



# RIMS CANADA™

NEWSLETTER  Brought to you by the RIMS CANADA COUNCIL



## Calgary Hosts the 2016 RIMS Canada Conference

by Alexandra Sellers

**Our 42nd annual RIMS Canada Conference, which was held in Calgary from September 11-14, was another great success. Calgary has yet again shown that it is a city unlike any other, and as proud Calgarians, we are always happy to show our beautiful city to the world. Thank you to all those who attended, presented and helped to organize such an exciting event.**

Ever the compelling orator, Calgary Mayor Naheed Nenshi's opened the conference with an address that, in keeping with the conference's theme of "Resilience," touched upon the anniversary of 9/11 and reminded us all how that significant historical event, 15 years ago, strengthened our focus on improving organizational resilience and how it still affects us to this very day.

In addition, our diverse plenary speakers—Olympian curler Cheryl Bernard, comedian and storyteller extraordinaire Paul Huschilt, trend guru Max Valiquette, and musician and author Jann Arden—brought

humor and insight, as well as many lifetimes worth of diverse experiences and perspectives. It was an absolute delight to experience all that they had to share with our Canadian risk community.

In 2016, we re-imagined our program, opting to deliver concurrent sessions in both foundational and advanced streams on a wide range of topics including cyber risk, business continuity, claims management, and emerging technology like driverless cars, drones and the internet of things. The well-received sessions provided attendees with both depth and breadth of information. Our resilience-themed soiree was also a hit and featured tongue-in-cheek earth, wind, fire and water-themed areas to illustrate the different natural catastrophes Calgary has experienced, because goodness knows we have seen our share over the years!

Over the course of the conference many stories of adaption, perseverance, resilience and courage were shared, while strategies, lessons and attitudes were relayed, and countless connections were made. We are so proud of all the hard work that culminated in the RIMS Canada Conference 2016, and look forward to seeing you all again at the next conference in Toronto in 2017. ■

**Alexandra Sellers** is senior underwriter, management liability and financial institutions, at CNA Canada.

# Conference Snapshots

The 2016 RIMS Canada Conference was an exciting event for all who attended. Here are just a few of the scenes from Calgary.





# AWARD WINNERS

## Mark Day Receives Donald M. Stuart Award

The RIMS Ontario Chapter presented the Donald M. Stuart Award to Mark Day, executive director of risk management and insurance for the Government of Alberta's treasury board and



finance. Widely recognized as Canada's highest honour within the risk management field, the Donald M. Stuart Award has been bestowed annually since 1979 by the RIMS Ontario Chapter (ORIMS) to celebrate Canadians who have made outstanding contributions in the risk management profession.

In his current role with the Government of Alberta, Day is responsible for the overall delivery of risk management, risk control, risk financing and risk identification to all departments of government, most provincial corporations, all of its committees, public and elected officials and its thousands of volunteers. He is an integral member of Alberta's Assistant Deputy Minister Recovery Task Force, a group that has been instrumental in guiding the province through a number of recent natural disasters.

As part of the organization's risk management strategy, Day also initiated a quarterly newsletter for the province that provides an update on the latest risks

impacting government and the region. With more than 70 editions released, the newsletter has been pivotal to promoting a risk-aware culture throughout the governmental enterprise.

Day served as President of the Northern Alberta RIMS Chapter on two separate occasions (1992-1993 and 2002-2003) and has held several chapter officer and RIMS Canada Council positions to support the country's thriving risk management community. Additionally, he served on the National Education Sub-Committee of the Canadian Risk Management Council, assisting with the development of course enhancements. He was the catalyst for the University of Alberta's (Edmonton) decision to offer the CRM course. In addition to

his professional accomplishments and his volunteer work with RIMS.

Day has also cemented himself as one of Canada's top risk management thought leaders, sharing his expertise as a conference speaker, educator, an author and mentor.

