What do an Olympic athlete, a folk singer, a drone and a driverless car all have in common? We will be talking about all of them at this year’s RIMS Canada Conference in Calgary from September 11-14.

The theme of this year’s conference is “Resilience.” It is about reflection, creativity, adaptability and the resourcefulness of the community. The Local Organizing Committee is committed to providing a conference that will be a valuable investment of our industry’s time and resources. The concurrent sessions have been carefully hand-picked to be insightful and educational. Building on the theme of resilience, our plenary speakers will share their experiences on how to “bounce back” and identify “opportunity in adversity.” Come learn from the experts as they share their experiences about a variety of topics, including claims, flood preparedness, the emerging drone market and cybersecurity.

Calgary is looking forward to telling its story to Canada and the global community, so whether you’re visiting this vibrant city for the first time or returning after the RIMS Canada Conference in 2006, you will experience the best of western hospitality and culture.

The conference will take place at the Calgary Telus Convention Centre, in the heart of downtown, only a few blocks away from the Bow River. The Convention Centre is conveniently connected through an indoor pedestrian bridge network, called the Plus 15 network, to nearly all corners of downtown, including our sponsored hotels: the Hyatt Regency Calgary, the Fairmont Palliser Calgary, and the Calgary Marriott Downtown Hotel. The Convention Center is also steps away from Calgary’s upscale shopping district, fine dining restaurants, entertainment venues, tourist attractions and parks.

With over 30 restored buildings in the area, a stroll up the Stephen Avenue Walk is an excellent way to experience the history of Calgary, which features popular architectural styles from the late 1800s to the 1930s. We also invite you to stay a few extra days to visit Banff National Park and Lake Louise, both nestled in the great Canadian Rockies.

We look forward to seeing you in Calgary. Please be sure to visit our website at www.rimscanadaconference.ca for all the latest information. Registration is now open so register today! 

Phil Corbeil is the manager of risk management and claims at the City of Calgary and the chair of the 2016 RIMS Canada Conference.
Post-Accident Investigation and Remediation
by Bruno De Vita

When it comes to the subject of post-accident remediation, the issue of whether the alleged “problem” that gave rise to an accident should be fixed or improved is often a thorny one. Often, it seems to be a situation of “damned if you do and damned if you don’t.”

For example, I once defended a municipality in relation to a fatal motor vehicle accident that occurred at an intersection controlled by a stop sign. The problem was that the stop sign was slightly obscured by the overgrown branches of a nearby tree. It was alleged that the accident was caused in part by the negligence of the municipality in failing to ensure that the stop sign was clearly visible.

By the time I was retained, the municipality had visited the intersection on no less than five occasions to carry out a series of remedial measures. On the day of the accident, it cut the branches of the tree that were dangling in front of the stop sign. On subsequent occasions, it cleared all of the shrubs along the side of the road in front of the stop sign, painted a new stop bar on the roadway, installed an enlarged stop sign and a “Stop Sign Ahead” sign in advance of the intersection and finally turned the intersection into a four-way stop with a traffic island.

Needless to say, the attorney acting for the plaintiff utilized these post-accident changes to their advantage in the subsequent litigation.

From a liability perspective, there are several things that can go wrong in the days following a serious accident. First, there is often a tendency for the organization to become critical of its own systems. Some employees believe that if an accident has occurred, there must have been something deficient in the organization’s facilities or procedures. Often, comments are written in accident reports and ill-advised emails that amount to nothing more than opinion. Unfortunately, these documents become producible in litigation and can serve as a serious impediment in the defense of the case, particularly if the matter proceeds before a jury.

Of course, it is always prudent to make changes that optimize safety. Indeed, organizations are well advised to make changes that will reduce the risk of recurrence of the same incident. However, making something better does not mean that you fall below the requisite standard of care in the first place. There is an expression that it is not just what you say, but how you say it. Likewise, in making decisions regarding post-accident remediation, it is not what you do but how you go about doing it, and how you document it.

