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GEORGIAN BAY CHAPTER

OCTOBER 2015

PRESIDENT

Leslie Guerette
Cunningham Lindsey

(705) 728-8398
LGuerette@cl-na.com

VICE PRESIDENT

Sheri Turner
Doerr Claims Services

(705) 719-7983
sheri@doerrclaims.com

SECRETARY

Lynn Dawson
The Co-operators Insurance

(705) 739-7700 x 238
lynn_dawson@cooperators.ca

TREASURER

Joe Cummings
The Co-operators Insurance

(705) 712-1503
joe_cumming@cooperators.ca

DIRECTORS

Barb Bolduc
RSA Canada

(705) 428-6697
barb.bolduc@rsagroup.ca

Helene Towsley
Coseco Insurance

(905) 507-5828
HTowsley@hbgrpins.com

Linda Thompson
GR South & Associates

(705) 238-5854
linda.grsouth@reach.net

CHAPTER DELEGATE

Greg Doerr
Doerr Claims Services

(705) 719-7983
greg@doerrclaims.com

SOCIAL DIRECTORS

Kristin Dusome
Winmar Property Restoration

(705) 549-9994
kristindusome@winmar.ca

Kim Graveson
Winmar Property Restoration

(705) 739-8996
kimgraveson@winmar.ca

Michele Mactavish
The Co-operators

1-877-682-5246 x 272165
michele_mactavish@cooperators.ca

Rob Rennie
Royston Restorations

(705) 792-6000
rob@roystonrestorations.ca

John Ross
Larrek

(647) 289-7354
jross@larrek.com

Trevor Walker
R&F Construction—DKI

(705) 325-5746
twalker@rfconstruction.com

PAST PRESIDENT

Dorothy Pauze
The Co-operators Insurance

(705) 712-1526
dorothy_pauze@cooperators.ca

NEWSLETTER EDITOR

Peter Carver
PuroClean

(705) 797-1899
pcarver@puroclean.ca

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Take our OIAA Georgian Bay President Challenge and win!

We have hidden a picture of our president and its somewhere in the OIAA Georgian Bay Chapter Newsletter.

It could be anywhere or any size, lurking in a photo or hiding in a headline (but it's not the one on the president message page)! We will hide one in every issue for the 2015-2016 term.

How to enter

Once you spot on OIAA Georgian Bay Chapter president, email Newsletter committee Pete Carver pcarver@puroclean.ca & Helene Towsley htowsley@hbgrpins.com and tell us where you have spotted "the president". Your name will go into a monthly draw. You must be present at the monthly meeting in order to redeem your prize

Prizes

\$25 Gift certificate will be given away during the next monthly meeting



**Here is how she looks like!
Can you find her?**



October is one of my favorite months. Family times, pumpkins, home made soup, shoes not flip flops, chilly but not too cold, sunny but not too hot, need a sweater not a coat and usually the calm before the storm for us Insurance Professionals.

Today the weather is almost perfect but the white stuff is soon upon us. We have had a great summer and a beautiful fall, so we are not allowed to complain in a few months when we are all shoveling (or in my case watching from the window with love in my hart - who am I kidding , watching from the window saying " yup - that is your job ha ha")

Joking aside (well, mostly) it is time to get ready for winter and organize the mittens, coats, boots and your emergency road kit. Most of us have been to a claim, handled a claim or heard about a claim where the insured is just not prepared. Those of us in insurance, are almost always the worst prepared.

Today is a reminder to get the things you need together for the house, car and the kids back packs. Make sure everyone is prepared for getting stuck in the cold. It is easy to do and can make a very bad day into a good story instead.

With the fall coming to an end, and winter just upon us, we have many exciting

things to look forward to in our Chapter. I touched briefly on it at our September meeting. Your executive is motivated and excited to bring to you the best year we have had in a long time. We want you all out to every event, participating in our meetings, charity events, educational events and our get togethers (parties).


