



# M&G|exposure

## ONE OF OUR OWN, HELPING THOSE IN NEED

We all watched in amazement and worry as hurricanes Harvey, Irma, and Maria ripped through the Gulf Coast and the Caribbean last month. In their wake, the storms left buildings demolished, trees and debris overturned, and thousands of people without homes. As human beings, it is hard not to have an immediate reaction of concern for those affected by these disasters, but it's important to remember that the devastation doesn't end when the cameras leave and the world moves on to the next story. That is the time when aid is needed the most. While there are many ways to support the recovery efforts, be it a donation of your time or money, there are few people I know who would voluntarily head straight into the wreckage, but that is exactly what Adam Peterson, one of our Commercial Lines Risk Advisors, did.

As a volunteer member of Team Rubicon, Adam packed up his gear and headed down to Houston, TX to help start the recovery and rebuilding processes after Hurricane Harvey. I am proud to have Adam as part of our team. His selfless act and desire to help those in need truly embodies our core value to *Do the Right Thing*.

*Brendan*

### Q: What is Team Rubicon and how did you get involved with the organization?

A: [Team Rubicon](#) is an organization that provides disaster relief to those affected by natural disasters by pairing the skills and experiences of military veterans, first responders, and medical professionals with civilian volunteers.

I joined Team Rubicon because of their reputation of being effective. I didn't want to join an organization and hand out water bottles and wish people well—I wanted my skills and capabilities put to good use. I hesitated to join; I expected it to be military based and I figured I wouldn't fit into that brotherhood. Now that I've been part of it, I realize TR is its own family. There is a brotherhood here and every Greyshtir is included.

### Q: What area were you sent to provide aid? How long were you there?

A: I was deployed to Beaumont, TX for 7 days. It is about one hour east of Houston.

### Q: What type of work did you do while with Team Rubicon?

A: I was assigned to a Strike Team and tasked with removing all furniture, debris, and damage to the structures. For the majority of the homes I worked on throughout the week; this meant completely emptying the house and tearing it down to the bare frame. We tried to do as much work as we could to help lessen the financial burden on the homeowners. We also performed assessments in neighborhoods and provided them to FEMA's database for other organizations to utilize.

### Q: Did you interact with the homeowners very often? If so, what was that like?

A: Yes, daily. Although we only spent a day or two with each family, we all became very close. The stories we heard from each homeowner were equally inspirational as they were heartbreaking. There is something about disasters – they can cause an entire community to suffer, while at the same time bringing us together to experience a powerful connection with each other. I might not have lost all of my material goods or my home, but there were times where I felt the loss of others. That being said, the intrinsic values of feeling connected to others and being actively engaged in a cause certainly outweighed any extrinsic values like the loss of material items. (Continued on page 6)

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## SPECIAL POINTS OF INTEREST

- Upcoming EAC Seminar
- 7 Keys to ACA Compliance
- Property Claims 101
- America's Overall Best Agency to Work For!



## UPCOMING EAC SEMINAR

Contributed by: Louise Matheny, Human Resources Consultant

Friday, October 20, 2017

8:00am — 12:00pm

Paso Robles Inn Ballroom

1103 Spring Street, Paso Robles, CA 93446

### Presenters

#### **Alden Parker**

Attorney with Fisher Phillips

#### **Sharon Jordan-Evans**

Author, Keynote Speaker and Executive Coach

### About the Session

#### Keeping Discipline & Discharge C.L.E.A.N. and N.E.A.T

Disciplining and terminating employees can be a messy and unpleasant experience. Many employment litigation suits filed are by disgruntled employees who felt they were "wrongfully terminated" regardless of the reason. In this presentation, we will discuss how to avoid these situations by using a "N.E.A.T." and "C.L.E.A.N." method of discipline and discharge to help managers avoid headache and heartache.

#### Stay Interview

Good employees are hard to find. But they can be easy to lose. Participants will learn about a simple tool called the Stay Interview. The idea is simple: ask people how they like their jobs and what will keep them engaged and on the team. This four-step process, the Stay Interview, cost nothing, but the price of not doing them, in lost talent and time, can be huge. In this session, they will learn the why, when and how of conducting these important conversations.

### Registration and Fees

Fee: \$35 and includes coffee, tea, fruit and pastries.

To Register: Contact Diane Zundel, SLO EDD Office at 805-903-1465 or Louise Matheny at 805-597-6365 or complete [this registration form](#) and mail.