## David Chipp Earns Fred H. Bossons Award

The annual Fred H. Bossons Award was presented to David Chipp who currently works as a project consultant for people, performance and culture for Efficiency



Nova Scotia, based in Halifax, Nova Scotia. His current work involves organizational development activities including corporate performance management, quality assurance, improvement initiatives as well as building and maintaining the enterprise risk management capabilities of the organization. The award recognizes the risk management professional who earns the highest marks on the three courses required to receive the CRM designation.

In addition to his recently obtained CRM designation, Chipp holds an undergraduate degree in commerce (BCOMM) from Saint Mary's University and a Masters degree in business administration (MBA) from Dalhousie University. He also holds the professional accounting designations of Chartered Professional Accountant (CPA) and Certified Management Accountant (CMA). ■

## RIMS-CRMP: CERTIFYING THE FUTURE OF RISK MANAGEMENT

by Veronica Whitehead

The ideas that risk management adds unquestionable value to the organization and that the risk practitioner's job has become increasingly more complex and challenging continue to grow in popularity. Additionally, board directors and senior level executives better understand that having strong risk management capabilities can be the difference between achieving strategic objectives and coming face-to-face with unwanted and potentially crippling business risks.

Recognizing these trends, RIMS identified an



opportunity and launched the RIMS-Certified Risk Management Professional certification (RIMS-CRMP) in late 2015.

The new certification provides risk professionals with a tool to demonstrate their risk management knowledge and acumen, while giving business leaders confidence that their risk

programs are being managed effectively.

Based on a validated job task analysis, the RIMS-CRMP covers five domains or areas that highlight the risk professional's ability to:

1. **Implement the risk process;**
2. **Support decision-making;**
3. **Design organizational risk strategies;**
4. **Develop organizational risk competencies; and**
5. **Analyze the organization's business model.**

The first RIMS-CRMP exam was administered back in April 2016. The in-person exam—offered at RIMS Annual Conference & Exhibition in San Diego—welcomed more than 120 risk professionals; 90 of whom—including Darius Delon, Ginette Demers, Valerie Fox, Jan Mattingly, Mazlina Navarre and Nowell Seaman from Canada—earned the certification.

Moving forward, practitioners will be able to take the RIMS-CRMP exam online at testing centers located around the world. RIMS is currently accepting applications from interested risk professionals and has initiated the second RIMS-CRMP exam testing period that began on October 15 and will end December 15 this year. Additional testing periods will be available in 2017.

For more information or to learn whether you qualify for the RIMS-CRMP certification, visit [www.RIMS.org/certification](http://www.RIMS.org/certification). ■

**Veronica Whitehead** is the director of certification programs at RIMS.

## My Life as a RIMS Canada Co-Chair

by Phil Corbeil

**W**hen the Southern Alberta chapter of RIMS (SARIMS) was chosen as the local chapter to host the 2106 RIMS Canada Conference, the first thing that the local board needed to do was find two Co-Chairs that would step up and build a Local Organizing Committee that could take on the task of planning and delivering a successful conference. The first person they looked for had to be a person that had a history of volunteering, was always willing to lend a helping hand, had industry contacts, experience in past conferences, knowledge of RIMS and RIMS Canada, team building acumen, and a good public speaker. Janet Stein was the obvious choice, and of course she accepted.

Now it was left to Janet to find a Co-Chair that she would work with that had the same qualities that the SARIMS Board was looking for. After a long search, Janet finally found someone to take on the responsibilities of the “other” Co-Chair. That “sucker” turned out to be me.

My thought at the time was that since the conference was five years away, it should be a breeze co-chairing with such an organized person as Janet. During the first few years, planning went very smoothly. We reached out to some great people who took on the various committee chair roles and everything went along without a hitch.

About a year and half before the conference, there came a snag. Janet could no longer be a Co-Chair

because of her role on the RIMS Board of Directors. Panic set in. There was no way I could do this without Janet, I thought, and there was no way I could find another “sucker” like me to be a Co-Chair at this point. But after I calmed down, we developed a plan. Janet would be



the special advisor and we could still benefit from her sage advice.

In our monthly meetings leading up to the conference, it was evident that our Committee chairs were hard-working individuals who were able to balance their real jobs with the committee requirements. Being the lone Co-Chair wasn't so bad after all.

