



# The UPA Bulletin Board



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SPRING 2010

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**The UPA Bulletin Board** is published quarterly to inform and marginally entertain its members. The Bulletin Board does not reflect official UPA policy except where specifically stated.

UPA does not guarantee any claims made by its writers, editors, or advertisers. The editors are on their knees begging UPA members to tell us what you think!

### Stay Up To Date

Read pages 3&5 regularly to stay informed about your liability insurance policy. Being informed will keep our insurance premiums low. You owe it to your brothers and sisters!

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## Carlson's Corner

Every once in a while it seems to be a good idea to address a few "loose ends" that are important to maintaining UPA's strong and long lasting insurance programs provided by Fireman's Fund and USI of Southern California Insurance Services.

Over the last few months we have had to settle a number of claims where some risk management of the exposures involved could have prevented or at least diminished the loss payouts made. In two instances, there was water damage arising out of failure to shut off the water after servicing a pool. In the past the UPA leadership has always asked the members to simply place your vehicle keys next to the water value used in filling the pool. By doing so, you would always have to come back to the valve and hopefully remind yourself to shut the water off before leaving. I would like to encourage all of you to get in to this habit again if you are not doing so, and continue if you are!!! This can save tens of thousands of dollars in losses annually and more importantly help to keep clients happy.

One of the "tougher" claims we have paid recently came out of an event that took place on Christmas Eve 2004 that was not reported until 10/29/09. Briefly, a four year old child fell into a pool as the result of a security gate being left open. The child is basically a living vegetable at this point after coming close to drowning. Since the event, the fence contractor, the property owner, and the foster home liability insurance carriers named in earlier lawsuits have paid off their limits of liability in full. As a result, the family involved was looking for other revenue streams to support the child given the fact that doctors project her future medical expenses could run as high as \$15,000,000 before she passes away. As you may have guessed at this point, they decided to file suit against the UPA member that serviced the pool alleging that the girl fell in because he did not close the gate when he was done servicing the pool. What a mess!

Fireman's Fund received notice of the claim 1,770 days after the event which makes it

almost impossible to find any witnesses or other pertinent information regarding what happened from a defense standpoint. They were able to find the UPA member involved, but he had no records as to when he had serviced the pool, but confirmed that he knew about the accident and never reported it!!! When all was said and done, a total of \$1,000,932 was paid out on this claim including expenses.

There are two critical lessons to be learned from this loss. First, if you are aware of anything that may cause a claim / loss, report it immediately so the events causing the problem can be verified and recorded while witnesses can be found with their memories still fresh. Second, if you do not keep a work log book, start doing so, it could be very useful in determining where you were and what you were doing if a party makes allegations against you. To help you find a work log book, the UPA Board is now researching various vendors that print these types of ma-

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## January Joint Board Meeting Recap

Jeff kicked off the meeting with the usual introductions. I always wonder about those guys that don't give their name only their chapter number. They must owe somebody some money somewhere.

Jeff touched on printing the newsletter in Korean and Spanish again. A lot of guys aren't too keen on the idea but it's

starting to grow on me. What is so bad about helping our Spanish and Korean speaking brothers to learn more about their insurance and how and when to file a claim. Maybe if I have time I'll get a sample newsletter printed.

Carlson talked about getting claims opened in a timely fashion and answered a

bunch of questions on the \$1,000,000 commercial truck policy. Exclusively offered by the great UPA I might add.

The meeting closed and we got the hell out of there.

