



# County Connection

News from the Washington Counties Risk Pool

March/April 2009

## LOTS OF NEW FACES ON THE BOARD

There are lots of new faces on the Board, and, as a quick introduction, here are a few of them who allowed a photo to be taken at the last board meeting, along with a bit of information some of them supplied.



**LYNDA RING ERICKSON, COMMISSIONER, MASON COUNTY, DIRECTOR:** Lynda has over 15 years experience in policy analysis, research, and organizational development. She previously worked for King County as a police officer, a Senior Analyst, and the Executive Director of the Suburban Cities Association of King County; she served as the Director of Community Relations for the Shelton School District, and as a Senior Policy & Management Analyst for the City of Olympia. She has served as a Mason County Commissioner for District No. 1 since 2005.

**JIM RICHARDSON, COMMISSIONER, SKAMANIA COUNTY, DIRECTOR:** Jim commented, "I have worked for a total of five Sheriffs next door to where I now sit as a Commissioner. It was a great training ground for my current job. It gave me a thorough education in the diversity of the geography, the cultural differences and the basic economic issues of the citizens I serve." With a total of nearly 30 years of public service experience, he intends to be a positive influence when interacting as a board member. He is an active sportsman who hunts, fishes and plays golf as time allows. He has served as a Skamania County Commissioner for five years.



**DIANE WEAR, COMMISSIONER, PEND OREILLE COUNTY, DIRECTOR:** Diane comments, "I was elected in November 2008. As a citizen advocate, I attended Comprehensive Plan Planning Commission meetings for two and a half years to completion/adoption of the plan. I also served as a Board Supervisor for the Pend Oreille Conservation District prior to election. In my previous life, I was employed by the Puyallup and Spokane School Districts for 31 years, served as a 4A head volleyball coach at two high schools, raised two WSU Cougars, and have two gorgeous grandchildren.

See page 2 for more introductions.



**ANGIE HOMOLA,  
COMMISSIONER,  
ISLAND COUNTY,  
DIRECTOR**



**BOB KOCH,  
COMMISSIONER,  
FRANKLIN  
COUNTY,  
DIRECTOR**



**IONE GEORGE, SENIOR  
DEPUTY PROSECUTING  
ATTORNEY, KITSAP  
COUNTY, ALTERNATE  
DIRECTOR:**

Ione started with the Prosecutor's Office in 1989 with an assignment to prosecute cases in District Court. Later that year, she moved to the felony division to assist in the prosecution of sex offenses. She has focused on addressing the needs of victims and their families through their contact with the criminal justice system. In 2001, she transferred to the civil division.

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**ANDREW LAMPE,  
COMMISSIONER,  
OKANOGAN  
COUNTY,  
DIRECTOR is not  
new to the Board.  
He was recently  
elected to the  
EXECUTIVE  
COMMITTEE in  
March.**



**JANET KELLY, HR/  
PROGRAM ANALYST,  
YAKIMA COUNTY,  
ALTERNATE DIRECTOR:**

Janet has worked for Yakima County since February of this year. Before that, she spent six years in Risk Management and Human Resources for public transportation companies including managing the City of Yakima's contracted Dial-a-Ride program, and over 20 years in risk management and volunteer coordination and training for not-for-profit agencies.

**In addition to those featured in this issue,  
please welcome the following new Directors:**

- Mike Wilson, Grays Harbor County Commissioner
- Philip Morley, Jefferson County Administrator
- Tim Holloran, Skagit County Administrator
- Sandra Romero, Thurston County Commissioner

**And Alternates:**

- Robert Johnson, Garfield County Commissioner
  - Joe Whalen, Kittitas County Human Resources Director
  - Ross Gallagher, Mason County Commissioner
  - Gregg Loney, Walla Walla County Commissioner
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**March 2009 Helpline Question of the Month: We have a couple of employees that are turning 65 this year. Both of these employees are having difficulty completing their jobs properly. I am wondering if a company can “force” an employee to retire at age 65. What are our rights as the employer?**

Except for extremely limited positions (i.e., airline pilots), mandatory or forced retirement is a violation of state and federal age discrimination law.

