



# RIMS CANADA™

NEWSLETTER **|** Brought to you by the RIMS CANADA COUNCIL

## 2019 RIMS CANADA CONFERENCE COMES TO EDMONTON



**T**HIS YEAR, THE RIMS CANADA CONFERENCE COMES TO EDMONTON, Alberta from September 8 to 11. With a theme of TRANSFORM, risk professionals will be able to enhance their career as they attend diverse sessions, share great stories and lessons learned, and experience more risk management content than ever in the new Thought Leader Theater and Advocacy Alley in the Exhibit Hall.

In addition, there will be an incredible lineup of plenary presenters that we cannot wait to share. Dr. Carl Spetzler, author of *Decision Quality: Value Creation from Better Business Decisions*, will discuss “The Future of ERM: Risk Informed Decision Making throughout the Enterprise.”

Putting their competitive business savvy to the side, four of our industry’s most successful women share their remarkable stories and perspectives on their journey as well as their insights on the business in the Women in Leadership Panel.

Lastly, media personality George Stroumboulopoulos will be interviewing Ben Makuch of VICE media. Their closing plenary “People, Politics, Punk” will discuss the relationship of music, politics, art, social

movements and how it changes public as well as corporate policy.

Even before immersing yourself in the educational opportunities, attendees will be able to kick off the conference at RIMSfest, a digital arts and entertainment experience inspired by Edmonton’s Festival City nickname. There are lots of surprises planned, so be sure to arrive early enough on Sunday, September 8 to enjoy the all of the activities at this exciting event.

Make no mistake, this conference will be fun. There will be prizes in the Exhibit Hall, more time for networking and best of all, the city itself. Edmonton is one of Canada’s fastest growing cities and has seen a transformation lately into a popular tourist destination with plenty to see and do, diverse scenery and the most sunny days in the country. The culinary scene is booming with some of the hottest craft beer taprooms, hyper-local bistros and indie bakeries and the Edmonton City Centre brings industry, culture, skyscrapers, plenty of shops and restaurants and the downtown buzz that city-lovers enjoy. So be sure to register for the 2019 RIMS Canada Conference, starting on May 15, and see for yourself what Edmonton has to offer. You won’t want to miss it! ■



# RCC Makes Plans for 2019 and Beyond

**O**n the weekend of January 24-26, the dedicated group of risk professionals that makes up the RIMS Canada Council rolled into Ottawa with a full agenda of things we wanted to accomplish, including:

- getting to know each other a little better
- innovating creatively as a team
- sharing stories about chapter events and projects
- charging up excitement about RIMS Canada Conference in Edmonton and beyond
- communicating about communications, education and advocacy
- rediscovering our how, what, where, when, why and for whom
- developing good solid working plans for 2019, 2020 and beyond, and
- ensuring everyone had a voice.

Was it a tall order? You bet! A packed agenda? Yes indeed! Did we rise to the challenge? Hell yeah!

Day 1 was facilitated by a risk management professional who was also a trained innovation facilitator. She put us through our paces using several brainstorming tools meant to structure our creativity and harness all our ideas. By the end of Day 2 we had strategically mapped game plans for several ideas and were in possession of many more “blossomed” ideas for future planning during our next several meetings.

We used a lot of Post-it notes and Sharpie markers, we drank a lot of coffee, and we talked a lot about the risk management profession, our members’ needs and how we go about meeting those needs. We also talked about succession planning for our organizations, and how we accept and create a fulfilling environment for our many volunteers.

We want to **Reach, Inspire and Inform** our members and each other. We plan to be transparent and accountable to our members. We think we have gotten off to a good start and we



plan to share our as we go. Watch this space in future newsletters for plans and details as they develop.

We recognize our members are more than just risk managers. We need to consider our employers, our industry partners, sponsors and our volunteers as well. What is our value proposition for each?

Strategic mapping of an action plan was completed for several ideas. Many more just need the final steps of our innovation exercise to bring them to a more work-ready state.