A careful study of the subject of the accident should be conducted before making any rash decisions regarding the nature and extent of the change. Further, remediation should be controlled by one body to ensure control over the decision-making process. Special care should be taken to avoid “knee-jerk” reactions by individual departments or employees. Often, following a careful study, it will be determined that there was no hazard at all, but that in order to avoid even the slightest possibility of future harm, further safeguards should be implemented. Such decisions should be properly documented so that it is clear that the intent is to make what was already a safe condition essentially foolproof. Put another way, the focus of the exercise should be on improvement (“How can we make a safe
premises even safer?”) as opposed to self-doubt (“Where did we go wrong?). Organizations should be aware that evidence of post-accident remediation has long been held to be admissible. Objections to admissibility are generally made on the basis of relevance and public policy. The public policy argument is that admission into evidence of post-accident changes would dissuade organizations from taking remedial steps for fear that those steps would be taken as an admission of liability. Notwithstanding this policy concern, courts across Canada have made it clear that evidence of remedial measures is logically relevant and therefore admissible. However, such evidence standing alone is not evidence of negligence but merely evidence to be considered along with other relevant facts for purposes of determining the standard of care.

As stated by the Ontario Court of Appeal, while remedial action taken by a defendant does not prove that it was accountable for the accident in question, it is “relevant to the issue of the nature of steps that could have been taken to reduce the risk.” (Sandhu (Litigation Guardian of) v. Wellington Place Apartments, 2008 ONCA 215). One might argue that it is not a large leap to suggest that steps that could have been taken to reduce the risk are steps that should have been taken. Nevertheless, where there is a well documented analysis of the decision to remediate, the organization can argue much more effectively that there was nothing negligent about its prior conduct and that the remedial measures were taken out of a sense of common humanity and to ensure the prevention of future injury, even in the case of foolhardy conduct. In the absence of a careful and documented study, the defendant is left to explain long after the fact why the changes were made. Such explanations may appear to a judge and jury to be at best defensive and at worst contrived.

The case involving the stop sign was settled for a thankfully small contribution. In fact, the stop sign was only slightly obstructed by a dangling branch, but the impulsive conduct of the municipality following the loss magnified the situation into one that suggested the entire intersection was a hazard. Post-accident investigation must be thoughtful, measured and carefully documented. When this is done, necessary post-accident modifications can be made with limited concern that they will in themselves lead to a finding of liability. Bruno De Vita is a managing partner at Alexander Holburn Beaudin + Lang LLP.

Opis: The RIMS Information Network
by Ashley Morris

Take advantage of your newest member benefit: Opis, the RIMS Information Network. Opis is a dynamic online platform that recommends risk management and professional development content and industry connections to you based upon your skills, interests and experience. Get started today by going to www.RIMS.org/Opis.

WHAT IS IT?
Opis is a virtual platform available on your computer, smartphone and tablet. Opis recommends content and connections to members based upon their skills, interests and experience and helps members stay-up-to-date on RIMS news and events. Members can join communities on topics of interest and/or create their own.

WHY DO WE HAVE IT?
Member surveys indicated that members wanted improved access to content and connections. Opis was created to save members time, provide relevant recommendations and improve member awareness of benefits.

WHAT ARE SOME KEY FEATURES?
Opis is smart technology that makes custom recommendations to members for content and connections, where members can connect with other members from around the world, interact in communities and access RIMS content.

Ashley Morris is the member engagement and retention manager at RIMS.
Once upon a time as the story goes, there was a group of insurance buyers from Toronto that decided to meet to share ideas and stories about buying insurance and protecting their organizations from losses. The “fathers” of risk management in Ontario were two industry icons, Don Stuart and Douglas Barlow, who worked together to form the Toronto Insurance Buyers Association (TIBA) in 1960. From this group, grew the current Ontario chapter of RIMS (ORIMS) centered in Toronto, but inclusive of all risk and insurance professionals located in Ontario, save those within membership boundaries of the Canadian Capital Region Chapter. Today, ORIMS is the fourth largest chapter of RIMS and has 497 corporate members.

