

NEXT GENERATION NEWS

ANNUAL CONVENTION SPECIAL EDITION

ANNUAL CONVENTION EVENTS

MONDAY, OCTOBER 10

Leadership Workshop

Develop your Leadership Style

Sessions at 2:00 p.m. and 3:30 p.m.

Betsy A 2nd Level

Hosted by Emily Huling, Selling Strategies
(Limited Seats, Pre-Registration Required)

TUESDAY, OCTOBER 11

Panel Discussion

Developing The Future Leaders of Our Industry

3:00 p.m.-4:00 p.m.

Elizabeth Foyer 2nd Level

Featuring:

- Letha Heaton, Vice President-Marketing, Admiral Insurance
- Michael Miller, President & COO, Scottsdale Insurance
- Patrick Ryan, Chairman & CEO, Ryan Specialty Group
- Steven Gross, President & CEO, Metro Insurance

Hosted by Next Generation President:

Kristen Skender
National Marketing Director,
USG Insurance Services

Next Generation Cocktail Reception

4:00 p.m. - 5:30 p.m.

Gallery Ground Level

Welcome to the 2011 Annual Convention!

We are pleased to present expanded programming this year including an interactive workshop, a panel discussion (open to attendees of all ages), and our annual members cocktail reception. Details on each event are to the left or you can find out more by visiting the NAPSLO Next Generation Information Desk outside of the Brokers' Lounge. If you are not familiar with Next Generation, welcome! Just flip this newsletter over for more information under "What is Next Generation?"

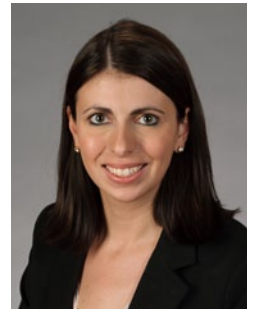
Letter from the President:

I am proud to say that this annual convention is not like any other. This year is a milestone as the Next Generation group holds their first election, after the inaugural three year terms of our Executive Directors and Board of Directors. We have officially accomplished what began as a one sentence mission statement, scribbled on a piece of notebook paper, at committee day four years ago.

I would like to take a moment to recognize our founding board and future leaders for their contributions that were critical in laying the groundwork for this group. We have developed a vision of NAPSLO to form a group of young insurance E&S members into a network of over 300 members with the future leaders of our industry. I want to extend my sincerest gratitude for your contributions, support, and guidance over the past four years. I would like to extend a special thank you to the following groups: our founding next generation board members, our executive directors, our committee members, the NAPSLO Board, the NAPSLO staff, and our general membership. We would not be where we are today without each of your contributions. I am honored to continue as a part of this group and can not wait to see what it continues to grow into.

It is remarkable to think that in the next few years, we will no longer be the Next Gener's, rather one among the veteran familiar faces of NAPSLO. We will walk up to those young new faces and tell them about how we were THE ORIGINAL Next Generation. As our industry and technology continues to evolve, we may even have NAPSLO in a virtual meeting space. Then we can tell them about the good old days where NAPSLO was in person and believe it or not you actually had to get on a plane to attend!

My closing remarks as president; always keep your passion to be a part of something bigger than yourself. Surprisingly, even though this is a free group to join; some people still will not take the initiative. I am inspired by each of you and I am honored to pass the torch to the NEXT Next Generation.



Kristen Skender
President, Next Generation
USG Insurance Services, Inc.
National Marketing Director

Kristen Skender

President, NAPSLO Next Generation



www.napslonextgen.org

A GLIMPSE INTO THE MIND OF A SUCCESSFUL LEADER Q&A



Interview with Franklin Sanders

Franklin D. Sanders, Jr. is Senior Vice President of Chubb and Son, Business Manager at Chubb Custom Market, Inc. Franklin has been employed with Chubb & Son for 23 years and with Chubb Custom Market for 9 years. Starting as a personal lines underwriting trainee, Franklin now manages a successful team of twenty including underwriters and operational staff.