The Monkey

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## USI Contact Info

For policy questions and clarifications contact the UPA Account Executive:

**Ron Carlson**  
800-339-2218  
818-251-3003 direct  
Ron.Carlson@usi.biz

For general questions, additions and deletions, insurance certificates, additional insured certificates, address changes, contact:

**Matthew Creith**  
800-339-2218  
818-251-3025 direct  
818-251-1825 fax  
Matthew.Creith@usi.biz

To file a claim contact:

**Elaine Dunn**  
949-790-9269

USI Insurance Services  
21600 Oxnard St. 8th Floor  
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## Your UPA Insurance

Your liability insurance is issued by Fireman's Fund through USI Insurance Services. The policy covers the operations of **service, repair and maintenance of swimming pools and spas only.**

Two important exceptions to the policy are as follows:

1. You are not covered for the repair, maintenance, installation and/or removal of diving boards and slides. Bottom line: **DON'T TOUCH 'EM!**
2. Acid Wash coverage will pay up to \$25,000 to correct damage to a pool that turns out badly as the result of a member "Acid Washing" a pool and, of course, is subject to the usual \$500 deductible.

### YOU WILL NOT BE COVERED IF YOU ACT AS A CONTRACTOR!

Fireman's Fund requires all chapters to meet a minimum of 9 times per year. If any chapter is not meeting this basic requirement the entire chapter will be dropped by UPA.

## UPA Health Insurance

Check out the UPA health care plans.

- Major Medical Health Insurance  
866-633-6322
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[www.affinityhealthplans.com/upa](http://www.affinityhealthplans.com/upa)

Ask for the Healthcare Solutions Group and be sure to tell them you are a member of The United Pool Association

## Filing a Claim

When filing a claim make sure you do it in a timely fashion. If you screw up and flood some guy's house for example, **DO NOT** hope, pray or take his word for it that he will not file suit against you. Call Lauren Menefee ASAP. Waiting could cause the claim to be denied. Fireman's Fund needs to be involved from the git go.

1. **DO NOT ADMIT FAULT !** This cannot be stressed enough. You may feel obligated to cleanse your soul, but you will do yourself and your claim harm by doing so. Button your lip and let Fireman's Fund do the talking.
2. **DO NOT TALK TO ANY ATTORNEY THAT IS NOT FROM FIREMAN'S FUND!** Never ever go to a deposition without legal representation from Fireman's Fund. No matter how innocent it may seem these guys will eat you (and our policy) alive. Fireman's Fund has a whole squadron of attorneys to represent you. You have to let these guys do the talking.
3. Prepare a complete statement of all the facts immediately and call Lauren Menefee. Fireman's Fund must be brought in early so they can investigate while the evidence is fresh.
4. Inform your chapter President and Treasurer that you are filing a claim and keep them informed with the progress of the claim.
5. Make arrangements with your chapter Treasurer to give him the \$500 deductible. Your chapter is responsible for paying the deductible. If you don't pay it your chapter is on the hook. If your chapter doesn't pay it the entire chapter will have its insurance canceled.
6. If you have any problems or questions or need assistance call Matt Creith and Lauren Menefee at USI.

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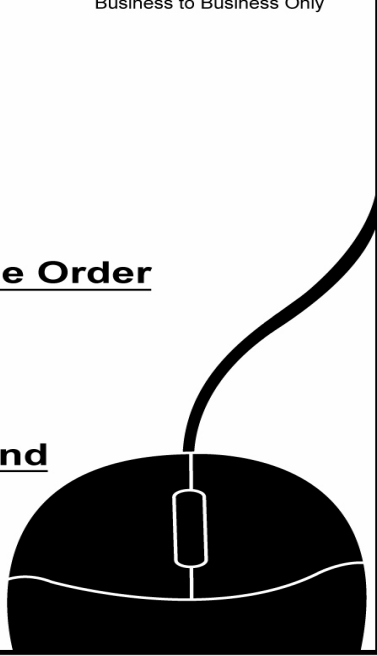
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**Member and Employee Info**

UPA members that have anyone including employees, family members, friends, repair people, vacation service people, etc., that are not under the **direct supervision\*** of the insured member are not covered by the Fireman's Fund policy. You must see to it your help has their own Fireman's Fund policy. Matt Creith can get you set up.

\***Direct Supervision** means they are working with you in your presence. Not the next house, not a phone call away.