Managed by an up to 12 person Board of Directors that meets monthly, either face to face or by conference call, ORIMS provides several services and tools to its members including: the award-winning Pulse newsletter, a risk management-themed annual calendar, various networking events including a Christmas luncheon, the Ed Ricketts curling bonspiel, a popular golf tournament, and several educational seminars and webinars that delve into timely and emerging topics. It is the Chapter Objectives that drive this organization forward. These include:

- To promote the discipline of risk management and enhance the image of a professional risk manager.
- To foster the educational and professional development of risk managers, as well as others within the risk management communities.
- To develop and promote products and services which meet the needs of our members.
- To provide forums of free exchange of ideas and viewpoints among its members.
- To promote a competitive insurance marketplace and the development of insurance products which benefit all the consumers.
- To foster relationships with other professional societies and organizations in order to advance its objectives; and
- To abide by the constitution and Bylaws of RIMS.

ORIMS is the creator and sponsor of the much-coveted Don Stuart Award for Excellence in Risk Management, colloquially referred to as the “Risk Manager of the Year” award presented at the RIMS Canada Conference each year. The Donald M. Stuart Award was created by the Ontario chapter in 1979, initially to honor Stuart for his contributions to risk management in Canada, and then bestowed to other Canadian risk managers in recognition of outstanding contributions to the community. Interestingly, the roots of this conference can be traced back to a joint meeting in Kingston between the Montreal Risk and Insurance Managers Association and ORIMS in November 1966. In 2017, ORIMS will be the local organizing chapter for the RIMS Canada Conference. With the long-standing experience of April Savchuk and Karin McDonald as chairs, the conference will be like no other and we are excited to support their efforts.

Each year in early summer, the ORIMS Board meets for one and a half days to plan its year and focus its efforts for the next twelve months. This “blue sky” meeting is critical to the achievements of the chapter as it not only bonds the Board, but solidifies the direction and events for the upcoming year. This year, the new Board will be casting backward as it reaches forward by hosting a working lunch with past Chapter presidents in order to tap into their collective knowledge to learn from their successes and insights as we plan for the future. Our chapter theme for 2016-2017 of “Recipe for Success” will incorporate chapter progress with individual member support as well as a focus on emerging issues and trends. We are an active and diverse chapter that needs to prepare for succession in our industry. We are ready for this exciting, albeit challenging, time. And we look forward to seeing you all in Toronto in Fall 2017!

Tina Gardiner is the manager of insurance and risk for the Regional Municipality of York and ORIMS President.
After more than two years of effort, the National Conference Committee’s (NCC) journey to create a new conference organizational structure and approach reached its destination when the RCC ratified a new Conference Award Agreement (CAA). The overarching change is that, with the exception of the education program, the execution of the conference plan now is the responsibility of the Event Planner. The Local Organizing Committee (LOC) will be focused on activities risk managers have experience managing. To help future LOCs, the CAA now includes a responsibility table that outlines the responsibilities of the LOC, NCC and the Event Planner.

Many people were involved in the creation of this foundation for the administration of future conferences. Thank you to all that gave of their time to this effort.

With the completion of the new CAA, the subcommittee took on a sizable agenda at the February subcommittee meetings. The agenda contained four themes:
- Education content development
- 2016 and 2017 conference administration issues
- Opportunities and issues raised during the CAA discussions
- Future conferences

The meeting featured a number of moments of high energy. But one that stood out above the rest was the agenda item that asked, “What will the 2026 conference look like?” A long list of thoughts were collected that will become part of the path forward. Here is a sampling:
- Will be able to attend virtually
- Education sessions will be snappier, shorter, a maximum of 20 to 30 minutes followed by workshops
- Teleportation and hologram risks will be feature topics
- Exhibit hall will combine education and sales
- Education program will have a significant number of soft-skill sessions.