By:

Yiana E. Stavrakis, ASLI
Next Generation Secretary
Metro Insurance Services, Inc.
Claims Manager

When you started your employment with Chubb, did you envision yourself in a leadership position? Have you always wanted to be a leader?

Yes, I have always wanted to be a leader. I sought opportunities to lead as far back as high school ranging from peer leadership which fostered community awareness to captain of the swim team. I enjoyed and pursued leadership responsibilities, and knew I would take on the same roles in my career. I felt a sense of accomplishment in helping others achieve their full potential, and grow as leaders themselves.

Do you believe leadership skills are innate characteristics or learned through experience?

I believe every leader has a base skill set that is inherent in their personality. However, leadership skills are enhanced through the experience. A truly effective leader is open to learning and broadening their skills from others – including peers, subordinates and superiors. If you are not exposed to events that hone your abilities and are not open to differing and diverse talents and skills, then I believe you cannot develop fully as a leader.

How would you define your leadership style, and why do you believe this style has enabled you to become an effective leader? Have you always used this approach?

I believe that I use more of a permissive democrat methodology; I have learned through experience that this style achieves the highest level of team effectiveness and participation.

“Permissive Democrat: Makes decisions participatively; gives subordinates latitude in carrying out their work”.

I did not begin with this approach, however. Initially I was more of an autocrat trying to build consensus and I felt uncomfortable delegating authority. But as I grew as a leader, I became more comfortable with people making decisions on their own. The key is to empower people to work independently within their authority, hold them accountable for results while recognizing and rewarding their accomplishments. I think this is why I feel comfortable working in program business; the most successful programs are the ones in which you are able to judge an organization’s capabilities and delegate authority appropriately. You supervise the program manager and manage the overall results, but allow them to make decisions on their own.

It is difficult to use one leadership style for every single project or circumstance. While good teams are democratic in nature, elements of autocracy are necessary when decisions must be made swiftly. Regardless, there is not enough time in the day to closely supervise every individual. If you are spending all of your time supervising what everyone else is doing, then you may want to ask yourself if you have the right members on your team.

Has mentorship or the influence of others molded the way you manage people? Why or why not?

Yes, one of my first managers in the insurance industry influenced me tremendously. Knowing that I was going to be in a leadership position, he would share anecdotes to help me understand what it meant to be a leader. For example, he would always tell me this story about how he managed security guards in a previous life. He would meet them in the middle of the night, on shift to share a cup of coffee. This simple act showed them that

he understood how difficult their jobs were but this also showed his subordinates that he was watching them. More importantly, he allowed me a great deal of latitude to do my job but taught me the importance of personal accountability at the same time. I continue to use aspects of his style to show my team that I am a guiding force that appreciates their hard work.

How have you stayed motivated as a leader?

Seeing individuals achieve high levels of success is invigorating and is a motivator to continue growing as a leader. While I have never had a team underperform, I have had teams tasked with tough objectives. It can be extremely daunting to keep others motivated through this process, but positive reinforcement as well as the differentiation of performance shows your team that hard work is rewarded. I stay motivated by interacting closely with my team encouraging them to work hard and achieve their goals. A big part of leadership is to help your team achieve their fullest potential.

What advice would you give younger generations on how to become an effective leader?

- Study the styles of successful leaders, both direct (have specific leadership role) and indirect (without specific leadership role, but nonetheless lead through actions or influence). Identify their strengths and understand how they motivate subordinates or peers to achieve specific objectives or simply excel as a team. Seek them out and engage in conversations about their style, leadership philosophies, and who motivated them in their career and leadership development. Find ways to incorporate those

- skills and attributes into your own style.
- Study leaders who are not effective. Where have they failed to motivate or influence? How would you, as a subordinate or team member, respond to their style? How can you learn from their mistakes or failures? Often, good leaders will tell you they learned more from their experiences with bad managers than they did from their good managers.
- Seek opportunities to lead through influence and example. Invest in team relationships and create positive currents.
- When in a defined role of leadership, seek feedback from those you lead. Do they have the resources they need? Do they clearly understand the objectives of the team or business unit? Do they understand their own objectives or goals and how those support the overall team or unit objectives? Ask the harder questions of your team members. What am I missing? How can I help? What do you need from me?
- Make reasonable commitments to your team and deliver on them consistently.
- And, always, let your team know that you support them, visibly advocate on their behalf and that you have their back!