But as the conference got closer there were some moments where, as a Local Organizing Committee, we were worried. Would our delegate numbers be low given the change in the economy? We knew we had put together an excellent education and social program. It was only until the last couple of weeks that we could breathe a sigh of relief. We had met our projections.

The conference finally came.

Smooth sailing from here, right? Well, not quite. My first granddaughter was born the night before the conference started. As excited as my wife and I were, it meant that I couldn't make the opening reception. Luckily, special advisor Janet stepped right in.

The next day I was ready to enjoy the conference. That was until I had to sit at the hospital for 12 hours because my wife was ill. Again the special advisor stepped in. Once we received the all-clear at the hospital, it was back to the conference. The years of planning had paid off. The conference took on a life of its own and everything went off as planned.

It was clear that we had picked the right theme for this conference—Resilience. Having a great team allowed us to be resilient and being resilient allowed us to host a successful RIMS Canada Conference. ■ **Phil Corbeil** is the manager of risk management and claims for the City of Calgary and the Chair of the Local Organizing Committee for the 2016 RIMS Canada Conference.

# Good News for Policyholders from the Supreme Court of Canada

by Bruno De Vita and Gordon Buck

**O**n September 15, 2016, the Supreme Court of Canada issued its highly-anticipated decision in *Ledcor Construction Limited v. Northbridge Indemnity Insurance Company*, 2016 SCC 37 which provides important guidance on the interpretation and application of standard “faulty workmanship” exclusions that typically appear in commercial all-risk insurance policies. While the Supreme Court decision brings greater certainty to an unsettled area of the law, it will have significant implications for both policyholders and insurers going forward. From the policyholder perspective, the practical effect of the Supreme Court’s decision in *Ledcor* is to expand the scope of coverage that will be available under a commercial all-risk policy, even in cases involving faulty or improper workmanship, materials or design.

The case arose out of the construction of the EPCOR Tower in Edmonton. During final construction cleanup, the sub-contractor hired to clean the windows used improper tools and methods that resulted in damage to the windows, necessitating their replacement. The owner and the general contractor claimed the cost of the window replacement under the builders’ risk insurance policy that the owner had placed for the project. The policy contained a standard exclusion for “the cost of making good faulty workmanship, construction materials or design,” but this exclusion was subject to an exception for “physical damage not otherwise excluded by this policy...in which event the policy shall insure such resulting damage.” The insurer denied coverage for the claim based on the exclusion, while the owner and the general contractor took the position that the cost to replace the windows was resultant damage arising from the sub-contractor’s faulty work, and therefore fell within the exception for resulting damage.

The trial judge in the Alberta Court of Queen’s Bench sided with the policyholders, finding that although the sub-contractor’s cleaning work was faulty, the “making good” wording in the exclusion was ambiguous and therefore did not operate to exclude the cost of replacing the windows. The Alberta Court of Appeal allowed the insurer’s appeal, finding that the policy wording was not ambiguous, and concluding that the question of whether the

window replacement was “resulting damage” should be resolved by applying a test of “physical or systemic connectedness” to the faulty work being carried out. The Court of Appeal concluded that in this case, the damage that occurred was to the very thing that was the subject of the faulty workmanship, and therefore the cost to replace the windows was excluded.

The Supreme Court of Canada allowed the insured’s appeal, and concluded that only the cost of re-doing the cleaning work would be excluded from coverage under the ‘faulty workmanship’ exception. The Supreme Court rejected the Court of Appeal’s “physical and systemic connectedness” test, and found that the exclusion clause was limited to the cost of re-doing the faulty work. The Supreme Court concluded that both the policyholder’s interpretation and the insurer’s interpretation of the “faulty workmanship” exclusion and the “resulting damage” exception were plausible on the wording of the policy, and therefore the exclusion was ambiguous.