The NCC wishes to acknowledge and thank Bev Duthoit, Dave Jackson and Ren Lips who stepped off the NCC on December 31, 2015. We wish to welcome Bill Baker, Len Cheryk, Sue Mepham and Val Barber. Lastly, a big thank you to April Savchuk, the 2014/15 NCC Chair. Happily, the committee does not have to say goodbye to April as she is now the 2017 Toronto Co-Chair representative on the NCC.

Steve Matterson is the director of risk and insurance at British Columbia Ferry Services Inc. and the chair of the National Conference Committee.

2016 NCC ROSTER

Steve Matterson, British Columbia Ferry Services Inc.
Bill Baker, Sofina Foods Inc.
Len Cheryk, City of Lethbridge
Sue Mepham, Retired
Val Barber, Province of Manitoba

Co-Chair representatives

2015 Quebec: Julie Chapdelaine, Ivanhoé Cambridge Inc.
2016 Calgary: Phil Corbeil, City of Calgary
2017 Toronto: April Savchuk, Yamana Gold Inc.

Education Program representatives

2015 Quebec: Anne Cournoyer, Domtar
2016 Calgary: Cindy Ruff, Gibson Energy Inc.
2017 Toronto: Sarah Mikolich
The average age of the Communications and External Affairs Committee (CEA) became younger this January as we welcomed four new committee members. This was done on purpose as we try to employ the talents of these younger RIMS members who are very comfortable and competent with the website and social media. It is through these platforms, as well as the newsletter, that the CEA hopes to support the RIMS Canada Council’s (RCC) goals and objectives for 2016.

The CEA will continue to focus on both internal and external communications along with industry relations. In addition, the CEA will pursue strengthened communications between the RCC and all the Canadian Chapters.

The CEA’s goals for 2016 are:

- Keep the RIMS membership in Canada and internationally updated and informed on RCC initiatives.
- Increase communications between the chapters to increase awareness of chapter activities and accomplishments. In addition, share best practices and ideas amongst the chapters.
- Maintain and continuously improve a robust website, newsletter and social media that are relevant and valuable to the membership.
- Be a resource to the National Conference Committee (NCC) to ensure strong and consistent brand recognition and presence at the RIMS Canada Conference.
- Promote CRM, RF and RIMS-CRMP designations.
- Enhance industry partner engagements through an annual “Ideas Exchange” and become subject matter experts and a resource to “cousin” associations.
- Develop and improve content for the website, newsletter and social media platforms.
- Begin discussions to migrate the newsletter to a digital format.

As new members come onto the committee, others make room by ending their terms. The CEA said farewell to three exceptional committee members. Carrie Green completed her two-year term as Chair of the CEA. As I take over as Chair, I am relieved to move into a role where Carrie has created strong foundations with which to build on. Thank you Carrie for your devotion, energy and efforts.

Thank also to Sarah Mikolich, who worked diligently to maintain the quality of the newsletter under trying circumstances. Your efforts and professionalism were greatly appreciated.

Finally, thank you to Tim Lucko who was a key component to the success of the CEA committee. It is with great humility that I thank you for your wise words and insights. They served us well.

Last year, the RCC hired a RIMS Canada Consultant. We are pleased to have Seamus Gearin from Becker Associates join us. Seamus has already proven himself to be indispensable as we migrate to a more digitized format. He is always ready to assist us with our goals and objectives and I look forward to a very positive relationship.

Sasha Alexander is associate director of risk and insurance at the University of Guelph and the chair of the Communications and External Affairs Committee.

Top left to bottom right: Lynda Lyttle, James Eka, Gail Cullen, Gloria Dang, Melissa Ng Wan, Sasha Alexander (CEA Chair), Sandra Alwazani. Not Pictured: Angela Haywood, Ben McAllister.
Les Services UberX, un Risque pour Votre Entreprise?
par Michel Turcotte

Fondée en 2009 à San Francisco en Californie sous le nom de UberCab, l’entreprise devient simplement Uber. Il s’agit d’une entreprise technologique qui développe et exploite des applications mobiles qui permettent la mise en contact de personnes cherchant à se déplacer en voiture avec des conducteurs disposés à offrir ce service de transport. Ce service de transport porte le nom d’UberX et il a été lancé à Montréal le 29 octobre 2014.