LEADERSHIP & SALES TIPS



Interview with Emily Huling

Nationally recognized speaker and president of *Selling Strategies, Inc.*, Emily Huling, CIC, CMC, has become a key figure in shaping the future leaders in the insurance and financial services industries. Through her *Agent* workshops and articles that appear regularly in the *Independent Agent* magazine and *Rough Notes*, she pinpoints the vital aspects of sales and customer service training, as well as management coaching strategies for her clients to practice in the work place each day.



By:
Liz Furrer
Next Generation Committee
USG Insurance Services, Inc.
Marketing Assistant

Strides in Future Leadership Advancement

Nationally recognized speaker and president of *Selling Strategies, Inc.*, Emily Huling, CIC, CMC, is shaping future leaders in the insurance and financial services industries. Through her workshops and articles that appear regularly in the *Independent Agent* magazine and *Rough Notes*, she pinpoints the vital aspects of sales and customer service training, as well as management coaching strategies.

We are pleased to present a leadership workshop featuring Emily Huling; providing essential leadership tools and strategies to help them thrive.

Huling's looking forward to "the excitement, energy, and optimism of the participants" at NAPSLO and hopes "to inspire each person to seek, find, and act on what brings personal satisfaction and contributes to others."

When the Leadership Shoe Fits

In this workshop we will identify your leadership style: Catalyst, Thinker, People Developer, and Consensus Builder. Emily defines

leadership as "No longer hierarchal." She states, "Each style is powerful and effective. The important thing is to be the best at what you do."

To aid in pinpointing a specific, personal style for her clients, she provides a self-assessment to aid in the identity building process, emphasizing their inherent skills and talents. "Participants will review the dominant traits of each style to determine which one best describes them," she explains. "Each person, no matter what job position (sales, underwriting, claims, administrative support), benefits from a personal plan that includes goals, strategies, objectives, and activities. Even if goals change, and they will over time, having a baseline to start from and then modify is the best way to measure progress, assess what works, and what hasn't."

Today's Steps for Tomorrow's Success

Huling cautions the youth, and even those currently in leadership positions, to defer from thinking they have all the answers, as this results in ineffective leadership. Her mantra for those entering our industry is,

"Always be learning and applying newfound knowledge. That's not only the process for self improvement; it's what I have found that clients and colleagues value most in their business relationships."

Huling is author to more than a dozen books and audio programs and advocates readings by others to reiterate her genuine beliefs and methods. She recommends two books in particular: "How to Win Friends and Influence People by Dale Carnegie, 1936 and "How: Why HOW We Do Anything Means Everything...in Business (and in Life) by Dov Seidman, 2007." She states, "Both books emphasize the importance of how we think, how we behave, and how we treat others as the foundation of personal and business success. I couldn't agree more."

Her personal selling styles, thirst for knowledge and passion for business, serve as models for the future leaders of NAPSLO Next Generation. Join us for her leadership workshop, Monday October 10th. Sign up at the Next Generation Information Desk outside the Brokers' Lounge.

NEXT GEN: NRRR ARTICLE

By: Michael Byrne

Next Generation Board of Directors

Dewey & LeBoeuf

Partner



July 21, 2011 marked the effective date and one year anniversary of the enactment of the NRRR, or Nonadmitted Reinsurance and Reform Act, a subtitle within the larger

financial services reform legislation signed into law on July 21, 2010 (the Dodd-Frank Wall Street Reform and Consumer Protection Act). NAPSLO was a critical advocate for the NRRR when it was being considered in Congress and is an industry leader on the various issues arising from the NRRR.