## FEDERAL COURT STRIKES DOWN 2016 OVERTIME RULE

Contributed by: Louise Matheny, Human Resources Consultant

### Overview

On August 31, 2017, a federal judge in Texas struck down the Department of Labor's (DOL) 2016 overtime rule, stating that the DOL had exceeded its authority by issuing a new salary level requirement for white-collar exempt employees.

The DOL is unlikely to appeal this court decision because the ruling does not put into question the DOL's general authority to set any type of salary limit. However, the DOL has also signaled its intention to propose a new overtime rule. The DOL has [published](#) a request for information (RFI) to invite the public to comment on the issues the DOL should consider before proposing a new overtime rule.

### Challenges to the 2016 Overtime Rule

In September 2016, a coalition of 21 states and a number of business groups filed two separate lawsuits challenging the new rule. These two lawsuits were combined in October. On November 16, 2016, the court held a hearing on whether to grant an emergency injunction blocking the implementation of the rule. The judge presiding over the case issued his written ruling granting the injunction on November 22, 2016.

On August 31, 2017, the same federal court struck down the 2016 overtime rule, stating that the DOL exceeded its authority when imposing the \$913 per week (\$47,476 per year) and \$134,004 per year salary level limits.

### The Future of FLSA Overtime Regulations

On July 26, 2017, the DOL [published](#) an RFI regarding the overtime exemptions for executive, administrative, professional, outside sales, and computer employees. The purpose of the RFI is to gather information from the public before formulating a proposal to amend the FLSA or its regulations.

The RFI did not place any responsibilities on employers. However, any individual or organization interested in responding to the RFI were able to submit their comments to the DOL, keeping in mind that comments were considered public records and would be published without editing. This includes any personal information provided.

### What This Means for California Employers

Employers are not required to comply with the 2016 overtime final rule. This ruling ensures that the rule will not take effect. California employers should continue to follow the California salary test to determine whether an employee can be classified as exempt under the executive, administrative and professional exemptions. In addition to the salary test, California employees must meet a strict duties test to be classified as exempt.

The current minimum monthly salary test for most exempt executive, administrative, and professional employees is not less than two times the state minimum wage for full-time employment - \$41,600 for employers with 25 or fewer employees; \$43,680 for employers with more than 25 employees.



## CALIFORNIA DRAMATICALLY INCREASES PENALTIES FOR CAL/OSHA VIOLATIONS

Contributed by: Louise Matheny, Human Resources Consultant

Earlier this year we told you about the Occupational Safety and Health Administration's (OSHA) increased penalties for violations of occupational safety and health laws. Now, the California Legislature is following suit with a budget trailer bill (SB 96), increasing penalties for several violations at the state level. Currently, Cal/OSHA's penalties for violating occupational safety and health laws are highest in the nation.

### **Penalty Increases**

A non-serious violation of Cal/OSHA rules, such as a failure to properly post the "Safety and Health Protection on the Job" notice, may now receive a penalty up to \$12,471 per violation. A penalty for this type of violation was previously capped at \$7,000.

Additionally, the minimum and maximum civil penalties for willful or repeat violations has increased:

- The new minimum penalty is \$8,908 (previously \$5,000)
- The new maximum penalty is \$124,709 (previously \$70,000)

The budget bill ties these penalty amounts to the Consumer Price Index (CPI), allowing for annual inflation adjustments beginning as early as January 2018.

The bill also removes the maximum penalty limitations (previously \$2,000) for certain crane safety standards and carcinogen standards violations.

### **No Retaliation for Reporting**

In addition to the penalty increases, the budget trailer bill also clarifies that it is unlawful for an employer to discriminate or discharge an employee for:

- Reporting a work-related injury, illness, or fatality;
- Requesting access to occupational injury or illness reports and records; or
- Exercising any rights protected by federal OSHA

### **Best Practices**

It is important for California employers to pay close attention to all Cal/OSHA requirements, including the below items:

- Post the required Cal/OSHA "Safety and Health Protection on the Job" notice
- Report serious injuries or deaths immediately to the nearest Cal/OSHA district office
- Use Form 301: Injury and Illness Incident Report to record each incident of injury or illness
- Transfer information from each Form 301 report to the Form 300: Log of Work-Related Injuries and Illness
- From February 1 to April 30 of each year, post the Form 300A: Annual Summary of Work-Related Injuries and Illnesses. This is a summary of job-related injuries and illnesses that occurred the previous year.