Barring any employment contract that governs otherwise, the best way to handle the situations you describe is to ignore the fact of the employees’ ages and simply treat them as you would any other employees whose performance was not satisfactory. If these employees are unable to meet management’s reasonable expectations, you would be within your rights to manage their performance as you ordinarily would (i.e., address the performance deficiencies consistent with policy and past practice). What the employer CANNOT do is allow the employees’ ages to factor into or color any decision the employer makes with respect to them, nor can the employer speculate about their abilities based on age.

That said, state and federal age discrimination statutes do not entitle older workers to better or preferential treatment in the workplace, either. Indeed, they are entitled to the same treatment as similarly situated employees who are not in the protected age group—no better, but no worse.

Thus, the best practice would be to address the laborer’s “corner cutting” and the office worker’s deficiencies from a performance management standpoint, just as you would any other employee who was not meeting the company’s reasonable expectations. We presume this may include some kind of counseling about the performance deficiencies and letting the employees know what the consequences will be if they do not make and sustain the improvement needed (which may include discharge). That said, you must ensure that there is no similarly situated younger employees who have had similar deficiencies and were not similarly treated.

Regardless, we would discourage any requests, direct or indirect, by the employer that these employees quit, consider retirement, etc., as this could create exposure under state and federal age discrimination statutes.

**Executive Committee**

**President**

**Mark Abernathy**, Kitsap County

**Secretary/Treasurer**

**Jay Winter**, Walla Walla County

**Other Members**

**Tammy Devlin**, Thurston County

**F. Lee Grose**, Lewis County

**Rose Elway**, Grays Harbor County

**Steve Clem**, Douglas County

**Randy Watts**, Whatcom County

**Andrew Lampe**, Okanogan County

**Keith Goehner**, Chelan County

**Marilyn Butler**, Skamania County

**Steve Bartel**, Spokane County

**Risk Pool Staff**

Administration

**Vyrle Hill**, Executive Director

**Sue Colbo**, Auditing/Accounting Officer

Claims

**Susan Looker**, Manager

**Mike Cook**, Analyst

**Candy Drews**, Analyst

**Tammy Cahill**, Representative

**Claire Thompson**, Assistant/Editor

**Lisa Daly**, Assistant

Member Services

**David Goldsmith**, Manager

**Jill Lowe**, Loss Control Coordinator

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**WASHINGTON COUNTIES  
RISK POOL**

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# MEMBER NEWS



## Jefferson County Sheriff Vacancy Filled March 23, 2009



The Jefferson County Board of Commissioners appointed former Undersheriff Anthony "Tony" S. Hernandez to fill the unexpired term of Sheriff Mike Brasfield. Brasfield, a 41 year veteran law enforcement official in Seattle and Fort Lauderdale, has completed 6 years in office and retired effective Friday, March 27th.

The new Sheriff Hernandez lives in Port Ludlow with his wife and two young

daughters. He is a graduate of the University of Washington and has completed his course work for a master's degree. Hernandez entered law enforcement in 1994 and is an eight-year veteran of the Sheriff's Office, where he has held several supervisory and management positions.

Brasfield promoted him to undersheriff in 2007. Prior to that he was the chief criminal deputy in 2006 and was director of community policing and code enforcement coordinator in 2005 and 2006. He served as a sheriff's deputy from 2001 to 2005.

Prior to Hernandez' employment with the Sheriff's Office, he served in a secure facility for runaway youths in Kitsap County as a crisis residential counselor and detention officer.

He was a police officer for the Department of Defense in 1999 and 2000 and a Bremerton reserve police officer from 1997 to 1999. Prior to that Hernandez was a data analyst for the U.S. Marshals Service from 1996 to 1999.

He has attended the FBI National Academy and the state Criminal Justice Academy.

### WCRP Future Meetings and Conferences

#### July 2009

7/29/09 - 7/31/09—Summer 2009 Conference and Annual Meeting, The Enzian Inn, Leavenworth; call 800-223-8511 or 509-548-5269 to make reservations. Mention WCRP to make reservations in our room block.

#### November 2009

11/4/09 - 11/6/09—Autumn 2009 Conference and Meetings, Red Lion Hotel Columbia Center, Kennewick; call 509-783-0611 or 800-Red Lion to make reservations. Again, mention WCRP for our room block.