The NRRR reforms are simple and sweeping. They provide long-needed clarification and uniformity to certain aspects of the regulation and taxation of surplus lines and other nonadmitted insurance. All surplus lines producers and insurers need to be aware of the new rules and understand what has changed from the old rules as well as the reasons behind the changes. The NRRR mandates nationwide uniform standards by:

- Conferring exclusive authority to regulate and tax the placement of insurance with nonadmitted insurers on the “home state” of the insured
- Allowing surplus lines brokers who represent qualifying large commercial buyers (called “Exempt Commercial Purchasers”) to access the surplus lines market without first conducting a diligent search to determine that coverage is not available from the admitted insurance market.
- Setting a uniform national standard for nonadmitted insurers to be eligible in any given state to write insurance through licensed surplus lines brokers. The NRRR preempts state laws that are inconsistent with these Federal reforms.

Although the NRRR mandates national standards for certain aspects of nonadmitted insurance regulation, there is no Federal oversight of NRRR implementation in the states, only some Federal involvement in studying the impact and state implementation of the

NRRR. State insurance regulators will apply the NRRR reforms within their existing laws

State Implementation

Efforts by state insurance regulators to implement the NRRR generally consist of the work of the National Association of Insurance Commissioners (NAIC), state legislation and regulations, and regulatory practice.

NAIC. Late in 2010, the NAIC convened a special working group to consider the need to implement the NRRR. The primary focus of the NAIC working group sessions had been on reporting and state allocation of nonadmitted insurance premium taxes, attempting to create a system for the states to share premium taxes on nonadmitted insurance policies covering multistate risks. In addition, the NAIC has adopted a sample NRRR implementation bulletin outlining each of the NRRR reforms and the areas where state law is now preempted. A number of states have already issued their own bulletins based on the NAIC sample bulletin.

State Legislation and Regulations

The NRRR creates national regulatory standards without the need for any state action; however, nearly all states have taken some action in response to the NRRR. This activity ranges from simply adopting the NAIC sample bulletin to creating legislation addressing premium taxes or incorporating a majority, if not all of the NRRR reforms into the state’s insurance laws. Legislation in some states seems directly inconsistent with the NRRR in certain respects, such as those discussed below.

Regulatory guidance and practice. This is in its early stages, evolving constantly. The adoption of the NAIC sample bulletin by some states suggests that these states might apply their own laws consistent with the NRRR. Nevertheless, there are some signs already that the Congressional intent of the NRRR could be frustrated in some states, such as in the area of premium taxes and surplus lines insurer eligibility.

Home State “Principal Place of Business”

The NRRR establishes the Federal principle that “home state of the insured” rules apply exclusively to the placement and taxation of insurance from nonadmitted. The principal feature of the NRRR is the concept of “home state,” the state where a single named insured maintains its principal place of business (or residence), provided there is some insured risk in that state. The NRRR provides that no state other than the home state of an insured may regulate or require any premium tax payment for nonadmitted insurance and that such other states’ laws are preempted.

Thus, the NRRR reforms are largely dependent on a common definition of “home state” to be applied by all states. The NRRR has accomplished much of this task by mandating a national definition of “home state.” For affiliated groups, the home state is the “home state” of the “member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.” The NRRR does not define “principal place of business.”

It is to be anticipated that some states will attempt to add their own “amplifications,” “interpretations” or “clarifications” to the NRRR’s definition, and some states have already done so. However, a state’s authority to take such action is questionable since different definitions in different states could lead to more than one state as the state with “exclusive” authority to regulate and tax a single insurance policy. Some of these issues ultimately may need to be resolved by Federal courts. Nevertheless, a workable definition of home state that should address the substantial majority of placements exists today under the NRRR.