LA CONTROVERSE
Uber décrit son service UberX comme un service de “covoiturage urbain”. Malheureusement, le terme “covoiturage” signifie que c’est le chauffeur qui fixe la destination où il doit se rendre. Ce dernier invite les passagers qui vont vers cette même destination à se joindre à lui. Ce chauffeur peut, selon la loi québécoise, recevoir un dédommagement pour les dépenses encourues, comme l’essence, mais il ne peut pas être rémunéré pour le service qu’il offre.

On comprend bien que dans le cas d’UberX, c’est le client qui fixe la destination et le chauffeur est payé pour le service qu’il offre. On ne parle pas de covoiturage, mais bien d’un service de taxi. Le taxi sans les permis et les inspections requises, c’est illégal.

Bien qu’Uber prétende qu’il y a un flou légal et que le gouvernement devrait ajouter les lois en conséquence, au Québec, les opposants affirment que la loi sur le transport de personnes par taxi est limpide. Selon eux, l’article 4 de la loi dit clairement:

“Pour offrir ou effectuer un transport rémunéré de personnes à l’aide d’une automobile, une personne doit y être autorisée par un permis de propriétaire de taxi.”

La loi précise que quiconque ne respecte pas cette exigence commet une infraction passible d’amende de 350 $ à 1 050 $, voire même la saisie du véhicule. À Montréal, c’est le Bureau du taxi qui délivre le permis, ailleurs au Québec, c’est l’organisme Contrôle routier Québec qui veille à l’application de la loi.

ET L’ASSURANCE DANS TOUT ÇA?
Pour ceux qui trempent dans l’assurance au quotidien, il est assez clair qu’une assurance pour particulier ne couvre pas le transport rémunéré. Par contre, pour monsieur et madame tout le monde, cela semble plus nébuleux.

L’assureur La Capitale publiait le 24 février 20161 un article avisant ses assurés que leur assurance ne couvre pas l’utilisation commerciale d’une automobile, ce qu’est le service d’UberX, et que leur assureur pourrait refuser de les indemniser.

Sur le site d’Uber,2 on retrouve les instructions pour devenir chauffeur. On y mentionne qu’une preuve d’assurance est requise, mais pas d’information au sujet d’une assurance commerciale. Pourtant, en France, les instructions sont plus évidentes.

En France, Uber offre sur son site internet3 des informations au sujet des assurances requises pour ceux qui veulent devenir chauffeur UberX. On y mentionne, entre autres, la nécessité d’avoir un “contrat de RC Pro Exploitation” qui signifie une assurance responsabilité civile professionnelle exploitation, afin de couvrir les dommages corporels, matériels ou immatériels subis par un client ou un tiers en dehors de toute implication du véhicule ou dans le cas où les bagages seraient abîmés. On ajoute aussi qu’il faut une assurance responsabilité civile circulation en ce qui concerne l’usage d’un véhicule pour le transport de personnes à titre onéreux, et préférentiellement tout risques.

Il semble qu’en France il y a eu une entente entre Allianz et Uber pour fournir ces assurances.

En septembre 2015, La Presse Canadienne déclarait que “L’un des plus grands fournisseurs d’assurance automobile au pays, Intact, se joint à l’entreprise de covoiturage Uber pour offrir des services d’assurance personnalisés alors que des observateurs soulèvent la possibilité que certains assureurs ne couvrent pas les chauffeurs qui utilisent leur véhicule à des fins commerciales.”4

En Alberta, les règles se précisent afin de rendre le service UberX légal.5 En fait, le 1 mars 2016, Edmonton est devenue la première ville du pays à légaliser la nouvelle industrie. Le nouveau règlement exige des chauffeurs qu’ils détiennent une assurance approuvée par le gouvernement provincial, qu’ils fassent inspecter leur voiture et qu’ils payent des frais.