One of the first projects in development is a video introduction to members about

the RCC and what we do. We want you to get to know us. The second project is a slate of “micro-volunteer roles” for volunteers that may have something to give but cannot make a larger chapter commitment. They have time to get involved in an event, or maybe a short-term project. All volunteers are welcome and encouraged to participate.

Each chapter was well-represented in the weekend’s activities as were each of the sub-committees. We have an awesome group of professionals sharing of their time, resources and ideas to make your RIMS/RCC/chapter membership the best it can be. ■

# CHAPTER NEWS



## QUEBEC (QRIMA)

On April 10, 2019, the Quebec Chapter (QRIMA) hosted its 8th annual Pub Quiz event at the Old Dublin Pub in Montreal.

Some 60 risk managers, brokers, and insurers joined in the fun to answer such questions as, “Is installing sprinklers a risk retention, transfer, reduction or elimination,” “What is the most consumed drink in the world,” or the very important question, “How many kids will Kim Kardashian have in 2019?”

The participants not only got together to find out the answers to these existential questions, but also to raise money for Women in Insurance Cancer Crusade (WICC) and it was with great pleasure that the sum of \$1,400 was remitted to Samir Hasbani, representing WICC.

The winning team of the evening was that of Patrick Leroux (Marsh), Michel Rodrigue (Cirque du Soleil), Michel Turcotte (Ivanhoe Cambridge), and Stephane Cossette (Quebecor).

**Le 10 avril 2019, le chapitre québécois de RIMS, l'AGRAQ, a organisé la 8e édition annuelle de son Pub Quiz au Pub Le Vieux Dublin.**

**Une soixantaine de gestionnaires de risques, de courtiers et d'assureurs se sont réunis pour répondre à des questions telles que «l'installation de gicleurs consiste à conserver, transférer, réduire ou éliminer le risqué,» «quelle est la boisson la plus bue au monde» ou encore la très importante question «Kim Kardashian aura combien d'enfants en 2019?»**

**Les participants ne se sont pas seulement réunis pour trouver réponses à ces questions existentielles, mais également pour amasser des fonds pour l'organisme Women in Insurance Cancer Crusade. C'est avec grand plaisir que la somme de 1 400 dollars a été remise à Samir Hasbani, représentant de WICC.**

**L'équipe gagnante de la soirée était composée de Patrick Leroux (Marsh), Michel Rodrigue (Cirque du Soleil), Michel Turcotte (Ivanhoe Cambridge), et Stéphane Cossette (Québecor).**

## ONTARIO (ORIMS)

McCague Borlack and ORIMS hosted a session on March 7, 2019 entitled “Dazed & Confused: Potential Impacts of Marijuana Legalization on Insurance Coverage, Risk Management & Litigation.” A team from McCague Borlack organized by Eric Turkienicz provided a number of cleverly titled updates on several topics and audience enjoyed the upbeat presentation. McCague Borlack is available to provide this session for others—if you would like to review the handouts and speaker profiles, please visit <http://mccagueborlack.com/emails/marijuana-seminar-2019.html>.

On April 16th, we welcomed Jill Dalton, group managing director, U.S. property claims preparation, advocacy and valuation at Aon Global Risk

Consulting who presented a session from the RIMS PERK program. Entitled “Managing “Hot-Potato” Claims: Best Practices to Anticipate and Avoid Finger-Pointing When Coverage May Apply Under Multiple Policies,” this property claims-centric discussion was followed by a networking adventure to the Duke of Westminster pub in nearby First Canadian Place in Toronto.

The chapter's last professional session of the year will be held on May 22 at McCague Borlack's offices. This afternoon will include updates from McCague's team of lawyers as well as a discussion led by Cristina Scenna, a senior vice president in Marsh's Risk Consulting Practice who will share her thoughts on building consulting skills for risk managers so we can better sell our recommendations to others. ■

# Foreseeability or Mere Possibility? Supreme Court of Canada Weighs in on the Difference

by Bruno De Vita

**O**ne of the legal concepts we lawyers struggle with when dispensing legal advice is the issue of duty of care and specifically the question of whether the type of harm suffered by a plaintiff was a “reasonably foreseeable” consequence of the defendant’s conduct.