Premium Tax

Pre-NRRR

Nearly all states have historically imposed tax based on the nonadmitted insurance premium allocated to that state, rather than imposing tax based on 100% of the premium. States have commonly sought to collect

tax at their own tax rates on their allocated share of the premium for a placement covering a multistate risk, either as surplus lines or independently procured insurance tax. The NRRRA contemplates a system of tax sharing in which the home state collects tax on 100% of the premium for a policy covering a multistate risk and allocates tax to the other states under an agreed method. This approach requires the home state to tax 100% of the premium.

Post NRRRA

Under the NRRRA only the home state may require the payment of premium tax on nonadmitted insurance. This mandate is intended to simplify the payment of premium taxes on multistate risks. The NRRRA provides that Congress intends that the states adopt “nationwide uniform requirements, forms, and procedures” to share premium taxes on multistate risks consistent with the NRRRA. To facilitate tax sharing, an insured’s home state may require surplus lines brokers and insureds who have independently procured insurance to annually file multistate allocation reports with the insured’s home state. The states, however, are not required to share taxes, and some states may decide not to enter into a tax sharing arrangement, and instead retain 100% of the tax when they are the home state.

At this point, the goal of the NRRRA to bring nationwide uniformity on nonadmitted insurance premium tax has not been achieved. States are in the process of seeking to assess the impact of the NRRRA on premium tax revenues they have historically collected. There are currently multiple tax sharing proposals being considered, and it is not clear if, when, or how this will be resolved. The main proposals are SLIMPACT and NIMA. Some states have enacted legislation generally authorizing a state agency to enter into either of these arrangements, presumably to preserve flexibility to join the system in the state’s best interest. Some of the larger commercial states apparently have decided not to share taxes with other states. There are prospects for a compromise system with a simple allocation method that might be acceptable to both the SLIMPACT and NIMA states; however, that compromise may not be enough to persuade the larger commercial states to participate.

In addition, legislation enacted in some states to address premium tax requirements post-NRRRA seems inconsistent with the NRRRA. For example, some states will seek to require the broker or insured to apply the tax rates of each state where there are covered risks even if the state is not participating in a tax agreement with the home state; the home state presumably would retain the tax attributable to risks in the non-participating state at that other state’s tax rate. A number of states will also require quarterly allocation reports, even though the NRRRA only permits the home state to require such reports annually.

Insurer Eligibility

Pre-NRRRA

Historically, for nonadmitted insurers to be considered eligible to write surplus lines business in a state, many states required nonadmitted insurers to submit applications

There has been some state implementation of the NRRRA, but the situation is constantly evolving.

to the state’s insurance regulator, and only upon approval of such application would the insurer be deemed eligible. Other states have relied upon surplus lines brokers to determine whether nonadmitted insurers met the statutory financial criteria for surplus lines placements. Regarding non-U.S. insurers, some states required that the insurer appear on the most recent Quarterly Listing of Alien Nonadmitted Insurers published by the International Insurers Department of the NAIC (the “IID List”).

Post-NRRRA

There is now a single national standard for surplus lines insurer eligibility in the U.S. The NRRRA provides that, unless the states adopt “alternative nationwide uniform eligibility requirements,” a state may not establish eligibility criteria for U.S. domestic surplus lines insurers other than requiring an insurer to be “authorized to write the type of insurance in its domiciliary jurisdiction” and to have minimum capital and surplus measured under the laws of its domiciliary jurisdiction of \$15 million or a greater amount if required by the

state where eligibility is sought.

Regarding non-U.S. insurers, the NRRRA provides that a state may not prohibit a surplus lines broker from placing nonadmitted insurance with an insurer on the IID List. Thus, insurers on the IID List are now automatically eligible to write surplus lines business in all U.S. jurisdictions.

The sample NAIC bulletin on NRRRA implementation outwardly recognizes these reforms. Legislation in some states also generally incorporates these reforms; however, legislation in some states fails to fully recognize these changes, either by not incorporating them at all or by adopting the NRRRA’s uniform eligibility requirements while retaining existing authority for the regulator to declare an insurer ineligible based on any number of factors that are preempted by the NRRRA.