**Make Sure You Are Registered!**

All members should make sure their chapter has a current roster with their name on it registered with USI. A claim being filed by a member not registered with USI will not be covered by Fireman's Fund. Check it out so you don't get left out in the cold. It's happened.

**Insurance Certificates**

All Insurance Certificates are mailed every July to every UPA member. If you don't get one by the end of the month call Matt Creith and she'll take care of it. Be patient though, she sends out close to 10,000 certificates every year. A pile of work like that can take time.

**New Members**

You should receive your Insurance Certificate within 48 hours after USI Insurance is notified by your chapter treasurer. If you do not receive your Insurance Certificate in a few days call Matt Creith at USI Insurance

**Additional Insured Certificates**

All you guys with commercial accounts that require additional insured certificates, let Matt Creith know if you no longer need those certificates sent out. It will save these folks a pile of unnecessary work.

**Membership**

Servicing swimming pools must be your **primary occupation** with repair work being secondary.

One year experience servicing swimming pools is required. Individual chapters may ask for more experience.

Go to the Chapter Contacts page and contact a chapter near you for more details.

**New Chapters**

New chapters may be formed and existing chapters can split off with a minimum of ten members.

The proposed new Chapter President must make arrangements with the UPA President to appear at a UPA Joint Board meeting and request admission. Special accommodations for new chapters more than 200 miles from the Joint Board meeting place are possible.

For more details call Steve Homer.

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**Claims Report**

I didn't get the chapter these claims were from only the city where the loss occurred

Long Beach:

Loss date: 1-20-10

Report date: 1-20-10

Timeliness: 0 days

Status: Open

Claimant alleges the chemicals used by the UPA member stained the plaster.

Stinson Beach:

Loss date: 1-08-10

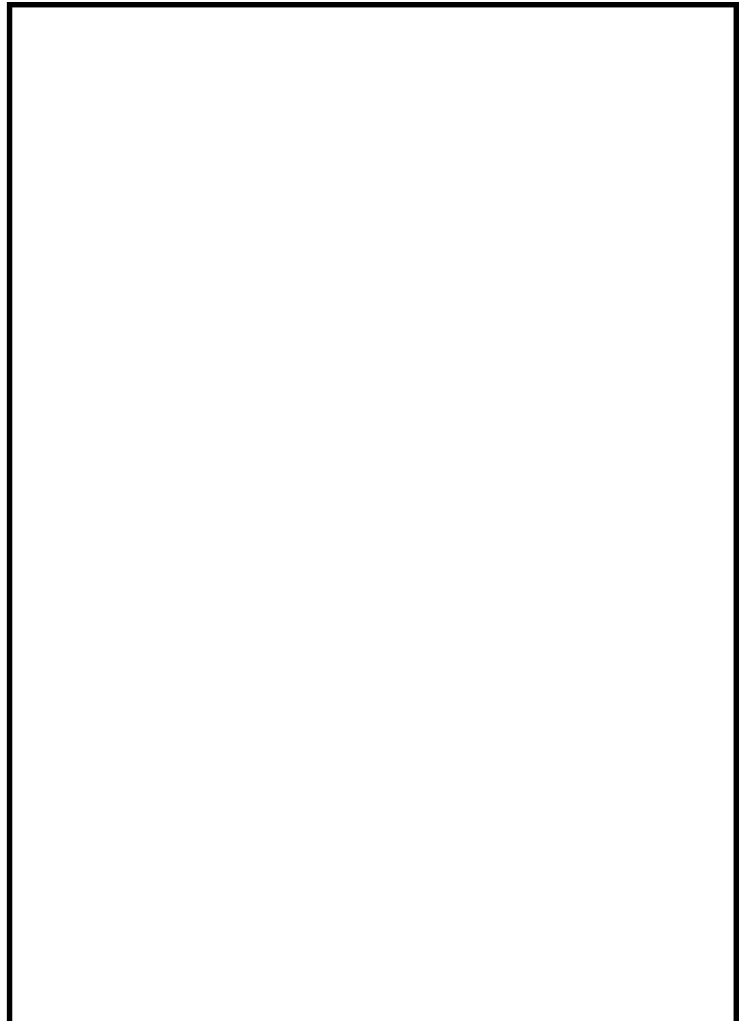
Report date: 2-17-10

Timeliness: 32 days

Status: Closed

Amount: \$2,524.00

Claimant alleges insured left the water on causing 7 days of water loss.