That very question was recently addressed by the Supreme Court of Canada in *Rankin (Rankin’s Garage & Sales) v. J.J.*, 2018 SCC 19. The issue in that case was neatly summed up by the court in the opening paragraph of the decision:

“A vehicle is stolen from a commercial garage. The vehicle is crashed. Someone is injured. Does the business owe a duty of care to the injured party? The question in this appeal is whether the courts below erred in recognizing a duty of care owed by a business that stores vehicles to someone who is injured following the theft of a vehicle.”

Late one night, after consuming alcohol and marijuana, two teens walked around Paisley, Ontario looking for opportunities to steal valuables from unlocked cars. They ended up at Rankin’s Garage & Sales and found the lot unsecured. On the lot, they found an unlocked car with its keys in the ashtray. C., who was 16 and did not have a driver’s license, decided to steal the car and told his friend J. to get in. C. crashed the car on the highway and J. suffered a catastrophic brain injury. J. sued C., C.’s mother, who had provided the teens with some of the alcohol they drank that night, and Rankin’s.

At trial, the judge held that Rankin’s owed J. a duty of care on the basis that previous cases had already established this duty exists. The trial judge went on to find that it “ought to be foreseeable” that injury could occur if the vehicle were used by inebriated teenagers. The jury went on to find that Rankin’s was 37% at fault.

The Ontario Court of Appeal upheld the trial decision, however, it did not accept that the duty fell into a recognized category and undertook a full analysis. Ultimately it concluded that the risk of theft encompasses a risk of theft by minors in whose hands vehicles are potentially dangerous, and therefore that it was reasonably foreseeable that injury would result if a car was stolen from Rankin’s lot.

The Supreme Court of Canada overturned the decision of the lower courts and dismissed the claim against Rankin’s. In doing so, Justice Karakatsanis, writing for the majority, held that to establish a duty of care in novel circumstances, a plaintiff must provide a sufficient factual basis to establish that the type of harm suffered by the plaintiff, in this case personal injury,

was a reasonably foreseeable consequence of the defendant’s breach of the standard, in this case, failing to secure vehicles to prevent theft.

The court distinguished the risk of theft generally from the risk of theft by minors. It was reasonably foreseeable to Rankin’s, or a commercial garage in Rankin’s position, that an unlocked car could be stolen. In fact, Rankin’s evidence was that it took precautions to secure vehicles to prevent theft. However, it was not theft of the vehicle which caused J.’s personal injury; it was the dangerous manner in which C. drove the stolen vehicle.

Of course, this case was ultimately decided on its particular facts. However, in arriving at its decision, the court made several comments that should prove to be helpful to legal counsel and their clients in advocating for a narrowing of the scope of what is foreseeable. First, the court commented that the fact something is possible does not mean that it is reasonably foreseeable. Any harm that actually occurs is by definition possible. The court held that for harm to be reasonably foreseeable, a higher threshold than mere possibility must be met.

Secondly, the court provided commentary on the evidence required to establish foreseeability. At trial, the owner of Rankin’s agreed under cross-examination that security was important to ensure that anyone who takes a vehicle “doesn’t get hurt.” However, the court found that such evidence cannot provide the foundation for a legal duty of care. The question asked of Rankin’s was answered with the benefit of hindsight and did not relate to the relevant issue, namely whether physical injury was reasonably foreseeable prior to the occurrence of the accident. In determining whether or not something is “reasonably foreseeable,” an objective test must be applied. Such a test must focus on whether someone in the defendant’s position ought reasonably to have foreseen the harm rather than whether the specific defendant did. The court then called out a warning that triers of fact should exercise vigilance “in ensuring that the analysis is not clouded by the fact that the event in question actually did occur.” Rather, “the question is properly focused on whether foreseeability was present prior to the incident occurring and not with the aid of 20/20 hindsight.”