In addition, it appears that the regulatory practice in at least a few states may continue to include an application and review process with requirements for insurers other than those set forth in the NRRRA. This may occur either by states continuing to maintain “approved lists” or “white lists” and/or imposing the requirements on surplus lines brokers as licensees in the state rather than the insurers themselves. In any case, such regulatory practice would be in conflict with Federal law under the NRRRA.

The new regulatory regime for surplus lines insurance is still only in its infancy. There has been some state implementation of the NRRRA, but the situation is constantly evolving, especially the issue of the emergence of a consistent definition of home state and implementation of the changes in premium tax and insurer eligibility post-NRRRA. This provides a unique opportunity for all surplus lines market participants – particularly NAPSLO Next Generation members – to participate in the transition and even to influence the transformation to the new rules that will likely govern our business for the rest of our professional lives.

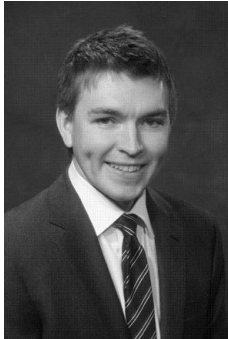
The NAPSLO website at www.napslo.org contains the industry’s most comprehensive and up to date information on all of the issues related to the NRRRA.

PROTECT AND DEFEND: MANAGING ISSUES OF SPOILIATION IN AN ELECTRONIC AGE

By: John Farrey

Next Generation Committee

Burns & Farrey, Attorneys at Law
Associate



Spoilation is a complex issue that merits attention from those beginning their career in the insurance market. This article will attempt to shed light on the basics of spoilation and its impact on litigation, as well as explore spoilation in the context of e-discovery.

What is Spoilation?

Spoilation is the “destruction or significant alteration of evidence, or the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation.” The types of relevant evidence that may need to be preserved include, but are not limited to: products involved in an accident, physical evidence, video, security logs, communications in paper or electronic form, medical records required to be kept by statute or regulation, or repair logs.

When does the duty to preserve evidence arise and to whom does it extend?

The duty to preserve evidence arises when a reasonable person knows or should know, that litigation is possible and that the evidence in question might be important. What is not under control is whether or not such evidence has been requested by an opposing party or ordered to be produced by a court. Even with such requests absent, parties must preserve relevant evidence.

The scope of this duty extends out towards many more parties than one would expect. Parties to litigation, their experts, attorneys, insurers, and even third party affiliates must all be vigilant in the preservation of relevant evidence.

Possible Consequences of Spoilation

If this duty to preserve is not met and spoilation of evidence occurs, the courts have discretion to issue sanctions to the offending party. The severity of the sanctions imposed is directly related to “remedying the prejudice caused to the other party.” Courts weigh a number of factors including whether the spoilation was negligent or intentional, if evidence was requested by an opposing party or the court, and the nature and extent of the prejudice caused by the spoilation.

Sanctions that arise as a result of spoilation can range from an adverse jury instruction to awarding costs of defense and legal fees. Possible default judgment against the spoiliating party as well as the possibility of excluding the spoilated evidence from trial, highlight the fact that this issue is of paramount importance, as it may lead to the practical inability to defend a case.

Spoilation & E-Discovery

Spoilation is further complicated within the context of “E-Discovery”. Once considered a “cutting edge” issue, electronic spoilation and “E-Discovery” are now central concepts, often crucial to pre-trial discovery.

“E-Discovery” involves the pre-trial discovery process of gathering, producing, and managing “Electronically Stored Information” or ESI. Examples of ESI are e-mail messages, electronic files on a server, website content, and backup media files such as flash drives or disks.

ESI also includes information called “metadata”. Metadata is electronic information about other data. For example, if a user changes a number in a Microsoft Excel spreadsheet, “metadata” would be associated to that Excel spreadsheet reflecting the change. Other examples involve the timestamp on an e-mail or phrase changes in a Microsoft Word document.