### COMPACT CERTIFICATIONS—COUNTY MEMBERS RECOGNIZED !!!

On March 27th, the Board of Directors recognized county members who have completed Compact Certification. Lisa Young (Kittitas) and Don Ramsey (Pend Oreille) have completed Basic Compact Certification. Tammy Devlin (Thurston), Todd Barr (Mason), and Drew Woods (Columbia) have achieved Advanced Compact Certification. Certificates were awarded to all. CONGRATULATIONS!





# SAFETY NEWS



## Backing

Backing accidents are common. In 2007, 221 people were killed by vehicles backing up, 99 of which were children age 14 and under. Fourteen thousand people were injured, 2,000 of which were kids. Property damage runs into the millions. According to the National Safety Council, one out of every four vehicle accidents is a backing accident.

### So Few Miles – So Many Accidents

When you consider the thousands of miles a vehicle travels forward each year compared to the one or two miles that same vehicle traveled backwards, isn't it interesting that backing accidents are so common?

### Backing Up Is Not Easy

So why should a driving maneuver that involves so few annual miles be the cause of so many accidents? Well, because backing up isn't easy!

One reason backing up is not easy is because we practice it so infrequently compared to driving forward.

Another reason backing is not easy is that the driver's seat faces forward. Driving backwards while your body/head is twisted around is awkward and uncoordinated feeling. We also see many drivers, now more than ever due to our aging population, finding it extremely difficult to twist around far enough to get a good view to the rear.

Backing also is not easy because all vehicles have blind spots while backing. Although smaller trucks, vans, and cars do not have the huge blind spots of a large truck, nevertheless there are blind spots, even when mirrors are of the proper design and properly positioned.

## How to Avoid Backing Accidents

You may have heard some of the following tips before, but given the regularity with which backing accidents occur, surely a careful review is in order:

- Avoid backing if there is any other way to get into that space. For example at many parking lots, parking spaces are two vehicles deep, end to end. If you can find one of these spaces that is unoccupied, pull slowly through the first parking space and into the second space. Then, when you are ready to leave you can pull forward out of the space, rather than backing up.
- When approaching a parking situation drivers



are often presented with a better view of the parking space than when backing out of the same space. Hence, it is often better to back into the parking spot upon arrival, rather than pulling in and backing out later.

- Make certain that your mirrors are properly adjusted. If your vehicle's outside mirrors are electric, angle them down a little more than you would for regular driving. This will give you a good view along both sides of the vehicle. Don't forget to adjust them again later for regular driving.
- When you approach your vehicle to leave and will be backing up, walk around your vehicle before getting in. This will allow you a good view of your vehicle's blind spots prior to backing. However, keep your personal security in mind and don't delay getting in your vehicle, securing the doors, and leaving.
- Once you get into the vehicle, start backing right away. Any delay provides an opportunity for the situation around you to change.
- Minimize distractions. Turn off or mute the radio, stay off the cell phone, don't fiddle with

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# SAFETY NEWS



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the GPS system, etc.

- If it is safe to do so, open the windows on both sides of the vehicle while backing so that you can hear what's happening around your vehicle.
- Back up slowly and check all mirrors frequently. If you strike something, less damage will occur because you will be able to stop quickly.
- You may need to tap your horn to get someone's attention in the area.
- Keep your mirrors and windows clean and free of dirt, ice, or snow. If you have sonar or radar back-up sensors, check regularly for proper function.

***Backing is not easy.***

***Backing accidents are very common.***

***Proceed with caution.***

(This article was written for the March 2009 issues of *Courier Safety Topics Newsletter* by Tim White, Senior Loss Control Consultant for Gallagher Transportation Services. He has given his permission to reprint.)



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## MIKE CROKE RECUPERATING

Many of you are aware, from announcements at the Spring Meeting, that Mike was under the weather. He is now recuperating and recently spoke with Vyrle Hill, who reports, "Mike was very engaging and most cheerful. He asked that I convey his heart-felt thanks to everyone.

Even though his family has been visiting, it is clear he misses being out and about and can't wait to return to work. After a short time to get acclimated, Mike will resume his rehab assignments as an outpatient. In the meantime, AJG is providing him with a remote workstation that they have already begun installing to allow him to resume working from home.

