



RIMSCANADA™

NEWSLETTER **I** Brought to you by the RIMS CANADA COUNCIL

WELCOME TO TORONTO

It's finally here. The event you've been waiting for all year—the RIMS Canada Conference! Taking place September 24-27 in Toronto at the Metro Toronto Convention Centre, this is where the risk community comes together to learn, discover and connect. With a range of informative educational sessions, dynamic keynote speakers and plentiful networking opportunities, there is sure to be something for everyone.

This year's theme of "Community" reflects how risk management professionals are both interrelated and interdependent upon each other for our success, and how we can all benefit from the strength in our differences. With that in mind, this year's conference features an educational lineup that is both economically focused and diverse in its approach, much like the city of Toronto itself.

The plenary sessions will include experts on diversity, catastrophic risk management and economics, while the concurrent sessions cover a wide range of topics such as doing business in the global economy, ERM, career development strategies, risk finance, and cyber and technology risks.

There will also be more exhibitors than ever before. So be sure to visit the Exhibit Hall and grab a drink at the new Exhibit Hall Reception on Monday afternoon, Sept. 25. This is exclusive time for you to focus on finding new resources or relax in the lounge area. And don't forget to stop by the RIMS booth (#420) to learn about new member benefits, talk to RIMS staff, and get a peek at next year's conference in St. John's, Newfoundland from September 23-26, 2018. There will be Newfoundland chocolates to enjoy, and you might even win a drawing for a framed print.

We're also excited to kick off the conference at Sunday night's "Community Celebration" at Steam Whistle Brewery, located in the historic Round House. Enjoy BBQ and cocktails while you listen to music by our very special guest, multiple Juno Award Winner Colin James and close out the evening with Shugga, Toronto's best cover band.

To make the most of your conference experience, don't forget to download the RIMS Events app where you can sync your calendar with the sessions you want to attend. Also, follow the conference on Twitter using @RIMSCANADA and #RIMSCANADA2017.

We look forward to welcoming you into our community in Toronto. There's still time to register onsite or at www.rimscanadaconference.ca. ■



KEYNOTE SPOTLIGHT

Ted Childs

Workplace Diversity Expert

Captivating and eloquent, Ted Childs challenges organizations to become fully vested in diversity and take ownership of it. With almost 40 years of success in corporate America, Childs gets straight to the bottom line and proves that a healthy diversity policy is essential to achieving the ultimate competitive advantage.

Erwann Michel-Kerjan

Catastrophic Risk Management Expert

Dr. Erwann Michel-Kerjan is a world-renowned authority on risk management who works on the cutting edge of what it takes (in theory and practice) to cope with extreme events in our contemporary world. He gives a unique and highly informed perspective on how your organisation can adapt to changing conditions to make itself better prepared to survive—and even thrive—in a difficult world.

Jeff Rubin

Economist

Jeff Rubin is an internationally-renowned economist and a trusted voice on the future of oil and energy and how they relate to the economic outlook. His critically hailed books discuss oil prices, economic growth and the financial security of all Canadians.

Shachi Kurl

Executive Director at Angus Reid Institute

As executive director of the Angus Reid Institute, Shachi Kurl can be found offering analysis on CBC's *At Issue*, Canada's most-watched political panel, as well other influential forums. She works to further public knowledge, debunk myths, and contribute to debate and discussion in meaningful ways, enhancing the understanding of issues that matter to Canada and the world.

CONFERENCE GUIDE

Welcome to the RIMS Canada Conference and to vibrant Toronto. It's an exciting time to visit Canada's largest city and we have assembled an engaging lineup of speakers and events to enlighten and educate you. We want you to take advantage of all the Conference has to offer, so read on for tips and highlights:

COMMUNITY CELEBRATION

Sunday, Sept. 24 from 6:30 p.m. to 11:30 p.m. is our kickoff event, which will be held at the Steam Whistle Brewery located in the historic Round House. Expect a fun, comfortable evening dining and toasting with friends and colleagues. Live music will be provided by our special guest, award-winning rock/blues veteran, Colin James.



EXHIBIT HALL

The Exhibit Hall is a busy place, but also one where you can catch your breath. There, you can meet industry partners, sip a coffee, grab a few souvenirs and maybe even win a prize. Remember to bring your business cards for contests and networking and visit the RIMS Canada booth to tell us about your experience. Exhibit hall hours are **Monday, Sept. 25** (9 a.m. – 5:30 p.m.); and **Tuesday, Sept. 26** (9 a.m. – 3 p.m.).

CONFERENCE MEALS

Fill your belly before you feed your mind. The Conference offers delicious breakfasts each morning at no additional cost. Lunches and coffee breaks will be held during exclusive exhibit hall hours on Monday and Tuesday, offering networking opportunities to complement the tasty meals and treats.



CONCURRENT SESSIONS

Looking to hone your risk management skills or gain valuable new insight? Our sessions cover variety of topics, speakers and presentations that should appeal to risk managers serving any

industry—from cybersecurity and product recall to risk profile improvement strategies. Whether in Q&As, roundtables or lectures, event speakers will discuss innovative ways for you to tackle problems with new knowledge and tools. View the session schedule details on our website at www.rimscanadaconference.ca.