## ***Harvey Gates Passes...***

A very good friend, Harvey Gates, passed away on March 28, 2010. I was happy to see him when I could. We would shake hands and ask how each other were doing and really cared. In times past we worked together everyday and got to know each other, sometimes it was good and sometimes not. After years had passed I came to know his ways and he mine. Respect came in and I began to listen more and more and we became close.

Harvey talked a lot about pools, family and music. He was very proud of his work. Harvey started working on pools in 1952 and most of what he learned was by trial and error. He did the best job that he could. This friend helped everyone that he could and was willing to share his knowledge. Harvey loved to invent pool tools and would make them by hand. Harvey and I talked about fishing a lot, what happened on his trips and mine, but we never had the chance to go fishing together.

After Harvey retired for the 4th or 5th time we only got to see one another 1 or 2 times a week. He was watching over a nice lady named Edith, he cared for a lot. Pools are fading out and his attention is with Edith and music. I would say "Fishing" and he would say "No not today". He is gone now this man I love, but I will see him again soon but not today. I will always remember my friend, Harvey W. Gates.

Friends forever

*David Robinson, Chapter 46*

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# Choose the Right Seal

There are different seals for different applications

So, I was walking around the Western Pool and Spa Show with a buddy and stopped into the U.S. Seal booth. There were a couple eager beavers working the booth and I figured what can these guys tell me I didn't already know. It seemed like a good opportunity to jerk these guys around come off like the "know it all" I am. Yeah, I'm the typical poolman who thinks he's seen it all and nobody can tell me squat. I was wrong. They told me a several things I didn't know.

I learned that a Whisper-Flo doesn't only take a PS-1000. The PS-1000, 200, 201 etc. are seals for general swimming pool pump applications but U.S. Seal makes other seals designed for particular situations.

I'll use a Whisper-Flo as an example. With a Whisper-Flo on a spa it's better to use a PS-961 instead of a PS-1000. The PS-961 is designed to provide better resistance to abrasion, heat and chemicals. The main difference is instead of having Graphitic Plastic it's made with Carbon Graphite.

For a Whisper-Flo on a system involving an ozonator or a salt water chlorine generator it's best to use a PS-3865. The PS-3865 is unique because it's uses Viton® and Carbon Graphite which is impervious to just about anything. Well maybe not some homeowners/do it yourselves.

How many of you guys use Teflon® or silicone lubricant when you install a seal? I have been guilty of that. Those lubricants penetrate the elastomer and never allow the elastomer to grip the shaft or bore.

U.S. Seal makes a water based lubricant called "U.S. Sealube" (go figure) that is specifically designed to lubricate the rubber. The rubber will maintain wetness for a short period of time and then evaporate leaving the seal dry and locked in place.

I called General Pool, Superior and Pool Water Products and none of them carry U.S. Sealube. Some of them have a few of the different seals but inventories

seem to be a little spotty. I figure if guys start asking for these products the suppliers will get them all in

I installed a PS-3865 and it looked the same as a PS-1000 and went in just as easy. It cost about 7 bucks which is a few bucks more than a PS-1000 but if it works better who cares.

Here's a few part numbers.

When a PS-1000 is called for try:  
PS-961 for hot water  
PS-3865 for salt and ozone systems

When a PS-201 is called for try:  
PS-4265 for hot water  
PS-3868 for salt and ozone systems

When a PS-200 is called for try:  
PS-3960 for hot water  
PS-3867 for salt and ozone systems

For a complete list go to [ussealmfg.com](http://ussealmfg.com).