## 7 KEYS TO ACA COMPLIANCE

Contributed by: Keith Dunlop, Director of Compliance

It has been over seven years since the Patient Protection and Affordable Care Act, commonly called the “ACA”, was passed and signed by President Barack Obama. And despite some of the recent attempts to repeal the measure under the Trump administration, the reality is that the law is here to stay for the foreseeable future. The IRS has stepped up audit and enforcement actions, including substantial assessments against large employers, so now is the time to review your overall compliance program and implement the seven keys to maintaining a compliant healthcare program.



### 1. Are you an Applicable Large Employer (ALE)?

ALE's must fully adhere to all aspects of the ACA, and can be held liable for substantial fines for failure to maintain full compliance. An ALE is an entity with 50 or more full-time and full-time equivalent employees in the prior calendar year. This “FTE” count should be performed on an annual basis, and the results must be aggregated amongst related entities with common ownership under IRS control group rules.

### 2. Correct Classification of Employees

The law requires that employers with 50 or more full-time and full-time equivalent employees offer healthcare coverage to no less than 95% of employees who work 30 or more hours per week. The penalty to employers who fail to meet this mandate is \$2,260 times the total number of all full-time employees on staff. It is important for employers to correctly identify and classify employees as full-time, part-time, and variable-hour in order to ensure compliant offers of coverage.

### 3. Review Plan Documents and Required Filings

The Employee Retirement Income Security Act (ERISA) requires covered plan administrators to provide participants with certain notices, including but not limited to, a Summary Plan Description (SPD) and other ERISA-required notices. Certain plans are also required to file Form 5500 and Form 720 with the Department of Labor and Internal Revenue Service respectively.

### 4. Gather Data Now

The 2018 ACA reporting deadlines are January 31 for employee reports (1095-C), and February 28 for paper IRS returns or March 31 if filing electronically. It is not anticipated that the IRS will provide any filing extensions as they did the last two years. Therefore, it is important for employers to start gathering reporting data now. Employers need to be able to accurately report when employees were offered coverage, the cost of employee-only coverage, and the correct applicability of any safe harbors for affordability.

### 5. Address Marketplace and Assessment Notices

Many employers across the country are receiving Marketplace notices (sent to employers when eligible employees obtain coverage through an insurance exchange and receive a government subsidy), and penalty assessment notices from the IRS. Failing to address these notices timely and take all available appeal remedies can hold serious financial consequences.

### 6. Details Matter

The completion of Forms 1095-C and 1094-C must be performed with accuracy and precision. Double-check HRIS records to ensure that employee names are spelled correctly, surnames and name suffixes are accurate. Employers also need to ensure that SSN's are accurate and that EIN numbers are associated with the correct business entity. Employers should maintain several years of data for audit purposes and responses to notices.

### 7. Have a Plan in Place

A solid compliance plan is critical to withstanding the ever-changing ACA landscape. Employers need to commit to educating themselves on the mandates enforced by the government and have a well thought-out compliance program in place to mitigate liabilities. Be highly organized in onboarding and benefit administration, make use of technology to automate processes and data retention, and be audit-ready with a well-organized insurance fiduciary file.

## EMPLOYEE BENEFITS TECHNOLOGY RESOURCES

Contributed by: Dan Troy, Principal and Senior Employee Benefits Advisor

Technology is rapidly improving the way employers administer employee benefits while also providing employees with useful resources to understand and access benefits during open enrollment and throughout the year. The effective use of benefit administration technology enables HR professionals and small business owners to spend more time on meaningful matters and focus on the needs of their employees. Additionally, continually evolving carrier resources are able to deliver impactful information and resources for employees.



HR technology platforms enable employers to enroll, renew, and manage comprehensive benefit packages in a way that eases administrative burden. These systems also support employers with HR Management, ACA & COBRA compliance needs and even provide resources to integrate with payroll.

Benefit technology platforms also enhance the employee experience by providing easy to understand benefit options, a simple enrollment process without confusing forms, and additional resources that support a company's benefits strategy. There are many solutions to choose from and selecting a platform that will deliver successful results requires a thorough and strategic evaluation of an employer's benefits, resources, and goals.