COMMUNITY PRIDE

Following the conference events on **Tuesday, Sept. 26**, Marsh's Pride Colleague Resource Group invites you to an off-site, after-hours event to celebrate diversity. From 9 p.m. to midnight at the Canyon Creek Chophouse, join us in bringing the risk management community together to embrace the inclusion of all people and cultures. Complimentary food and beverages will be served.

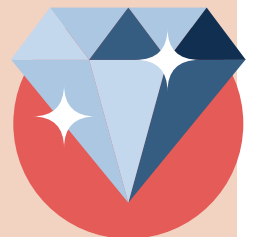


FIRST-TIME ATTENDEE ORIENTATION

All first-time attendees are encouraged to join us **Sunday, Sept. 24** (4:30 p.m. – 6 p.m.) for tips and advice on maximizing your time at the RIMS Canada Conference. National Conference Committee and RIMS Canada Council members will update you and introduce you to other attendees in a casual, social environment so you can head to the Community Celebration with your new friends.

AWARDS PRESENTATION

We proudly acknowledge the risk management leaders who continually make advancements across a range of industries. During the opening ceremonies on **Monday, Sept. 25**, we will host the annual Awards Presentation and invite you to celebrate the contributions of risk management innovators and leaders.



The Power of the Waiver

by Bruno De Vita

Recently, the British Columbia Supreme Court released its decision in *Jamieson v. Whistler Mountain Resort Limited Partnership*. The decision to uphold the waiver in question received considerable media attention, with some outlets suggesting that waivers remove the legal incentive for operators to protect its customers and that legislation should be enacted to limit the scope of waivers.

In the case, the plaintiff sustained a spinal cord injury at a mountain biking park owned and operated by the defendant, Whistler Mountain, when he flipped over the handlebars of his bike. He sued the defendant for failing to warn him of the risks involved with mountain biking in the park. The defendant successfully applied to have the matter dismissed in a summary trial.

Prior to gaining access to the park, the plaintiff had signed a standard release form. The plaintiff claimed that no one told him of the contents of the release, and that the defendant's staff rushed him through the signing process. He expected that any special risks would be specifically brought to his attention. Despite having previously volunteered as a patroller and a first-aid attendant at the park, he claimed that the defendant played down the severity of injuries that could be sustained at the park. Specifically, he claimed he did not know it was possible to sustain a spinal cord injury while using the park's facilities.

One of the main issues in the case was whether the wording of the release adequately warned the plaintiff about the risks of using the park. In arriving at its decision, the court closely examined the wording of the waiver and the manner in which it was presented to patrons of the park. First, the court considered the general rule that, when parties sign a written agreement, they cannot later say that they did not read it and know of its contents. Further, the court held that there is no duty on the party who drafted the contract to take reasonable steps to warn the signatory of any special terms or ensure those terms have been read and understood, unless that party knew or should have known the signatory was mistaken as to the terms. The court rejected the plaintiff's argument that the defendant was required to mention specific injuries (spinal cord injuries) or mechanisms of injury (being thrown over the handlebars) before he signed the release.

Secondly, the court said that the personal circumstances of a plaintiff, including that person's knowledge and experience with similar releases, should be considered. In this case, the plaintiff was highly educated, had volunteered at the park as a patroller and first-aid attendant, and had engaged in other recreational activities that required him to sign similar releases. In particular, the court gave weight to the fact that, in his role as a patroller, the plaintiff had previously assisted with injuries where he had to rule out or be cautious about potential spinal injuries.

Third, the court examined the wording of the waiver and concluded that any reasonable person who could read English would understand that

the risks associated with using the park were serious, and that signing the release would waive his or her right to sue the defendant. In particular, the court highlighted the fact that the release:

- included a waiver clause that was printed on the first and third pages, inside a bold-line box, highlighted in yellow, and included all-capitalized text;
- provided a space for the signatory to initial next to a statement confirming he read the release;
- was printed in the form of a booklet such that the third page was visible when the booklet was opened;
- included a warning to "stop and read" that was printed sideways on one of the pages, in larger, bolded font;
- warned about the risk of injury, the need for experience and skill, the assumption of risk of injuries, and the kinds of hazards present at the park; and
- included clauses stating that the patron assumed the risk of injuries, was aware of the risks and hazards associated with the park, and waived any claims against the defendant arising from any cause.

The court noted that the key wording in the release was the waiver of "all liability for any loss... injury... that [the signatory] may suffer... as a result of... participation in mountain biking *due to any cause whatsoever, including negligence...breach of any statutory or other duty of care.*" This wording was sufficient to make the release valid, but was further bolstered by the features noted above.

Finally, the court considered the way in which the release was presented to the plaintiff. Members of the defendant's staff swore affidavits about their standard practices during the signing process. They were trained to explain that the release was a legal document that waived liability and claims against the defendant, and to advise the signatory to read and understand it before signing. They were also instructed to give the patron time to read the release, and ask for confirmation that he read and understood what he was signing. The staff members who witnessed the plaintiff's signature swore in their affidavits that they would have followed these procedures when the plaintiff signed the release.