*The NL Monkey*

## ***One Poolman's Guide to Small Claims Court***

First let me say that I am not an expert in this process. Do your homework including getting Nolo Press's "Everybody's Guide to Small Claims Court in California". This is how I began my many trips to court and getting my money.

I probably have over 20 cases in small claims court under my belt in the last 20 plus years in the pool biz. Including successfully suing 2 different lawyers and collecting several thousand dollars that they refused to pay from my father's estate. I've got to say that was pretty sweet. Another case just last year from a real estate agent that refused to pay me after cleaning up 2 foreclosure properties pool/swamps he had listed. That case settled before going to court for over \$1,000. The point here is not to be intimidated by having to sue a debtor for money that is owed to you. It's a fairly straight forward process that has really been streamlined over the years with most courts being online now with all the forms in a .pdf format that can be filled out and printed right from your desktop.

I have a strategy for Small Claims Court that I follow that has worked fairly well over the years. Remember that going to court should be your last resort. I always try to collect by calm reasonable means. Never resort to negative and or threatening phone calls like "I'm going to sue you". First, don't show your hand. Your best strategy is to spring a case on the debtor. Normally you will have a court date 30-45 days after you file your suit so at this point time is your ally. Most people don't have the time or energy to deal with going to court. Plus they know they owe you the money so what is their defense? I'd say half the time people will settle before going to court.

Now days with the economy the way it is it's probably a good idea not to carry the slow or no pays for very long. You know in the end you're going to be stiffed. This is where you need to start making decisions. Is it really worth the time and effort of going to court for a few months service billing? Probably not. You are only allowed to file 2 small claims suits per calendar year so take this into ac-

count. On the other hand if the guy owes you a thousand dollars for your work like cleaning up 2 swamps then that may be a different story. Your time, gas and labor and chemicals are something that once spent are not recoverable by any other means. You should always get a signed work order before starting any work from new and or customers that you don't have a solid and I mean solid relationship with.

Start by creating a paper trail that you can use when going to court. I doesn't need to be extensive and drawn out over any certain period of time. You will have a good idea when your effort to collect is a waste of your time. 90-120 days is a good ballpark for example. Just a record that can be presented in court to show that you have made a good faith effort to collect. 3-4 invoices is plenty. You can also include phone calls you have made.

So now on to the mechanics of the whole deal. First, if you are not com-

mitted to following through don't bother wasting your time. Generally you're going to be into this about \$80 to get the ball rolling. The filing fee will be added to your judgment automatically when you prevail. I also include my costs for day's earnings when I file on top of my damages. My time is not free. Let the judge sort it out. Sometimes the judge will allow this, sometimes he won't. Don't shortchange yourself. Also if there are multiple defendants file on everyone. Leave it up to the judge to sort out who's liable.

Determine the correct venue/court where you need to file your case. You can do all this online. By now you have read the Nolo Press "how to book" so you have a good understanding of the process. Fill out the appropriate forms and make at least 6 copies of each and every form. You will need these when filing. Some courts are adamant about having the necessary copies with you. One court required me to have the copies then promptly shredded all but one copy after the clerk entered all the data into the computer. He told me that if I didn't have the copies he would charge me extra even though the court didn't need them. Remember you're dealing with the

government. Be prepared. Remember to get a stamped copy for your records.

Pick a court date when you file. My strategy is to try and get a Friday morning. My thinking is this is a very inconvenient time for someone to attend a court hearing and blow half a day. Again this may possibly help in your hope of an early settlement.

Have the defendant served. My advice is to go down the hall to the Sheriff's office and to pay them to do this. There are other ways of doing the service but if this is your first time in court don't risk screwing up this portion of your case by an invalid service. The Sheriff will most always complete the service, they really are tenacious about their work. They will file a "proof of service" with the court and mail a copy to you.