Newly developed resources are also useful to employees throughout the year, not just during open enrollment. In addition to online carrier portals, mobile apps now provide greater accessibility to important benefit information. Apps, like those from Anthem and Blue Shield, are continuously updated and provide useful features such as:

- Member ID Card
- Deductible and copayment year-to-date summaries
- Claim information
- Benefit information
- Provider and pharmacy locator
- Formulary drug lists

Employees looking for more control of their health care costs may now look to online treatment cost estimators when considering options for their care. The challenge of unknown treatment costs is addressed by online resources such as [Blue Shield's Treatment Cost Estimator](#) in which members may compare treatment and resulting out-of-pocket cost estimates while receiving useful information about conditions and treatments. After seeking care with a provider, members can use the estimator to:

- Search and browse various procedures and treatments
- Find cost estimates for procedures and treatments
- Compare the cost of treatment options
- Compare the cost savings between hospital and surgical centers for many treatments
- Review overall average regional costs for procedures and treatments

Services such as Anthem's Live Health Online and Blue Shield's Teladoc provide access to U.S. board-certified doctors 24/7/365 to address non-emergency medical issues by phone and video consults. Telemedicine provides affordable accessibility and should generally be considered instead of ER or urgent care for non-emergencies. Members are able to access care for many medical conditions, including:

- Cold and flu symptoms
- Allergies
- Bronchitis
- Urinary tract infections
- Respiratory infections
- Sinus problems
- And more

Technology is an integral part of our lives. It has improved the way we rent a movie, listen to music, request a ride, and now how we approach our health care. These developing resources provide meaningful tools that will continue to evolve and enhance the experience of employers and employees alike.

## ELECTRONIC INJURY & ILLNESS REPORTING FOR CALIFORNIA

Contributed by: Michael Schedler, Loss Control Consultant

We have received many inquiries regarding Fed-OSHA's electronic reporting requirements and how they affect California employers.

At this point in time, California employers do not have to worry about the new requirements. Cal/OSHA has drafted a proposed rulemaking package that "...is currently under review within the administration."

Department of Industrial Relations public information officer, Frank Polizzi, adds "California employers are not affected by the federal OSHA extension date because the new requirements have not yet been adopted or approved in California." Before any Fed-OSHA change is effective in California, it must first be adopted by Cal/OSHA.

The new rules, adopted under the Obama administration, require establishments with 250 or more employees to electronically submit information from their OSHA Form 300 (OSHA log), 300A (summary) and 301 (Injury and Illness Incident Report). Establishments with between 20 and 249 workers with "historically high rates of occupational injuries and illnesses" must also electronically submit their summaries. These requirements took effect on January 1 and are to be phased in over the course of two years.

However, the Trump administration extended the first submission deadline for Form 300A to December 1, 2017. The reason being to "provide the new administration an opportunity to review the new electronic reporting requirements before their implementation and allow affected entities sufficient time to familiarize themselves [with the system]." Additionally, Fed-OSHA is saying that it "intends to issue a separate proposal to reconsider, revise or remove other provisions" of the final rule, but that proposal has not been announced.

When electronic reporting does become a requirement for California employers, it will be completed either through some form of electronic submission or through a form accessible on Fed-OSHA's web site as Cal/OSHA will not have an electronic portal of their own.

## TEAM RUBICON, CONT'D

**Q: Do you think your knowledge of insurance gave you a different perspective to the loss and damage?**

**A:** Definitely. While I already knew the value of insurance, I knew it more on paper than anything else. As a Risk Advisor, I would have advised all the homeowners I interacted with to carry flood insurance, but none of them did. I certainly understand financial hardships and can empathize with the struggle to make those monthly payments but whatever the premium, it's a small price to pay to avoid losing it all. It was frustrating to think about how different their situation could have been had they simply made the decision to insure their home. I can see dollars and cents come through on claims all day long, but it doesn't become emotional until you can actually see and experience the loss yourself. Insurance would have helped so much in this situation.

**Q: How would you describe the overall experience?**

**A:** Powerful. As desensitized as we are to seeing devastation on a daily basis, I just didn't feel right watching it unfold on my newsfeed anymore. I didn't know what to expect when I showed up in Houston; all I knew is that I was going there to give back to the families in need. What I got was much more in return.



# WHAT ARE MY WORKERS' COMPENSATION POSTING REQUIREMENTS?

Contributed by: Mary Jean Collins, Workers' Compensation Claims Analyst

1. You must post the ["notice to employees" poster](#) (DWC-7) in a conspicuous place at the work site. This poster provides employees with information on your workers' compensation coverage and where to get medical care for work injuries. Specific requirements are contained in sections 3550-3553 of the California Labor Code. Failure to post this notice is a misdemeanor that can result in a civil penalty of up to \$7,000 per violation.
2. If you have an all-inclusive poster (Labor Law Poster), you can transfer the information from your WC carrier's Poster (DWC-7) to the all-inclusive poster.
3. You must also provide newly hired employees with a workers' compensation pamphlet explaining their rights and responsibilities. This pamphlet also includes the form to pre-designate a personal Physician, Chiropractor, or Acupuncturist prior to a work related injury.