En attendant que les assurances et les règles se précisent, nous avons un exemple d’accident en Ontario qui illustre le problème d’assurance. Le Toronto Star6 avait consacré un passage le 9 juin 2015 vers 3 heures du matin lorsqu’un automobiliste a brûlé un feu rouge et heurté le côté de sa voiture. Il a dû être transporté à l’hôpital et son véhicule à la fourrière.7 Son assureur refuse de payer.

Gestion de risques
D’un point de vue gestion de risques deux questions se présentent. Dans un premier temps avez-vous une politique interne qui interdit l’utilisation des services Uber par vos employés dans le cadre de leur travail? Acceptez-vous de rembourser les frais de déplacement avec UberX? En d’autres mots, autorisez-vous directement ou indirectement l’utilisation d’un service illégal par vos employés? Avez-vous pensé aux répercussions sur votre entreprise?

Dans un second temps, avez-vous validé avec votre assureur (CSST ou invalidité de courte et longue durée) si les frais médicaux et pertes de salaire seraient payables dans le cas d’un accident alors que l’employé faisait usage d’un service illégal cautionné par son employeur?

Michel Turcotte, MBA, est senior director, risk and insurance, Iivanhoé Cambridge.

1 http://blogue.lacapitale.com/auto/uber/
2 http://www.driveruber.ca/newpartnerships/
3 http://www.chauffeur-uber.fr/assurances-vtc/
4 Intact courtait une entente avec Uber pour offrir de nouvelles assurances, La Presse Canadienne, le mardi 8 septembre 2015
5 Alberta: les chauffeurs d’Uber pourront se procurer une assurance • La Presse Canadienne, le mardi 8 septembre 2015
6 http://www.chauffeur-uber.fr/assurances-vtc/
7 http://www.driveruber.ca/newpartnerships/
8 http://www.chauffeur-uber.fr/assurances-vtc/
A Message from RCC Chair Darius Delon

The profession of risk management was alive and thriving in April at RIMS 2016 in San Diego, the port city that is home to the USS Midway aircraft carrier. What an awesome event! From early accounts, this was one of the top attended conferences in RIMS history. There were numerous sessions with speakers, innovators, thinkers and comedians, including our very own Steve Pottle, RIMS Board member and director of risk management services at York University, who appeared with Martin Short at the event’s finale.

The new RIMS-Certified Risk Management Professional (RIMS-CRMP) certification process launched with the first group of approximately 150 candidates sitting for the examination earlier this year. The RIMS-CRMP becomes the highest standard of risk professionalism. When are you getting yours?

There have been a lot of great changes happening with the RIMS Canada Council and its subcommittees. The strategic objectives of the organization have been amended to better reflect the RIMS vision and today’s risk management environment in Canada.

1. Bring the Canadian risk management community together, through a conference that delivers valued professional development and networking opportunities.
2. Connect Canadian chapters to share resources and best practices, to improve the Canadian RIMS member and volunteer experience.
3. Provide Canadian members with a distinctively Canadian perspective on risk management and RIMS, through communication on multiple platforms.
4. Develop a Canadian advocacy role for risk management in terms of policy and legislation.

Advocacy for Canadian risk managers, with respect to legislation and policy, will be the new focus for the Advocacy Task Force in 2016. We have brought together Betty Clarke (Chair), Dave Jackson and Jeff Schaafsma (RCC Representatives) to investigate the risk management advocacy needs landscape in Canada. If you have legislative connections or topics make sure to connect with the task force members.

As a last word, please circulate this newsletter to others in your office, including your boss, finance, legal, those with a CRM, or anyone else you think may get some benefit from reading the articles or participating in RCC events. By raising the profile of the risk professional in Canada, we all benefit!

I look forward to seeing you in Calgary in September—Ya HOO!

Follow me on Twitter @dariusdelon

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 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
@twitter.com/RIMSCanada
www.facebook.com/RIMSCanada
@instagram.com/RIMSCanada

© 2016 Canadian Risk Management Society (RIMS)
RIMS Canada Newsletter
RIMSCANADA.CA