**T**his is an appeal from an order of the Supreme Court, Erie County entered February 7, 2007 in a personal injury action. The order granted plaintiffs' motion for partial summary judgment on the issues of negligence and proximate cause and to dismiss the first affirmative defense.

Plaintiffs commenced this action seeking damages for injuries sustained by Mary Elizabeth Earl (plaintiff) as the result of swallowing a piece of glass in food she ate while attending a dinner party at defendant's home.

**...The property owner, owed a duty of reasonable care to them under the circumstances...**

Supreme Court properly granted plaintiffs' motion for partial summary judgment on the issues of negligence and proximate cause and to dismiss defendant's first affirmative defense, alleging plaintiff's culpable conduct and assumption of the risk.

Plaintiffs met their initial burden by establishing that defendant, as the property owner, owed a duty of reasonable care to them under the circumstances (*see generally Basso v Miller*, 40 NY2d 233, 241; Sweeney v Lopez, 16 AD3d 1174, 1175), that defendant breached that duty, and that plaintiff's injuries were proximately caused by the breach (*see* Coral v State of New York, 29 AD3d 851), and defendant failed to raise an issue of fact to defeat the motion (*see generally* Zuckerman v City of New York, 49 NY2d 557, 562). Earl v. Adducci, 2007 NY Slip Op 07093. ◆

Around the Nation

# PA: Two-Year Bad Faith Statute of Limitations

**A**ppellants purchased an insurance policy from appellee on a parcel of real property in Lawrence County, Pennsylvania. The property was damaged by fire in July, 2000, and appellants filed a notice of loss. Appellee denied appellants' claim November 21, 2000 on the basis of concealment or fraud. On May 2, 2002, appellants filed a complaint against appellee alleging breach of contract. Appellee responded by filing a motion for summary judgment, asserting appellants' breach of contract claim as barred by the one-year statute of limitations period set forth in the policy.

On June 23, 2003, appellants filed a motion for leave to amend their complaint to included a claim against appellee under Pennsylvania's bad faith statute 42 Pa. C.S. §8371. Appellee opposed that motion, arguing the bad faith claim was untimely since it was subject to the two-year statute of limitations applicable to tort actions. Appellants contend this was a contract action with a six-year statute of limitations. On September 15, 2003, the trial court granted appellee's motion for summary judgment with regard to the breach of contract claim, and denied appellants' request to amend the complaint, having determined this type of bad faith claim is a statutorily created tort action and therefore subject to the two-year statute of limitations. On appeal, the Superior Court agreed with the trial court's analysis. The Supreme Court granted allowance of appeal to determine the appropriate statute of limitations period for a cause of action under Pennsylvania's bad faith insurance statute, and whether the trial court erred in denying appellants' request to amend.

**"An action under §8371 is a statutorily created tort action..."**

It is well settled that while the right to amend pleadings is within the sound discretion of the trial court and should be liberally granted, an amendment introducing a new cause of action will not be permitted after the statute of limitations has expired. See e.g. Kuisis v. Baldwin-Lima-Hamilton Corp., 319

A.2d 914, 918 (Pa. 1974).

The court said in part, "Pennsylvania courts have stated the key difference between tort actions and contract actions is this: [t]ort actions lie for breaches of duties imposed by law as a matter of social policy, while contract actions lie only for breaches of duties imposed by mutual consensus agreements between particular individuals." Koken v. Steinberg, 825 A.2d 723, 729 (Pa. Cmwlth, 2003) (citing eToll, Inc. v. Elias/Savion Adverising, Inc., 811 A.2d 10 (Pa. Super. 2002)); see also Iron Mountain Security Storage Corporation v. American Specialty Foods, Inc., 47 F.Supp 1158, 1165 (E.D. Pa. 1978) citing in part Glaser v. Chandler, 200 A.2d 416, 418 (Pa. 1964); Bash v. Bell Tel. Co., 601 A.2d 825, 829 (Pa. Super. 1992). The court noted that with this distinction in mind, there are certain circumstances in which the legislature apparently determined that the protections afforded by the Unfair Insurance Practices Act were insufficient to curtail certain bad faith actions by insurers and that it was in the public interest to enact §8371 as an additional protection.