As one can imagine, this type of information may become crucial to litigation, and courts have started to fully appreciate the potential prejudice involved in the mismanagement of electronic data. Because of the critical importance of ESI, the costs associated with gathering such data can be onerous, and the dynamic nature of electronic data can become difficult to manage.

The Cost of E-Discovery

Below is the definition of “document” included in a recent subpoena for records that our office propounded to opposing counsel:

The term “document” shall also include, without limitation, agreements, appointment books, calendars, charts, computer printouts, conferences, contracts, data compilations from which information can be obtained, diagrams, diaries, drafts, envelopes, financial statements, graphs, instructions, inter or intra-office communications, ledgers, letters, memoranda, microfiche, microfilm, minutes and notes of meetings, notebooks, notes, photocopies, photographs, plans, publications, published or unpublished speeches or articles, purchase orders, recordings, records, reports, scrapbooks, specifications, tape or disk recordings, telegrams, telephone or other conversations or communications, telexes, transcripts, e-mail and electronic data.

Now imagine locating this type of information requested in a business context. Relevant information could be located on a central server, a local hard drive, a cloud-based software application such as “SaaS” online, an employee’s Blackberry or smartphone, a home computer, or a laptop. To gather, organize, manage and preserve this information is extremely expensive and time consuming.

ESI & the Dynamic User

Not only is ESI costly and time consuming to locate and manage, but also the data itself is in constant flux. A major shift has occurred where technology users are contributing as opposed to consuming. Whether it be YouTube, social media platforms, or e-mail or text messaging, users are creating the content as opposed to simply viewing it. This creates potential problems for businesses and corporations involved in litigation, as the relevant data set is constantly changing. As a result of these new trends, individuals have the ability to communicate written content on a wide-spread, instantaneous basis.

Possible Consequences and Necessary Action

Although managing ESI is burdensome, the alternative, failing to preserve or identify such evidence, can result in heavy costs, sanctions, and even an adverse judgment. Certain practical steps should be followed to avoid electronic spoliation:

The "Litigation Hold" Letter

Anticipated or pending litigation requires prompt notification to your client to retain evidence in its original condition as of the time of occurrence. This communication should be in the form of a "litigation hold" letter, which identifies what may be relevant, the manner in which such evidence should be preserved, and the consequences associated with spoliation. Regular communication after sending a "litigation hold" letter is necessary to ensure that your clients, employees and business associates fully understand the types of data they need to preserve.

Create a Written Data Retention Policy

Long before any pending litigation, a business should establish a formal, written, "Data Retention Policy". At least in the United States Federal Courts, certain "safe harbor" provisions exist. Part of the December 1, 2006 amendments to the Federal Rules of Civil Procedure include Rule 37(e), which provides the following:

"Failure to Provide Electronically Stored Information. Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a

result of the routine, good-faith operation of an electronic information system."

Although this amendment hardly provides complete protection from sanctions resulting from electronic data spoliation, it provides businesses who have established reasonable data management policies some breathing room. It is important to note that such retention policies need to be executed "routinely" and in "good faith." For this destruction of data or documents on the eve of litigation is not afforded any protection by this rule.

An overbroad retention policy or the impulse to "save everything" may prove to be a costly strategy. Indeed, a court may demand that a business produce data in its possession, even if it is not reasonably accessible because of undue burden and cost.

Consider the potential costs associated with Rule 26(b)(2)(B) of the Federal Rules of Civil Procedure:

"The party from whom discovery is sought must show that the evidence is not reasonably accessible because of undue burden. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause."

The court, *even if it finds producing certain data to be unduly burdensome*, can nonetheless order a party to produce certain evidence. Therefore, it is crucial to create a measured, written document retention policy so as to avoid both costs associated with producing documents during litigation and costs associated with managing the finite resources of your client's data.

It is crucial that spoliation and the duty to preserve evidence be taken seriously by all parties, as anything less may result in sanctions and the practical inability to defend certain matters. Aggressive and up-front management of these issues will save your client time and money in the long run.