We want every member of our community to send in photos and stories about their claims, insured's and day to day 'funnies' that happen in the office. We have a great, exciting and unique profession and no better way to feel a part of the community than to share!

Please visit our website, read right though our News Letter to see the photos and mark down the great events we have planned for you this year. We are hoping to join forces with The Brokers Association for more than one event, present a half day educational seminar that will benefit all of you and we welcome your suggestions to make our News Letter and our Chapter events better each month.

See you November 5th and I invite everyone to start submitting, participating and joining our growing family in the Georgian Bay Chapter.

Be Safe,

Leslie J. Guerette
President



OIAA GEORGIAN BAY
Monthly Meeting
Thursday November 5th, 2015

Barrie Golf and Country Club
635 St. Vincent St., Midhurst

Speaker: **Michael Blinick** McCague Borlack

Topic: New laws in Ontario affecting motorists and much more

Social: 4-5 pm

Speaker: 5-6 pm

Dinner: 6 pm

Cost: Members \$ 35.40 plus HST = \$40.00
Non-Members/Guests \$ 44.25 plus HST = \$50.00
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Michael Blinick

McCague Borlack

Some of the issues to be addressed:

New laws in Ontario affecting motorists – Distracted Driving (use of cellphone), Slow Down & Move Over (for emergency vehicles), dooring cyclists and crosswalks.

New regulations in AB and Tort – Changes to med/rehab, attendant care and catastrophic entitlement for AB claimants and increased deductible / threshold for application of deductible in tort litigation.

Documentation to be in an adjuster's file if matter goes into litigation – We will highlight the challenges currently facing adjusters arising from electronic documentation including what is and what is not producible.

Novel defences available following motor vehicle accidents – Inevitable accident and others.

Loss Transfer and Priority Disputes – Updates on recent developments

Profile

Michael joined the firm in 2010. He practices civil litigation with an emphasis on insurance defence, personal injury, product liability and corporate litigation. He has represented insurers in both first and third party claims. His practice areas include transportation law, occupier's liability, product liability and fraud. He has appeared before all levels of court in Ontario as well as various administrative tribunals, including the Financial Services Commission of Ontario and has trial, appellate and mediation experience.

Prior to law school, Michael was the lead kinesiologist at a physiotherapy clinic where he was responsible for creating and implementing treatment plans for injured persons.

When not working, Michael enjoys DIY home improvement projects and teaching his daughter about the importance of the Blue Jays and Maple Leafs.

Education and Experience

Michael obtained his Bachelor of Kinesiology (Honours) from McMaster University in 2004. In 2008, he obtained his Doctor of Law degree from Queen's University.

Professional and Business Affiliations

Michael was called to the Ontario Bar in 2009, and is a member of the Ontario Bar Association and The Advocates' Society.

Eric Gionet

Dooley Lucenti

Employment Law – Issues Around Termination

Ontario employees fall under two categories – Labour Law – for unionized workers, and Employment Law for Non Union Workers. The presentation dealt with Employment Law.

Between the employer/employee relationship there is some sort of agreement be it written, verbal etc. This is governed by the Ministry of Labour, Employment Standards Act and the Ontario Humans Right Code, along with the Ontario Disability Act.

Even though there is a contractual relationship between the employer/employee the other areas intersect with that relationship when it comes to dealing with termination.

There are two main ways to terminate an employee

- Just Cause – where the employee has done something that gives cause to terminate – a misconduct of the employee
- You can build a just cause case for poor performance, but it is factually very difficult to do so and the risk is always that a judge would say the employer could have done more to assist the employee, however the concept of such does exist
- With just cause can terminate immediately, salary is owed to that date along with any vacation owing to that date, but nothing beyond the date of termination.