The Supreme Court concluded that the Superior Court properly determined an action under §8371 is a statutorily created tort action and that therefore the Supreme Court held such an action is subject to the two-year statute of limitations under 42 Pa. C.S. §5524. The Supreme Court affirmed the order of the Superior Court in a decision dated October 11, 2007. Ash

At The Supreme Court

# On The Calendar...And Off

**T**he Supreme Court will be in session much of the month of October. The justices are reviewing a myriad of cases involving various issues.

These cases include consideration of whether the lethal injection method violates a constitutional ban on cruel and unusual punishment; a review of a complaint from detainees held at Guantanamo Bay, Cuba; whether religious groups may stop offering employees birth control benefits as part of their health insurance; an argument over Washington State's primary system; cocaine sentences; federal sentencing rules; a case about how New York picks its trial judges; certification of a class action against Hewelett Packard, an investors case and the limits of shareholder lawsuits for fraud.

Some of these cases have been argued and decided, some of which having been rejected by the Supreme Court.

Among the cases not heard by the Supreme Court are two church-

From the Department

## Electronic Distribution

On August 31, 2007, The New York State Insurance Department Office of General Counsel issued an opinion about whether an insurer may give its insureds the option of receiving their insurance policy, applicable form, and premium bills electronically, via email, instead of by hard copy sent through the mail.

The conclusion reached by the Office of General Counsel is that, "yes, an insurer may provide its insureds with the option of receiving their insurance policies, applicable forms, and premium bills electronically, via e-mail, instead of by hard copy sent through the mail. There is nothing in either the Insurance Law or regulations promulgated thereunder that prohibit such transmissions, provided that the insured consents to such receipt."

In its analysis, the Department states in part as follows: The Department has consistently encouraged the use of electronic transactions in insurance where there is consent on the part of the insured to enter into an electronic transaction, except to the extent that statutory requirements cannot be satisfied by an electronic transmittal. Although the Department has not previously addressed the practice of electronic billing, nothing in either the Insurance Law or regulations promulgated thereunder precludes such transactions. Formatting requirements prescribed by the New York Insurance Law, such as font size, type, style, clarity, prominence, attachments, placement and color, may be met electronically if the sender and recipient of the electronic document utilize a computer technology that ensures the creation, transmission, and receipt of a document equivalent to that prescribed by the Insurance Law's formatting requirements.

The opinion goes on to note that notwithstanding the Department's encouragement of electronic commerce, some insurance transactions must be completed in person. For example, the New York State Automobile Insurance Plan ("Plan") requires that, in all instances, an insurance producer must meet in person with the individual to whom an insurance policy is being sold.

To read the opinion in its entirety, visit the Department's website at

## Reservation of Rights

On September 6, 2007, The New York State Insurance Department Office of General Counsel issued an opinion answering the question does the insurer's tendering of a "reservation of rights letter" create a conflict of interest for the insurer's attorney who represents an insured, and, if so, is there any way for an insured to protect his or her legal rights?

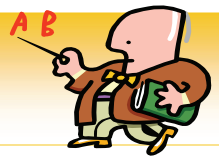
The conclusion reached in the opinion is that the New York Insurance Law does not specifically address "reservation of rights"; however, there is extensive case law on the subject.

The inquirer reports that the inquirer works for an insurance agency and has questions about "reservation of rights" letters. Specifically, the inquirer wants to know if there would be a conflict of interest for an attorney to represent an insured and the insurer concurrently, when the insurer has conflicting goals as reflected by having issued a "reservation of rights" letter. The inquirer asks if New York State allows an insured to choose its own defense counsel at the insurer's expense where there is a conflict of interest arising out of the insurer's "reservation of rights" statement. The inquirer further asks if the insured has the right to demand that the insurer withdraw its "reservation of rights" letter and provide an unqualified defense, or authorize the insured to obtain separate, independent counsel to protect its own rights at the expense of the insurer.