At this point you are committed. Don't contact the defendant, if they are interested in settling they will contact you. My advice here is to be open to an offer of settlement. Don't take a hard line and be out for some kind of revenge. You want to recover your money and costs, so be reasonable. Remember to factor in your court costs. Also remember winning

in court is not a slam dunk; judges have biases too. Sometimes you won't even have a "real" judge in court. Your case could be heard by a judge pro tem; a lawyer in a back robe.

Be prepared. I can't stress this enough. Dress appropriately for court. Look like a professional and you will be taken seriously. A button down shirt and tie is not overkill. You have one shot to make your case. The defendant may appeal a judgment but you cannot. Be precise and on point. The judge doesn't want to hear about how this customer is a lying, non-paying jerk. This will also put you in a bad light with the judge. Be clear about the timeline and your attempts to collect the debt. Have your file folder laid out in the order of your presentation. Have your vocal presentation on paper in large print so you can make your case to the judge in clear and convincing fashion that he will understand. Calm and unemotional is your goal. Practice with someone at home so you are comfortable with your presentation.

Be prepared to give the judge copies of invoices and show a record of previous

*Continued on Page 11*

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**UPA MEMBER REFERENCES**

## ***Continued from Page 1***

terials and will put their information on the UPA website for you to access in the near future.

Now, on to a more positive note! The new UPA automobile insurance program is up and running. So far, we have been contacted by over 100 members for quotes and have written close to a third of them. The main problem we have had since starting the program is with the State Insurance Departments of states UPA operates in. We were initially given the go for Texas, Arizona, and Nevada, but the bureaucrats just couldn't help but hang us up on some minor issues. We hope to have these issues resolved and be working in all state involved by the end of April. We will send out auto applications again to all members upon resolution of the outstanding issues.

Please remember that the UPA auto program is designed to address commercial exposures where the vehicle is primarily used for business purposes. Again, the program only provides coverage to drivers with decent driving records though we can also add on spouses as incidental drivers too. We look forward to writing more of this coverage for the members in the future.

*Ron Carlson USI Insurance Services*

**Continued from Page 9**

payments if possible to establish your case. Again, have at least 2-3 copies of everything is case the judge wants to keep something.

Normally the judge will issue his decision on the spot. Rarely but on occasion he will take the case under advisement. It's been my experience that more often than not the defendant will not even show in court. At this point you will be granted a default judgment.

Ok, now I have a judgment, how do I collect. The debtor has 30 days to appeal the judgment or make payment. Do nothing at this point. NO contact on your part. Now 30 days have passed and I still don't have my money. There are now several options that you may employ. The one I like is to file an "order of examination" with the court. Same process of forms, filing with the Clerk of the court, service by the Sheriff. But this is an unusually nasty "notice to appear" that the debtor will receive that puts them at risk of arrest. No, the Sheriff is not going to go out and drag the debtor out of his house and thrown him in debtors prison. But the next time he gets pulled over for a traffic violation he may be taking a ride in the backseat. Another option is to record the judgment at the County Clerks office and put a lien on his property. This will show on his credit report. Or, if you know where the debtor works you can have the Sheriff garnish his wages.

Small Claims should be a last resort, but sometimes it makes sense.

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## Don't Mess With Old Men!

An old prospector shuffled into the town of El Indio, Texas leading an old tired mule. The old man headed straight for the only saloon in town, to clear his parched throat. He walked up to the saloon and tied his old mule to the hitch rail. As he stood there, brushing some of the dust from his face and clothes, a young gunslinger stepped out of the saloon with a gun in one hand and a bottle of whiskey in the other.

The young gunslinger looked at the old man and laughed, saying, "Hey old man, have you ever danced?" The old man looked up at the gunslinger and said, "No, I never did dance... never really wanted to."

A crowd had gathered as the gunslinger grinned and said, "Well, you old fool, you're gonna' dance now," and started shooting at the old man's feet. The old prospector, not wanting to get a toe blown off, started hopping around like a flea on a hot skillet. Everybody was laughing, fit to be tied.