**He very much appreciates calls and/or visits. For a while at least, he can be reached at 1100 E Treasure Island Drive, Allyn, WA 98524-7736 or (360) 275-5828. And just in case that phone is tied up, his cell number is 206-713-5405."**



## **USING STRUCTURED SETTLEMENTS Reduce Costs While Meeting Claimants' Needs**

By Dennis Drexler

When resolving personal injury and workers' compensation claims, structured settlements offer claimants a sense of financial security through the use of a customized benefit plan tailored to meet their individual needs. But beyond providing claimants with peace of mind, structured settlements also act as a valuable tool for claim professionals. By employing a structured settlement service to resolve personal injury and non-injury cases, claim professionals can reduce administrative and legal costs, cut the time it takes to settle claims, and avoid the risks associated with going to trial.

Structured settlements are an important tool claim professionals can use to enhance the negotiation process. For example, the use of a structured settlement can help bridge the gap between a settlement offer and demand, create an opportunity in a dead-locked negotiation, and shift settlement discussions from cash to providing for a claimant's financial needs on a long-term basis. Such settlements also expedite the removal of liability and legal obligations from a defendant's corporate books and transfers liability for future payments.

### **Using Structured Settlements**

Structured settlements involve the payment of damages to an injured party over time. Some settlements can result from voluntary arrangements, as in the case of a pretrial settlement or, when they involve a minor, they may be court ordered. Other structured settlements involve no litigation at all, although at least part of the settlement must be promised for payment at some future point.

The payments may be scheduled for

any length of time, even over the claimant's lifetime. Payments can be made according to the claimant's needs, using a fixed schedule of periodic or life-time payments, installments (e.g. monthly, quarterly, semi-annual, annual or bi-annual), future lump sum payments, or any combination of installment and/or lump sum payments.

Structured settlements typically are used to resolve "qualified" cases, or those involving physical injuries that are exempt from taxation based on IRS law. Such cases can include claimants who are temporarily or permanently disabled, the guardianship of minors or persons with diminished mental capacity, claimants with limited financial management skills, severely injured claimants who may or may not have a shortened life expectancy, as well as wrongful death lawsuits.

Structured settlements increasingly are being used to resolve "nonqualified" or taxable cases that do not involve a physical injury. Such cases can include nonphysical injury claims, employment disputes, wrongful termination, sexual harassment, discrimination cases, construction defect, attorney fees, punitive damages, environmental claims, property damages, and lottery winnings.

When considering both qualified and nonqualified cases, claim professionals should use the following guidelines to determine whether or not a structured settlement is appropriate:

- The loss amount is greater than \$10,000 and there is an opportunity to defer some of the payments for three or more years.
- Anytime a minor is involved and the loss is greater than \$5,000.
- The claimant has concerns with security and would like to receive a steady stream of payments over a period of time.

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The claimant has concerns with managing a large sum of money.

The claimant would like to shelter the settlement proceeds from future taxation on the earnings.

Regardless of the type of claim, the age of an individual does not have a bearing on whether or not a structured settlement is offered. Many senior citizens find that structured settlements protect them from individuals who may prey upon them. Children, grandchildren and great-grandchildren also can be left a legacy for use in education, wedding planning, a down payment on a home, etcetera. Moreover, structured settlements are not subject to the volatility of the markets and payments are fixed regardless of market fluctuation.

### **Partnering with the Structured Settlement Specialist**

Structured settlement proposals require a team effort between the claim professional and the structured settlement specialist. The sooner the structured settlement specialist is brought into the claim, the better. By forming a partnership early in the process, the claim professional and structured settlement specialist can begin to gather information and make an informed decision of whether or not the claim is a candidate for a structured settlement.

A meaningful structured settlement meets as many of the claimant's needs as possible within the settlement range established by the claim professional. It is the claim professional's knowledge of the claimant that allows the proposal to be designed to fit the needs of the claimant and his or her family. As such, the claim professional is responsible for defining each party's role during the initial strategy sessions. Once those roles are clearly defined, the structured settlement specialist

attends all settlement conferences, mediations and meetings the claim professional deems appropriate.

It's important to note that structured settlement specialists are paid by the life insurance company upon the purchase of an annuity. That means all services offered by the structured settlement specialist are free of charge, which can present claim professionals with an important source of cost savings.