Based on the foregoing, the court concluded that the release was valid and enforceable, and dismissed the plaintiff's claim. The trial judge's reasoning provides clear guidelines on what is required to ensure enforceability of a waiver. Of course, the waiver must be properly drafted and presented in a clear and readable format. Equally important is the need to ensure that your risk management program involves proper training of staff so that evidence can be given regarding the manner in which the waiver and its legal consequences have been brought to the attention of the patron. The decision provides further proof of the importance of waivers in any risk management program. ■

Bruno De Vita, QC, is the managing partner of Alexander Holburn Beaudin + Lang in Vancouver, British Columbia.

A Message from RCC Chair Ren Lips

On behalf of the RIMS Canada Council, welcome to Toronto, the Greater Toronto Area, and my home for the last four years. Coming from the west and moving here was quite the experience but I found a new home that is a community in every sense of the word, with many different cultures, diversity in industries, and varied sports and entertainment to fill everyone's calendar. This year's conference theme is Community, so what does that word really mean?

com•mu•ni•ty

noun

1. A group of people living in the same place or having a particular characteristic in common.
2. A feeling of fellowship with others, as a result of sharing common attitudes, interests, and goals.

How does this relate to you while you are attending the RIMS Canada Conference? I'm sure you run into challenges and difficult situations from time to time—I

know I sure do. We often look to others for input, assistance or even just to talk through ideas. Those others form part of our personal communities. In my case my community includes many individuals that I have come to know through the RIMS Canada Conference and the broader RIMS organization. The conference is tasked to deliver professional development, a marketplace, and networking for all of our risk management friends and family and this year will be no different. I hope that each and every one



of you will expand your community by meeting new people and learning about new ideas or approaches.

Let's enjoy this gathering of the risk management community as we celebrate the sesquicentennial of this great country. I look forward to being a part of expanding your network.

Rieneke (Ren) Lips,
CPA, CMA, CIP

Fun Facts About Toronto

Toronto is the fifth-largest city in North America. The only larger cities are Mexico City, New York, Los Angeles and Chicago.

The Toronto Zoo is the largest in Canada. It is home to more than 5,000 animals representing 460 species.

Did you know Rick James and Neil Young were bandmates in Toronto? Their R&B group, the Mynah Birds, unfortunately never released an album.

The Toronto Islands, just a short ferry ride away from downtown, comprise North America's largest urban car-free community.

In honor of Canada's 150th anniversary, the vibrant Toronto Riverside community is hosting a

series of Canada 150 events through October. These include an Ontario Wine festival and guided walking tours.

Located in downtown Toronto, the CN Tower was built to withstand an earthquake of 8.5 on the Richter scale and its upper reaches can withstand winds up to 418 km/h (260 mph).

Toronto is hosting the Invictus Games, which run through September 30. The games will host 550 competitors from 17 countries.

More than half of Toronto's workforce has a university degree or college diploma.



EDITORIAL POLICY

The RIMS Canada Newsletter is a publication of the RIMS Canada Council and is published periodically throughout the calendar year. The opinions expressed are those of the writers and volunteer members of the RIMS Canada Newsletter Editorial Committee. Articles submitted to the RIMS Canada Newsletter for publication are subject to the approval of the RIMS Canada Newsletter Editorial Committee. Approval of such articles is based on newsworthiness and perceived benefit to the readership. All decisions of the RIMS Canada Newsletter Editorial Committee are final and not subject to appeal. Individuals submitting articles to the RIMS Canada Newsletter hereby acknowledge their acceptance of the RIMS Canada Newsletter Editorial Policy.

Editorial Committee

Aaron S. Lukoni
British Columbia Government
Tel: (250) 356-8915

Seamus Gearin
RIMS Canada Consultant
(Becker Associates)
Tel: (416) 538-1212

Thank you to all of our newsletter contributors! If you are interested in writing an article for the RIMS Canada Newsletter, please submit the article to a member of the Editorial Committee for review. Any questions about the production or distribution of this newsletter should be directed to the Editorial Committee.

The RIMS Canada Newsletter is produced on behalf of the RCC by RIMS.

LIKE, FOLLOW & SUBSCRIBE!

The RIMS Canada Council is here to serve our Canadian RIMS chapters and members, and we invite you to reach out to us as we are here to assist you.

Visit the RIMS Canada website at rimscanada.ca or simply scan the QR code below on your smartphone for access to RIMS Canada risk management resources, including conference and education information.



Did you know that the RIMS Canada Newsletter is available on-line? Now you can read your favourite newsletter on the go at: rimscanada.ca/newsletter

As the world evolves and technology plays a more pivotal role in our daily lives, it is important to keep informed about topics relating to risk management and the insurance industry. Use #RIMSCANADA and stay connected by following us on social media:

www.linkedin.com/groups/4701774

@RIMSCANADA

www.facebook.com/RIMSCANADA

www.instagram.com/RIMSCANADA