In order to find that the harm suffered was foreseeable, the court required some evidentiary basis to conclude that the risk of theft included the risk of theft by minors. Otherwise theft by a minor would always be foreseeable—even without any evidence to suggest that this risk was more than a mere possibility. There was no evidence the garage intended to attract minors or that it knew it attracted minors. The court was also not persuaded on the evidentiary record that physical harm was an expected consequence





# ORIMS Amends Donald M. Stuart Award Nomination Process

**T**he Donald M. Stuart Award was established by the ORIMS Chapter in 1979 to recognize outstanding contributions in the field of risk and insurance management in Canada.

Based on input from the membership, the ORIMS Board of Directors have approved revisions to the nomination procedures, that will simplify the process, yet preserve the criteria and requirements to maintain the prestige of the award.

The biggest change is the introduction of a two-part process. A sponsor who is nominating a candidate can now submit a simplified Nomination Statement for initial review by the Award Committee. No other documentation is required until the sponsor receives confirmation that their candidate has been selected to move to Part 2 of the process. The Committee will respond to all Nomination Statements within 30 days and will generally select the top three candidates. If a candidate is selected to proceed, the sponsor will be then be required to submit Part 2

forms and supporting documentation within 90 days.

Other changes to the program include:

- **Eligibility has been amended to allow nomination of past RIMS members and consideration for a posthumous nomination.**
- **The amount of material to be submitted under Criterion 3 and 4 has been reduced.**
- **The Award Committee will encourage the participation of a former recipient of the award in the adjudication process.**

The new process is aligned to the one adopted by RIMS for their Risk Manager of the Year Award. We believe there are strong candidates across Canada and that this simplified first step, together with the other amendments, will generate a higher number of nominations being put forward.

If you have any questions or comments regarding the changes, please feel free to contact any member of the ORIMS Board of Directors. ■

To obtain an application, visit: <https://www.ontariorims.org/donstuartaward/>

## PRÉVISIBILITÉ

(suite de la page 5)

Bien entendu, cette affaire a ultimement été tranchée sur la base de ses circonstances particulières, mais pour en arriver à cette décision, la Cour a formulé plusieurs commentaires qui devraient aider le conseiller juridique et ses clients en préconisant un rétrécissement de la portée de ce qui est prévisible. Premièrement, la Cour a fait remarquer que le fait qu'une chose soit possible ne signifie pas qu'elle soit raisonnablement prévisible : tout préjudice qui est déjà survenu est par définition possible. La Cour a aussi estimé que : pour qu'un préjudice puisse être considéré comme étant raisonnablement prévisible, il faut satisfaire à un critère plus exigeant que celui de la simple possibilité.

Deuxièmement, la Cour a commenté les preuves nécessaires à l'établissement de la prévisibilité.

Lors du procès, et pendant son contre-interrogatoire, le propriétaire de Rankin a dit être d'accord avec le fait que la sécurité est importante pour s'assurer que quiconque prend un véhicule ne sera pas blessé. Cependant, la Cour suprême a estimé que ce témoignage ne pouvait servir de fondement à une obligation de diligence en droit. La question posée à Rankin, et à laquelle il a pu répondre avec l'avantage du recul, ne portait pas sur le point en litige, à savoir si des lésions corporelles étaient raisonnablement prévisibles avant que l'accident ne se produise. La question de savoir si quelque chose est «raisonnablement prévisible» est un critère objectif. Il s'agit plutôt de se demander si une personne se trouvant dans la position du défendeur aurait dû raisonnablement prévoir le préjudice et non si ce défendeur l'a prévu. La Cour a alors lancé un avertissement: les

tribunaux devraient faire preuve de vigilance «en veillant à ce que l'analyse ne soit pas faussée par le fait que l'événement en question s'est réellement produit». Au contraire, «la question posée correctement porte sur l'existence de la prévisibilité ou non avant l'incident, sans compter sur l'avantage du recul».