The Alternative – A Notice Termination

- This makes up the vast amount of terminations in Ontario
- Two types of notice – common law notice where judges have reviewed contracts and created a body of law
- Employment Standards Act states if no just cause must give a minimum notice of 1 week per year of salary to a maximum of 8
- In most cases the employers obligation is greater
- Courts have stated that if there is no provision in the employer/employee contract reasonable notice is required.
- The contract of employment cannot stipulate a notice period less than outlined in the Employment Standards Act (ESA) – if it does that contract is deemed void
- Practically speaking most contracts do not have a termination provision – and without law says must give reasonable notice

Reasonable Notice

- Idea is the employer gives advance notice of impending termination
- Also called reasonable advance notice or working notice
- Example; on Oct 1, 2015 employer provides notice to employee that their employment will terminate effective Oct 1, 2016. During that year the working relationship is expected to maintain the status quo – same pay, same work, same productivity. In reality working notice rarely works as you are left with an unmotivated employee. As such it is rare to give working notice. Rather the employer has the option to give immediate notice with a package of money (severance etc) to cover that period of time from ie Oct 1 2015 – Oct 1 2016. This is to represent the financial equivalent as if the employee had worked that entire year. Therefore it is more than just salary, the employee is entitlement is to be put into the financial position as though they had worked that entire year, ie salary, benefits, pension contributions, bonuses, car allowances etc.
- Reasonable notice includes the statutory minimum and builds on it. And while we know the minimum notice is 8 weeks, there is no upper echelon as to the top range of reasonable, although generally 24 months has been the upper range.
- What is reasonable takes into consideration the employees age, learning, their hierarchy within the company etc.
- It is the employee's obligation to mitigate their loss, ie to look for alternate employment > update resume, show that they are actively looking for work, perhaps take up grading courses etc.
- If the employee does find another job with in that notice period (one year in this example) then the employer gets a dollar for dollar credit
- Goes back to reasonable notice, the notice and package provided for one year but if the employee finds a new job at 6 months then the terminating employer gets credit for those last 6 months
- Example employee earned \$100,000 per year in the job from which he was terminated. Six month post termination he finds alternate employment earning \$40,000 per year. That \$40,000 is deemed to be the termination credit and the terminating company gets to deduct this amount from their package. It is a great theory in law, but very difficult to apply in today's world, as you want the employee to go today, but then still get the credit down the road. Likely will not happen unless it goes to litigation.
- An employee has 2 years from the date of termination to take action against the employer.
- The employers' reason to terminate is irrelevant EXCEPT it cannot be discriminative if discrimination forms even 1% of the reason for termination it is grounds for a wrongful dismissal.

Eric provided a final comment: You do not have a legal right to keep your job forever.

Employees often state their termination was unfair -that they had been a good employee, have dedicated x number of years to this company. Eric suggested flip this around employee gives his notice to quit to the employer and employer responds – you can't quit, I have paid you well, I have been a good employer, suddenly the you do not have a legal right to keep your job forever, makes total sense

Disclaimer: These are not provided by the speaker they are notes taken during the presentation.



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September 2015

O.I.A.A. Georgian Bay Chapter
c/o Helene Towsley
14 Cedar Pointe Drive
Barrie,
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Dear Helene & Friends at the O.I.A.A. Georgian Bay Chapter,

You are helping to create brighter futures for children and youth living in poverty. Thank you for your generous donation from the Ontario Insurance Adjusters Association's Golf Tournament in August.

In Canada and the United States, one in six children live in poverty. The reality for many of them is that even though they have the potential and desire to succeed, they lack the opportunities and face numerous barriers in reaching their full potential. Together, we can change this.

This has been an exciting year for the Tim Horton Children's Foundation with the opening of Tim Horton Camp Whiteshell. This camp will become the new permanent home for our Youth Leadership Program, bringing together youth from Canada and the United States to develop leadership and life skills, gain insight into their personal development and set goals for the future.