The analysis states in part that after a legal complaint has been filed against an insured, the insurer, in writing, often may serve the insured with a "reservation of rights" letter to preserve the insurer's right to affirm or deny coverage for the claims made in a third party complaint, against which the insurer agrees to defend the insured. ("Reservation of rights" letters are different from disclaimer letters, in which an insurer notifies the insured or other party of the insurer's intent to deny coverage or disclaim liability. See Office of General Counsel Opinions No. 2-10-2005.) This duty to defend may create a conflict, which is most obvious after the insurer issues a "reservation of rights" letter in which it attempts to protect itself from liability while fulfilling its duty to defend its insured. Although there is no statute in New York that specifically addresses "reservation of rights," N.Y. Ins. Law § 2307(b) (McKinney's Supp. 2007), which requires insurers to file insurance policies with the Superintendent for approval, is relevant to this inquiry. That statute reads in relevant part as follows: "no policy form shall be delivered or issued for delivery unless it has been filed with the superintendent and either he has approved it, or . . . not disapproved it as misleading or violative of public policy." As a general matter, the Superintendent will not approve a policy that contains "reservation of rights" language because it may tend to be misleading, and therefore violate public policy. But there is nothing in the Insurance Law that expressly precludes an insurer from issuing a reservation of rights letter. The opinion goes on to advise the inquirer to seek advice of counsel.

To read the opinion in its entirety, visit the Department's website at www.ins.state.ny.us.◆

# SCHOLASTICALLY SPEAKING...
## BY PROFESSOR I.M. SMART




# A Discussion of Employee Dishonesty Coverage

The demand for broader insurance coverages increases and insurance contracts become more complex in response. An area of coverage becoming more commonplace is employee dishonesty and some attention should be focused on it.

Employee dishonesty is becoming a more frequent line of coverage extended in sophisticated package policies. It is a curious mixture as employee dishonesty is a bond coverage and it is intermingled with insurance coverages with the seeming inference that they are similar. The fact is that insurance and bonds are quite different.

The collective term for bonding is suretyship. Suretyship is comprised of two divisions. The first division, Fidelity, is the bond providing the inference of the guarantee of honesty. The second division, Surety, is the guarantee of performance. These notes will be confined to fidelity only as that is the exposure addressed by URB forms.

Bonds are marketed by insurers and the bond may be included as part of a package of insurance coverages. A bond is not an insurance contract and it differs in several significant ways:

1) Bonds are contracts of guarantee as opposed to being contracts of indemnity. Thus, the bonding company (surety) is not charged with any obligation to indemnify any party. The exposure is limited to the inferential guarantee of honesty on the part of the subject of the bond (principal) for the benefit of another party (obligee).

2) Bonds are three party contracts as opposed to the two party (insured and insurer) relationship in insurance contracts.

a) The party whose honesty is inferentially guaranteed is the principal. Typically, an employee is the principal.

b) The party to whom the guarantee is made is the obligee. Typically, the employer is the obligee.

c) The party providing the guarantee on behalf of the principal for the benefit of the obligee is the surety. The bonding company (your company) is the surety.

3) Bonds are predicated on the idea that the surety will not suffer a loss. The surety is the guarantor only and should the principal default on an obligation of trust, requiring the surety to compensate the obligee, the surety is subrogated to the obligee's rights and proceeds against the principal for recovery of any payment to the obligee as well as any expenses incurred by the surety to effect recovery of any payment (salvage).

4) Bonds have unusual terminology as they are distinct from insurances. Bonds are generally renewable and the obligee is required to pay an annual service charge as opposed to a premium. A bond has a penalty as opposed to a policy limit, and the penalty of the bond is not cumulative regardless of the number of annual service periods it has been in effect.

5) Bonds have a discovery period in which a claim may be enforced after termination of a bond as to a particular principal or as to all principals.

Fidelity bonds have a very narrow avenue of exposure as they are triggered only by dishonesty of a principal. For practical purposes, this means a defalcation perpetrated by an employee, whether acting alone or in concert with others. The two key elements then are: 1) dishonesty or fraud (a disposition to lie, cheat or defraud) 2) perpetrated by a principal (employee). Error, mistake, incompetence etc. does not trigger a response nor does a loss perpetrated by an independent contractor or any other non-employee. Inventory shortage alone is not proof of infidelity.