Afin de conclure que le préjudice subi était prévisible, la Cour a demandé des éléments de preuve permettant de conclure que le risque de vol englobait le risque de vol par des mineurs. Autrement, le vol par un mineur serait toujours prévisible - même sans aucune preuve suggérant que ce risque était plus qu'une simple possibilité. Rien n'indique que le garage avait l'intention d'attirer des mineurs ni qu'il sache qu'il pouvait attirer des mineurs. Le dossier de la preuve n'a pas non plus convaincu la Cour que le préjudice corporel était une

conséquence attendue du vol. Il n'était donc pas raisonnablement prévisible pour Rankin que le fait de ne pas sécuriser le véhicule que C a finalement volé, pourrait entraîner des lésions corporelles.

Cette cause met en lumière la nécessité pour un demandeur de produire une preuve établissant un lien entre le non-respect de la norme et le type de préjudice subi lorsqu'on invoque une obligation de diligence dans de nouvelles circonstances. On peut supposer que cette cause servira à imposer des contraintes aux tribunaux qui pourraient être enclins à conclure que, si un événement survient réellement, il doit donc être raisonnablement prévisible. Cela renforce également ce que les défendeurs ont toujours soutenu devant les tribunaux, mais souvent sans succès : le simple fait qu'une chose soit possible ne signifie pas qu'elle soit raisonnablement prévisible. ■

## IN MEMORIAM

# Keith R. Gibson

by Gord Wainwright

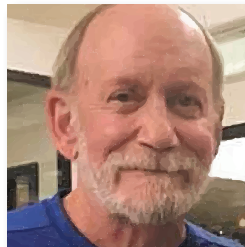
**O**n March 3, 2019, veteran risk manager Keith Gibson passed away. A long-time risk manager for the Municipal Insurance Association (MIA) of British Columbia and member of RIMS' British Columbia chapter (BCRIMA), Keith was known for his passion for team building, coaching, teaching and mentoring as he spent an extraordinary amount of time working with various municipalities in the risk management and claims resolution areas.

In 1995, Keith was recognized was honored with the Donald M. Stuart Award for his outstanding professional contributions. Keith served as president of BCRIMA in 1998 and 2011 and led the association's many committees, including the national and international conference groups. He was also very proud to teach risk management and insurance at Simon Fraser University (SFU) Continuing Studies.

Keith came to Vancouver, B.C. from his native Montreal, Quebec in 1977 with his wife Lucie (Lou). A true Canadian kid, Keith was an avid hockey player starting from the age of eight years old and continuing for most of his life. His talent and athleticism as a goalie even led to him being featured many times in the press while playing for the North Van Drillers in his Old Timers League. He was also well-known on the soccer fields where he logged many kilometres in games and

activities and even developed a passion developed a passion for golf in his retirement. Keith would often say, "Life is short—make the most of it," and he certainly lived up to that motto. I cannot count the hundreds of individuals, including the professional risk and insurance managers, that he touched across Canada. His keen sense of humour, wise advice and counsel will be sadly missed by family, friends, colleagues and students alike.

Keith leaves behind a large family with wonderful memories of a full life. Predeceased by his wife, and sons Robert, Keith and Christopher, he will be forever loved and remembered by his big brother Ross (Sandi), Nat, Peter (Rachelle), their many foster children, and daughters Karen (Tyler), Bre-Anne (JD), Stephanie (Kevin), son Edward (Meagan), daughter-in-law Sarah and 14 grandchildren. ■



# A Message from RCC Chair Tina Gardiner

**T**he RIMS Canada Council has always been something special for me as I was fortunate to have been a mentee and friend of many of its founding members. This Council was formed to be the unique voice of Canadian members as RIMS moved forward with its global expansion plan. I like to think our experience and structure has helped guide and direct RIMS as it has branched out in other countries including Australia, New Zealand, India, Japan and China.