"Camp taught me to care about the environment, care about teamwork, and care about other people's feelings. Before camp I wouldn't have been able to go through a challenge without being too discouraged. It's all thanks to camp." – Eddie, YLP Grad

The opening of Tim Horton Camp Whiteshell will double the capacity of our Youth Leadership Program and increase the number of children and youth served by the Foundation from 17,000 to 20,000 annually. This new camp and expansion of our programs is made possible because of you.

Thank you for helping us **foster within our children the quest for a brighter future.** We couldn't do it without you.

Kind Regards,

Dave Newnham
Vice President & Executive Director
Tim Horton Children's Foundation

Barrie-Simcoe Insurance Brokers Association



Save the Date

Thursday, November 26, 2015

Christmas Cheer Social
Kenzington Burger Bar

Details will follow



The Things People Complain About

Submitted by **Teri Mitchell**, Crawford & Company

As claims professionals, we have all heard of claims that are, well, let's say ... questionable, and some that make us shake our heads in wonderment. However, have you ever wondered about the types of claims that the travel industry face? Complaints that seem ridiculous at best, but people complain about pretty much anything, and everything, all in the name of getting a refund of some sort. Here are a few:

- "Topless sunbathing on the beach should be banned. The holiday was ruined as my husband spent all day looking at other women."
- "We could not enjoy the tour as our guide was too ugly. You can't be expected to admire a beautiful view when you're staring at a face like his."
- "The animals at the zoo looked very sad and it made our children cry. Can't they train them to smile?"
- "There was no sign telling you that you shouldn't get on the hot air balloon ride if you're afraid of heights."
- "We bought 'Ray-Ban' sunglasses for five euros from a street trader, only to find out they were fake."
- "I spent a whole week on safari, and didn't see any good animals. There was only a load of antelopes."
- "My fiancé and I booked a twin-bedded room but we were placed in a double-bedded room. We now hold you responsible for the fact that I find myself pregnant. This would not have happened if you had put us in the room that we booked."
- "The beach was too sandy. We had to clean everything when we returned to our room."
- "On my holiday to Goa in India, I was disgusted to find that almost every restaurant served curry. I don't like spicy food at all."
- "We found the sand was not like the sand in the brochure. Your brochure shows the sand as yellow but it was white."
- "I was bitten by a mosquito. The brochure did not mention mosquitoes."
- "The roads were uneven and bumpy, so we could not read the local guide book during the bus ride to the resort. Because of this, we were unaware of many things that would have made our holiday more fun."
- "It is your duty as a tour operator to advise us of noisy or unruly guests before we travel."
- "Food in the Greek hotel was too Greek. We had to eat in the nearby fast food."
- "We had to line up outside to catch the boat and there was no air-conditioning."
- "Although the brochure said that there was a fully-equipped kitchen, there was no egg-slicer in the drawers."

A claim by any other name is still ... a claim ...



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Rob Rennie
rob@muskokalp.com