## PROPERTY CLAIMS 101

Contributed by: Heather Ross, Claims Advocate

Hopefully, your business will never suffer a property loss, but if it does, it's helpful to have some idea ahead of time of how the claims process works.

The most important thing to do, before calling the insurance company, is to take steps to mitigate the damage. Got a fire? Grab a fire extinguisher or call the fire department! Water leak? Turn off the water!

After you've taken those first steps to stop the immediate cause of the damage, call a **disaster restoration company**. They'll send out a mitigation team to perform cleanup and temporary repairs to stop the damage from getting any worse. Once things are under control, then call your insurance company – or us! – to get a claim started.

After the claim is reported and set up in the company's system, an **adjuster** will contact you to discuss the claim. The adjuster is the individual assigned to a claim to investigate the loss, confirm coverage under the policy, and pay damages as appropriate.

Often, the adjuster works in a city far from the loss location. If that's the case, he or she might assign an **independent adjuster** (or **field adjuster**) to inspect your property, confirm how it was damaged, and to estimate how much it will cost to repair or replace it.

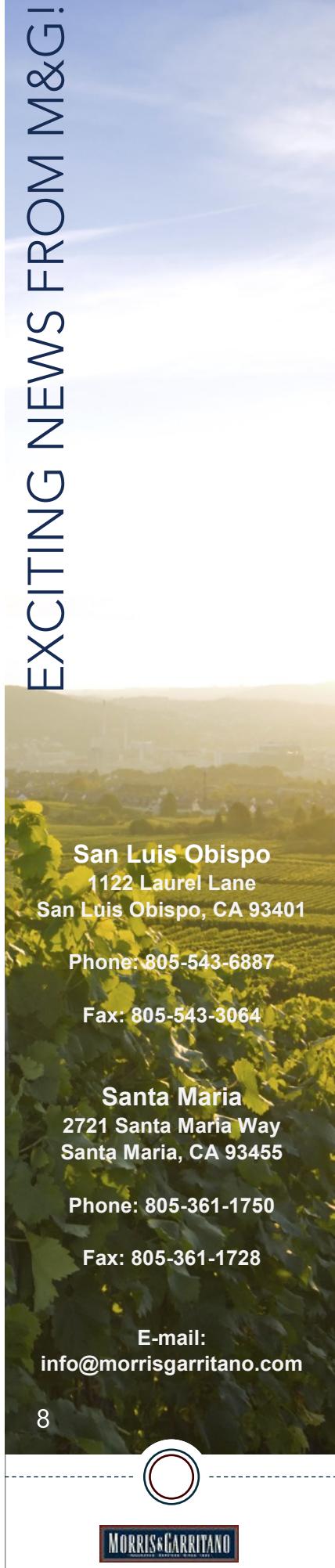
Assuming that the damage is covered by the policy, the office adjuster will then send you payment based upon the independent adjuster's repair estimate. You then get to choose and hire a **contractor** to actually perform the repairs. (Keep in mind you don't have to use the same company that provided emergency repairs at the beginning of the loss!)

It's also important to remember that accepting payment on a property claim does not constitute a final settlement. If your contractor determines that the cost of repairs is higher than the insurance company's estimate, he/or can request a supplement – or additional payment – from the insurance company. By the same token, if you discover that you've incurred claims-related costs apart from what's listed in the repair estimate, be sure to let your adjuster know, so that those costs can be considered for reimbursement as well.

Most claims are resolved without any major hiccups. However, from time to time, issues do arise, and as Morris & Garritano's dedicated **Claims Advocate**, I'm here to help. Should you have questions or need assistance with a new or existing property, auto, or liability claim, please give me a call.

WORKERS' COMPENSATION

CLAIMS



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## AMERICA'S OVERALL BEST AGENCY TO WORK FOR!

Contributed by: Sara Holloway, Marketing Coordinator

We are so proud and so excited to announce that Morris & Garritano has been named America's Overall Best Agency to Work For by Insurance Journal! It is our employees' hard work, compassion, dedication, and commitment to our Core Values that really makes M&G the special place that it is. Nothing makes us happier than employees who love what they do! A huge thank you to our clients for allowing us to serve you over the years and a huge thank you to our employees for being the amazing people that you are!

Check out the full article from [Insurance Journal](#).



## MORRIS & GARRITANO INSURANCE

With a tradition of excellence in insurance services since 1885, we offer all lines of business and personal coverage with a staff of over 120 professionals.

Our monthly newsletter is where you can find informative articles relating to the Commercial Lines and Employee Benefits industries.

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