### IDEAS ON INVESTIGATION OUTLINE AND REPORTING

1) The Bond-Comments on the coverage provided by the bond. This area should also cover the identification of any prior bond and establish whether or not the obligee has notified that surety. Note: discovery period may cause bonds to overlap and losses may be prorated with another surety.

2) The obligee-Complete ID of the obligee including the date of an interview with the obligee. Identify the party who was interviewed and give a summary of the obligee's business.

3) Date of Discovery-The obligee should be obliged to disclose the exact date of discovery of the alleged loss. This may have a bearing on prorationing losses or on the applicability of this bond.

4) Date Reported-The date on which the alleged loss was reported to the surety, the manner in which it was reported and to whom the alleged loss was reported. This bears on the time frame for reporting losses, discovery periods and time frames for filing suits under the contract.

5) Date of Acknowledgement and Submission of Proof of Loss-Commentary should establish the date of notice, the date that a proof of loss was released to the obligee (preferably in the form of a letter with specific time frames outlined) and discussion of reservations of any rights or Non-waiver agreements enclosed with the acknowledgement or Proof of Loss.

6) Type of Loss-Commentary on the type of loss being alleged including whether cash or inventory or both and whether the obligee's property or the property of others for which the obligee is liable.

*Continued next page →*

# A Discussion of Employee Dishonesty Coverage Cont'd

7) Circumstances of Loss-Commentary on how the loss was discovered, who made the discovery and how it came to light. A detailed report on how the loss was perpetrated and any explanation that the alleged principal may have offered. The failure of the obligee's control system reflects on the desirability of the risk.

8) Principal--Complete ID of the alleged principal. Commentary on any contact with the alleged principal (established only after the alleged principal has been identified in a conforming proof of loss) including employment history, marital history, salary and sources of income, dependency, property ownership and general comments as to neighborhood and lifestyle.

9) Criminal Prosecution-Has the obligee filed a police report, if so, status of police investigation; if not, why not. Comment on any criminal information filed by the obligee and status of pending criminal prosecution activity.

10) Verification of Proof of Loss-After a conforming proof of loss (complete in every detail, executed and returned with supporting documentation) has been received, it must be verified that the alleged loss arose from an employee dishonesty occurring during the bond term. It must document verification of the supporting documentation offered as proof of the alleged dishonesty. The investigation should also document any salary, commissions etc. due the alleged principal that are being held by the obligee.

11) Salvage Status-The alleged principal's personnel file should be obtained and information should be developed as to any alleged co-conspirators, whether they are fellow employees or not. Commentary should document whether any restitution has been made or offered by the alleged principal and details should be presented as to any substantial assets the alleged principal may have, particularly quick assets such as cash, jewelry, bonds etc. and less liquid assets such as real estate, automobiles, boats etc.

In the usual event that a substantial restitution is unlikely, what is the alleged principal's plan for restitution? Will the alleged principal enter into an installment contract to make orderly restitution over an agreed upon term? Note that subrogation may be limited to the exact amount that the surety can prove as being part of a defalcation in the event of a trial of the matter; verification and accuracy are musts.

12) Desirability of Risk-Is the obligee correcting the failure in the control system? What is the likelihood of a repetitive loss? Are there other underwriting factors that have come to light during the claim investigation?

13) Recommendation and Remarks-A concise summary of the surety's responsibility in connection with the alleged defalcation, the status of salvage and the steps that lie ahead in closing out the file.

**SOME SUGGESTED DO'S AND DON'T'S**

**DO'S**

1. Do verify coverage and dates of alleged defalcations to assure that they come within the bond term.

2. Do verify employer-employee relationship.

3. Do monitor time frames for reporting losses, filing proofs of loss and filing suit under the policy.

4. Do explore discovery thoroughly and cover any prior notice of dishonesty by the alleged principal.

5. Do verify all aspects of the alleged loss and confirm the accuracy of all documents submitted to support the alleged loss.

6. Do secure amended proofs of loss when adjustments are made for amounts other than that shown on the original proof of loss.

7. Do explore salvage and subrogation aspects thoroughly.

8. Do insist that the obligee complete the proof of loss in its entirety and that the execution be notarized.

9. Do acknowledge any claim presentation promptly and release proofs of loss in a timely manner.

10. Do acknowledge the receipt of the proof of loss in a timely manner and hold in abeyance for reasonable periods where necessary for investigation and keep obligee advised of status.