When his last bullet had been fired, the young gunslinger, still laughing, holstered his gun and turned around to go back into the saloon. The old man turned to his pack mule, pulled out a double-barreled shotgun, and cocked both hammers. The loud clicks carried clearly through the desert air.

The crowd stopped laughing immediately. The young gunslinger heard the sounds too, and he turned around very slowly. The silence was almost deafening. The crowd watched as the young gunman stared at the old timer and the large gaping holes of those twin barrels.

The barrels of the shotgun never wavered in the old man's hands, as he quietly said, "Son, have you ever licked a mule's ass?"

The gunslinger swallowed hard and said, "No sir.... but... I've always wanted to."

There are a few lessons for us all here: Never be arrogant. Don't waste ammunition. Whiskey makes you think you're smarter than you are. Always, always make sure you know who has the power. Don't mess with old men, they didn't get old by being stupid.

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# Get Those Claims File Fast

I got a claims report from Carlson that covers all the claims in the past 10 years. It's a stack of paper about 3/4 of an inch thick. I didn't read the whole thing but I picked out a few things of interest.

We've had a couple ugly years in there. Contract year 2002-2003 Fireman's Fund paid out \$674,672. Year 2003-2004 they paid out \$1,150,319. And year 2004-2005, the year that we ate the most recent million dollar claim, Fireman's Fund paid out a whopping \$1,844,187 in claims!

I talked last time about how important it is to get your claim filed in a timely fashion. The longer it takes to open a claim the colder the trail is and the harder time Fireman's Fund has in building a case for you.

Here are 5 big ass claims and how long it took to file them.

Loss date: 6-18-05  
Report date: 7-16-07  
Timeliness: 758 days

Amount: \$109,084  
Description: Claimant alleges she tripped and fell due to electrical surge from spa.

Loss date: 5-19-05  
Report date: 4-13-06  
Timeliness: 329 days  
Amount: \$605,599  
Description: Claimant bitten by UPA member's nephew's dog while in members yard.

Loss date: 12-24-04  
Report date: 10-29-09  
Timeliness: 1770 days  
Amount: \$1,000,932  
Description: Plaintiff sustained injuries in spa while unattended. Claims UPA member left gate open 2 days before.

Loss date: 6-19-04  
Report date: 10-18-05  
Timeliness: 486 days  
Amount: \$1,000,932  
Description: Claimant injured while

using diving board.

Loss date: 5-12-03  
Report date: 3-17-04  
Timeliness: 310 days  
Amount: \$470,879  
Description: UPA member sold used filter to claimant and after 6 years of using the filter claimant was injured.

I think it's hard to guess whether or not you're going to be sued based on this. All I can say is do the best you can. I never hurts to file a claim, even if you're never sued.

Other than those 4 years of big losses we pretty much keep our losses under \$100,000 and that's a good thing.

The good news for this year is nine months into the current contract we're only looking a \$29,458 in losses. Sweet.

*The Monkey*

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Santa Carita	#42	Kevin Burbank	661-299-5866	Burbank	#80	Tony Klm	818-913-4201

### Dates for the Upcoming Joint Board Meetings

Remember, chapters within 200 miles MUST attend joint board meetings. Show up early and contribute! Come on, what the hell else are you doing that's so scary important?

#### The 2010 dates are:

- January 30
- April 24
- July 31
- October 30

### Joint Board Meetings are held at the same place they've always been:

Keno's Restaurant  
5750 E. La Palma  
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#### Same Deal:

**Breakfast at 7AM** (or so)  
**Meeting starts at 8AM**

Breakfast is \$10.

Orange juice is extra and there ain't no wheat toast.

### Contact Changes

When chapters change their Chapter Contact guy, send those changes to the following people:

Matt Creith at USI and The Newsletter Monkey by phone, mail or email.

The Monkey needs a name AND a telephone number. Matt will tell you what he needs.

We're not mind readers. We won't know about your contact changes if you guys don't tell us.

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