The RCC is comprised of one voting member from each Canadian Chapter as well as an Executive. The Executive includes the Chair, Vice Chair, Treasurer and two sub Committee Chairs; one for Conference and one for Communication. The RCC's mission is to address the interests of Canadian RIMS members and their chapters in support of the RIMS mission to educate, engage and advocate in the global risk management community.

There are four strategic goals of the RCC:

1. **Bring the Canadian risk management community together.**
2. **Connect Canadian chapters to education, shared resources and best practices.**
3. **Advocate for Canadian members.**
4. **Support Canadian chapter sustainability.**

These translate into six mandates or duties:

1. **Increase recognition of risk management as a profession in Canada and enhance professional development for**

**Canadian members.**

2. **Increase visibility of RIMS/RCC before Canadian policymakers.**
3. **Grow RIMS membership in Canada.**
4. **Leverage the RIMS Canada Conference to communicate our activities and accomplishments to members, media and government.**
5. **Support effective volunteer succession planning.**
6. **Promote education activities available to Canadian risk managers.**

We meet once face to face twice a year; once in January and once in the Fall at the RIMS Canada Conference. We also attend monthly conference calls. In addition, the subcommittees are always on the go working on conference with the host chapter committee or producing this newsletter and reviewing pertinent legalisation changes to members.

With all that said, what is it that we really do? And what are our plans for the next two years?

This year our underlying theme is "Reach, Inspire, Inform." To that end, we decided to shake things up a bit for our first face-to-face meeting. We brought in a facilitator to lead us through a few innovation tools to help us determine who we are, who our stakeholders are, what our members want from us, and how we as volunteers can deliver that. We then developed a few strategic outlines to get things done based on the information we uncovered. And given all the ideas we brainstormed, more strategic initiatives are likely to come.



Several things became apparent very quickly:

1. **We are blessed with some very dedicated and talented volunteers in this country and our professions.**
2. **Our forefathers and subsequent iterations of the Council left big shoes to fill.**
3. **We have more ideas than we have resources and time.**
4. **We need to create some micro-volunteer projects to allow for more people to become involved for the betterment of our Council and to allow for personal growth.**
5. **Transparency and interaction with you, our member, is critical to our success.**

So I am asking you to join in as we move the RCC and our Canadian Chapters forward. We invite you to hold us accountable to our goals, mandates and immediate plans as they develop further. Help us to reach, inspire and inform all our members and potential members. Join us and volunteer as little or as much as you can—we will have something for everyone.

Thanks for your support and here's to our next moves!

## EDITORIAL POLICY

The RIMS Canada Newsletter is a publication of the RIMS Canada Council and is published periodically throughout the calendar year. The opinions expressed are those of the writers and volunteer members of the RIMS Canada Newsletter Editorial Committee. Articles submitted to the RIMS Canada Newsletter for publication are subject to the approval of the RIMS Canada Newsletter Editorial Committee. Approval of such articles is based on newsworthiness and perceived benefit to the readership. All decisions of the RIMS Canada Newsletter Editorial Committee are final and not subject to appeal. Individuals submitting articles to the RIMS Canada Newsletter hereby acknowledge their acceptance of the RIMS Canada Newsletter Editorial Policy.

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Thank you to all of our newsletter contributors! If you are interested in writing an article for the RIMS Canada Newsletter, please submit the article to a member of the Editorial Committee for review. Any questions about the production or distribution of this newsletter should be directed to the Editorial Committee.

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The RIMS Canada Council is here to serve our Canadian RIMS chapters and members, and we invite you to reach out to us as we are here to assist you.

Visit the RIMS Canada website at [rimscanada.ca](http://rimscanada.ca) or simply scan the QR code below on your smartphone for access to RIMS Canada risk management resources, including conference and education information.



Did you know that the RIMS Canada Newsletter is available on-line? Now you can read your favourite newsletter on the go at: [rimscanada.ca/newsletter](http://rimscanada.ca/newsletter)

As the world evolves and technology plays a more pivotal role in our daily lives, it is important to keep informed about topics relating to risk management and the insurance industry. Use #RIMSCANADA and stay connected by following us on social media:

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