One such service includes the securing of age ratings, a technique designed to maximize annuity payments for the claimant. The process involves submitting medical records to insurance carriers to determine a "rated-age" for the prospective claimant. Take, for example, an injury victim with a biological age of 12. Upon review of the victim's medical records, actuaries at the insurance company may feel that, due to the severity of the sustained injuries, the child's life expectancy is no longer that of someone who is age 12 but rather of someone who is age 30. As a result, the company offers to issue the annuity based on that "age-rated age," which translates into increased monthly payments to the annuitant since the insurer has based the payments upon a shorter life expectancy.

Other valuable services offered free of charge by structured settlement specialists include providing structured settlement proposals with periodic updates and changes, providing quotes from multiple life insurance companies to maximize the annuity payments and security for the claimant, analyzing economist reports for future damages, providing present value figures, and testifying as an annuitist at trial.

### **Workers' Compensation Claims**

Qualified workers' compensation

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# CLAIMS NEWS



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claims also can be resolved using structured settlements. These cases include Medicare Set Asides (MSAs), total permanent disability cases involving wage differential, partial permanent disability cases with a value of \$50,000 or greater, occupational disease cases, and permanent total cases, as well as disputed cases such as those involving stress or heart attacks.

The administration of workers' compensation claims over the years has become increasingly more difficult and challenging to the claim professional. Even with jurisdictional changes within the statutes, the compensation laws still favor the injured worker. Sympathetic arbitrators and administrative law judges continue to rule in favor of the injured worker.

Issues such as modified duty programs, medical treatment, rehabilitation, healthcare costs, ongoing temporary total disability payments, Medicare (CMS) involvement, and spiraling settlements all are driving up the cost of workers' compensation claims.

By utilizing a structured settlement, the claim professional and the structured settlement specialist can team up to produce a strategy which ultimately will save indemnity, medical, and expense dollars in the settlement of the claim.

## **Medicare Set-Asides**

As outlined by the Center for Medicare Services (CMS) and federal law, Medicare set-asides (MSAs) are the consideration of Medicare's interest in the settlement of the medical portion of workers' compensation and liability claims. The law is designed to protect Medicare's interests in settling claims that may involve future medical expenses, and CMS has implemented strict and specific guidelines that must be adhered to in all MSA cases. Failure to abide by these regulations can result in harsh fines, other penalties, and legal exposure across

numerous fronts.

Considering the complex processes, strict regulations, and harsh consequences for non-compliance involved with MSA cases, the use of a structured settlement can act as a key enhancement in workers' compensation settlement negotiations. As such, claim professionals should consider using structured settlements for all MSAs that are valued at \$25,000 and greater. Moreover, structured settlements offer the possibility of substantial cost savings by capping future known and unknown medical exposure and reducing the life of the claim as well as its associated legal expenses – all of which could add up to savings between 40 and 60 percent.

Overall, claim professionals can realize considerable cost savings and still meet the unique needs of claimants by utilizing a structured settlement. In addition to helping reduce administrative and legal costs, structured settlements can play a significant role in the negotiation process.

As time moves forward, structured settlements will continue to be an effective tool in settling physical injury cases, and will continue to expand its presence in nonqualified cases as well as in workers' compensation claims.

Dennis Drexler is President of Cambridge Galaher Settlements and Insurance Services, a subsidiary of Cambridge Solutions.

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# TRAINING & EVENTS



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## April 2009

4/7/09—4/9/09—Management & Supervisory Training, Thurston County

4/14/09—Legal Concepts Training: Risks & Roads Workshop, Tacoma

4/19/09 –4/23/09—RIMS Annual Conference, Orlando, FL

4/22/09—Legal Concepts Training: Risks & Roads Workshop, Moses Lake

## May 2009

5/5/09—Law Enforcement Liability Training, Moses Lake

5/6/09—Law Enforcement Liability Training, Burien

5/19/09—Legal Concepts Training: Avoiding County Liability in Land Use Disputes, Tacoma

5/20/09—Legal Concepts Training: Avoiding County Liability in Land Use Disputes, Moses Lake

5/31/09—6/3/09—PRIMA Conference with AGRiP Pooling Track, Dallas, TX

## July 2009

7/29/09—7/31/09—WCRP Summer 2009 Conference and Annual Meeting, The Enzian Inn, Leavenworth

## November 2009

11/4/09 - 11/6/09—Autumn 2009 Conference and Meetings, Red Lion Hotel Columbia Center, Kennewick

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**[www.wcrp.info](http://www.wcrp.info)**

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