NAPSLO Job Portal

NAPSLO now offers an exciting new career locator and informational site for job seekers. Visit NAPSLO's Job Portal at jobs.napslo.org.

NAPSLO's Job Portal is open for members to post jobs and review resumes. Job seekers can post their resumes, review job openings, and apply for positions.

Associate In Surplus Lines Insurance

Obtaining an ASLI designation is a great way to gain knowledge about the E&S Industry, and is a career track accomplishment that will last throughout your insurance career.

What is the ASLI Designation?

The Derek Hughes/NAPSLO Educational Foundation created a professional Excess & Surplus Lines designation program, known as the Associate in Surplus Lines Insurance (ASLI) designation.

What the ASLI Courses Cover

The ASLI program provides a combination of general and specialized knowledge. It consists of four courses and national examinations: two courses that focus exclusively on surplus lines, ASLI 163 - Surplus Lines Insurance Operation and ASLI 164 - Surplus Lines Insurance Products, and two elective courses selected from a list of approved electives.

Methods of Study

A number of ways exist to study and prepare for the national examinations required to earn the ASLI designation. These include:

- (1) attending a class
- (2) organizing a study group at your place of employment
- (3) studying independently.

How to Get Started

To get started in the ASLI program, please visit The Institutes' website (www.TheInstitutes.org), call Customer Service at The Institutes at (800) 644-2101, or contact your training or personnel director.

Next Generation Board

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What is Next Generation?

Next Generation is the under 40 segment of NAPSLO and has been created to a) recruit young talent into the industry, b) increase communication regarding important industry and educational information, c) encourage professional development amongst members, d) act as a liaison between NAPSLO and young talent, and e) create an avenue for young insurance professionals to become more involved in the E&S industry.

HOW CAN I GET INVOLVED?

General Membership

You can join NAPSLO Next Generation as a member for free, which does not require you to perform any leadership tasks on behalf of the group. You will simply receive our newsletters and invites for webinars, events, and educational opportunities.

Leadership

By joining our group, for free, you can also volunteer for one of our sub-committees. More details are available at www.napslonextgen.org. We are also seeking volunteers for college campus visits to make presentations about our industry.

WHAT ARE THE BENEFITS OF JOINING?

- The NAPSLO Next Generation Group offers a wide variety of opportunities and benefits to its members year round, communicated through a quarterly e-newsletter.
- Through social networking, young insurance professionals are able to communicate with each other and with more experienced NAPSLO members. Visit our Facebook and LinkedIn Groups.
- NAPSLO Next Generation members are also given a voice within the association involving key industry matters.
- Along with educational conferences and seminars, you will learn what new, young leaders are doing to stand out.
- Next Generation offers young insurance professionals a chance to jump start their careers by creating a base of industry contacts, developing important professional skills, and keeping up to date with the latest insurance trends.
- NAPSLO's Next Generation provides leadership, industry training, social networking, and other knowledge necessary for the development and success of young insurance professionals.

HOW DO I SIGN UP?

Please fill out the below Membership Application. You will receive a welcome packet in your e-mail with details about upcoming events, how to get involved, and your Next Generation Membership ID Number.

Membership Application - It's free to join: Pass to a friend or co-worker!

Please fill out the questions below and return to Yiana Stavrakis at ystavrakis@metroins.com or the Next Generation information desk at the annual convention.

NAPSLO Next Generation Membership Requirements:

1. Must be employed by a member corporation of NAPSLO
2. Must be Under 40 years of age



Name: _____

E-Mail: _____

Address: _____

Phone: _____

Date of Birth: _____

Company: _____

Your Company's NAPSLO Membership Number: _____

How long have you been in the industry? _____

What is your job title? _____

Would you like to volunteer for leadership within Next Generation? _____

Would you like to volunteer to go to local campuses to promote our industry? _____

Would you be interested in joining a subcommittee? _____