11. Do seek help as needed and when it is needed.

**DON'T'S**

1. Don't contact the alleged principal until the obligee has identified that person in a conforming proof of loss.

2. Don't accuse anyone of dishonesty.

3. Don't threaten criminal prosecution or use any leverage to coerce a confession or promise of salvage by any alleged principal.

4. Don't attempt to dissuade any alleged principal from declaring bankruptcy (this debt is not dischargeable).

5. Don't take any position in the obligee's dilemma whether to file criminal charges or not; that is the obligee's option.

6. Don't complete the proof of loss for the obligee.

Be courteous and helpful at all times but do not take on anyone's obligations. Document all activities and steps taken in the handling of any loss. Get help when needed.◆

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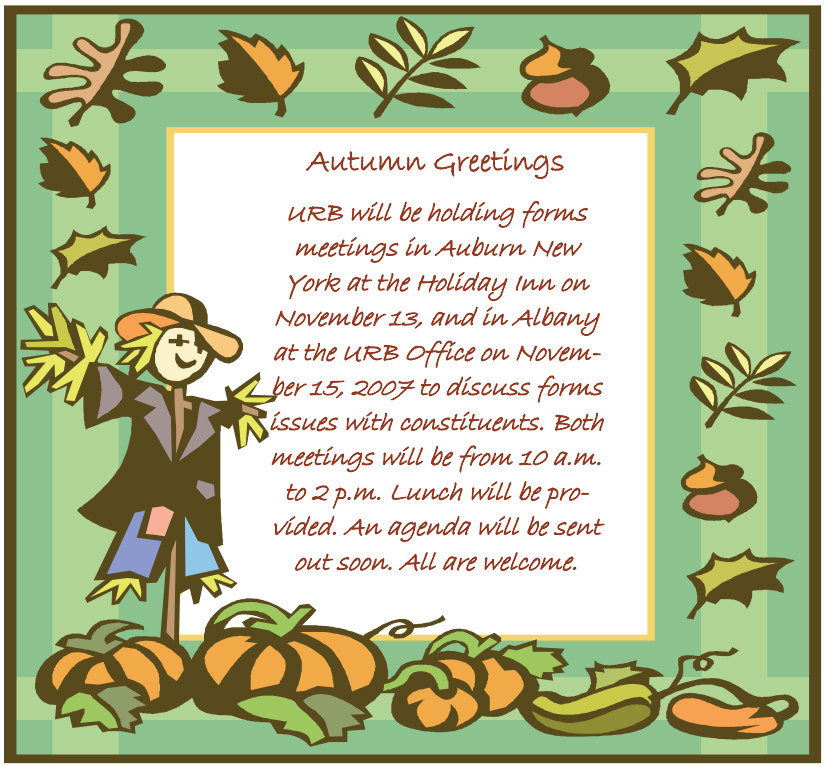


# URB Update

## Forms Update

Forms recently filed by the URB for approval at the Department are:

- FL-44 9/07 - Additional Insureds

Provides liability coverage only for additional insureds for the Landlords line of business.

- ML-23 9/07 - Additional Household Members Coverage

Provides coverage for certain persons who don't meet the definition of insured.

- ML-29 9/07 - Assisted Living Care Facility Resident Coverage (For Family Members Who Reside in Assisted Living Care Facilities)

Provides coverage C and Liability for family members in assisted living care facilities.

- ML-64 H 9/07 - Higher Limits of Liability

Provides the ability to extend coverage.

## CE Update

URB Services Corp. is offering two Continuing Education courses based on URB Forms.

One course is The URB Approach to General Liability Insurance, which provides eight hours of continuing education credit. Another course is Homeowner Coverage From the URB Perspective, which also provides eight hours of continuing education credit.

These are newly designed courses being offered for the first time this year.

URB Services is offering the courses on November 19 and 20 planned to be held at The Desmond in Albany. The cost for each course is $70.00 per person, including lunch.

Attendees may take one or both courses.

For information or to register, please contact URB Services at 518-355-8363 or write to urb@urbratingboard.com.