The Supreme Court then concluded that the ambiguity should be resolved in favour of the insured, having regard to the reasonable expectations of the parties entering into the insurance contract. The Supreme Court noted that the purpose of builder’s risk policies was to provide broad coverage for projects while under construction, as well as broad coverage for all those involved in the project, in order to avoid disputes over responsibility for repair or replacement of components of the project. The Supreme Court concluded that to exclude coverage for the damage resulting to the part of the project being worked on would undermine the purpose of builder’s risk policies and would be contrary to the reasonable expectations of the parties.

In coming to its conclusion in *Ledcor*, the Supreme Court of Canada appears to have endorsed the approach taken by the British Columbia Court of Appeal in another case, *Acciona Infrastructure Canada Inc. v. Allianz Global Risks U.S. Insurance Co.* There, the Court of Appeal held in favour of the insured in finding that the “faulty workmanship” exclusion in a builder’s risk policy did not exclude the cost of repairing concrete slabs which over-deflected as a result of improper formwork and shoring procedures. The Court of Appeal in *Acciona* held that the only thing that was



excluded from the loss was the cost of properly doing the formwork and re-shoring, while the damage to the slabs was covered as resultant damage arising from faulty workmanship.

In a broad sense, the Supreme Court of Canada's decision in *Ledcor* can be read as a mere confirmation of the generally-accepted principle that coverage under a policy should be construed broadly, and exclusions construed narrowly. More specifically, however, the decision in *Ledcor* has now firmly established that the standard "faulty workmanship" exclusions in commercial all-risk policies will only operate to exclude the cost of re-doing the faulty work.

As a practical matter, the effect of *Ledcor* will be to broaden coverage under all-risk policies, even in situations involving faulty workmanship, materials or design. If insurers wish to exclude any damage that is in any way causally connected to faulty workmanship or faulty materials or design, they will have to use clear language to that effect in the policy, or perhaps modify the wording of the exception providing coverage for resulting damage.

For their part, policyholders under all-risk policies may wish to consider structuring their contractual arrangements to ensure that any work that poses a significant risk of causing damage to other parts of the project is subject to separate, discrete sub-contracts.

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The Supreme Court of Canada expressly noted in *Ledcor* that had the window cleaning company been responsible for installing the windows in good condition, as opposed to merely cleaning them, damage to the windows themselves during the installation process would have been excluded. It is possible, therefore, that coverage may depend at least in part on the scope of the insured's work as defined by contract, and so policyholders will want to give some thought as to whether there is a practical way to structure their contractual arrangements on a given project in order to minimize the application of the "faulty workmanship" exclusion and thereby broaden the scope of potential coverage. ■

**Bruno De Vita** is a managing partner and **Gordon Buck** is a partner at Alexander Holburn Beaudin + Lang LLP.

# A Message from RCC Chair Darius Delon

It has been an exciting and productive last two years as the Chair of the RIMS Canada Council. The RCC was able to put in place a standard exam for the CRM, has helped develop the new RIMS-CRMP designation, is starting down the route of a more robust advocacy role in Canada and changed some of the key elements of the RIMS Canada Conference over the last two years. Plus, it put on some fabulous conferences and will be putting on more great conferences in the future in Toronto and St. John's.

The next Chair will be Ren Lips who has been working hard with the RCC Executive Committee for a number of years as Treasurer and Vice Chair. I would also like to welcome Dave Jackson to the Executive Committee as the Vice Chair. He has been working hard in many capacities as past NEC Chair, Conference Co-Chair and RCC representative.

I would like to thank all of the past and current members of the RCC—the Chairs of the National Conference

Committee (Steve Matterson and April Savchuk), the Communications and External Affairs Chairs (Ben McAllister, Sasha Alexander and Carrie Green) and all of the volunteers that make all this possible. Thank you!

On the topic of volunteers, have you looked at how you can give back to the risk management community—both at the local chapter level or on the national stage at the RCC? Why not go to a breakfast session, professional development or holiday gala at your local



chapter—bring a friend or two that has not been there before—and start networking and enjoying the profession today.

Sincerely,  
**Darius Delon**, MBA, CCIB, FCIP, RIMS-CRMP Chair, RIMS Canada Council (2014 – 2016)  
**Twitter:** @dariusdelon

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