Office: 705.762.6888

Cell: 705.795.4405

Fax: 705.762.0008

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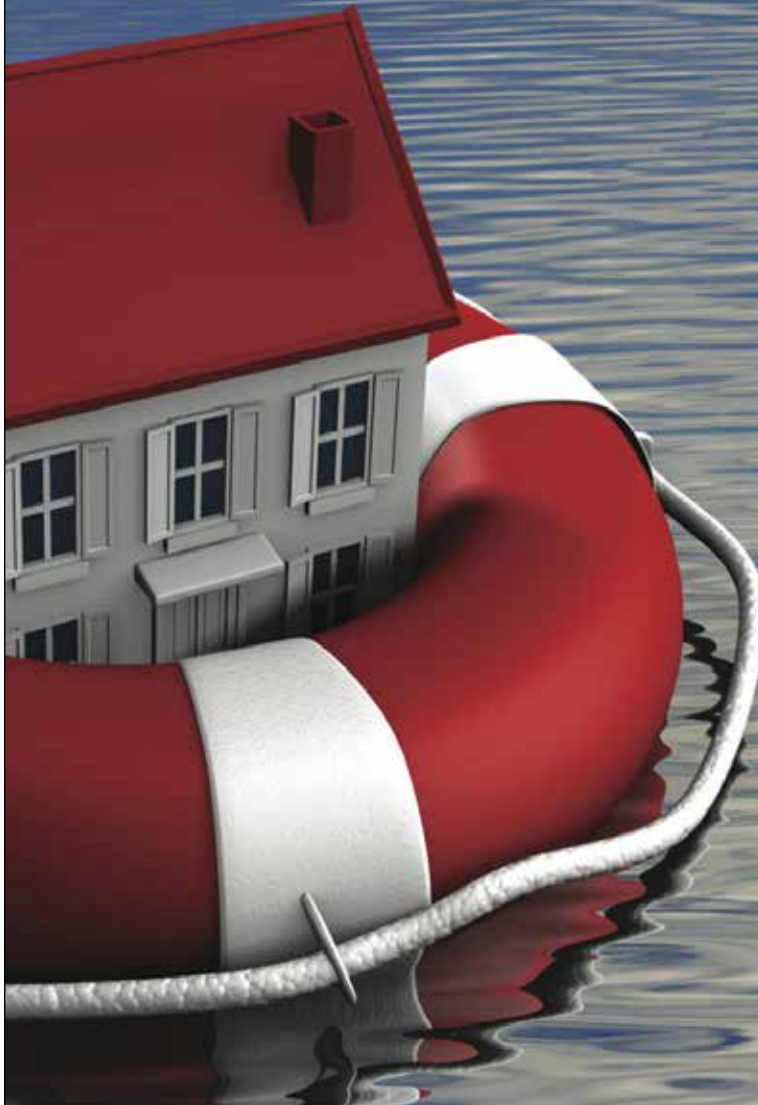
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Supreme Court of Canada and Physician-Assisted Suicide*

Gordon Slemko, General Counsel, Healthcare Insurance Reciprocal of Canada

Submitted by **Teri Mitchell**, Crawford & Company

Question from a Client: “A colleague told me that physician-assisted suicide was recently legalized. Is this true? If so, will hospitals be involved in physician-assisted suicides? I would feel uncomfortable participating in a physician-assisted suicide. Could I be forced to do so?”

Answer: Your colleague is correct.

On February 6, 2015, the Supreme Court of Canada (SCC) released its decision in *Carter v. Canada*¹ and struck down two sections of the Criminal Code (section 14 and section 241(b)) that prohibit the provision of assistance in dying. The SCC found that these sections violated Section 7 of the Canadian Charter of Rights and Freedoms which guarantees the right to life, liberty and security of the person.

Specifically, the SCC found that prohibition of physician-assisted death violates section 7 as it: “deprives some individuals of life, as it has the effect of forcing some individuals to take their own lives prematurely, for fear that they would be incapable of doing so when they reached the point where suffering is intolerable”; “denies people in this situation the right to make decisions concerning their bodily integrity and medical care and thus trenches on their liberty”; and “by leaving them to endure intolerable suffering it impinges on their security of the person”.

In lifting the ban outlawing assisted suicide, the SCC was very clear that only physicians may assist a person to commit suicide and certain conditions must exist before doing so. The person who wishes to commit suicide must be a competent adult who “clearly consents to the termination of life”.

Also, the person must be suffering from “a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition”.

The SCC’s ruling does not come into effect immediately. The SCC has suspended its decision for 12 months to give the federal and provincial governments time to consider and draft new legislation which responds to its decision. As a result, it remains illegal for anyone, including physicians, to assist a person to commit suicide, until February 6, 2016.

It remains to be seen what role, if any, hospitals will have with physician-assisted suicide. However, the SCC expressly recognized some physicians may object to providing assisted suicide because of conscience or religious belief. It is logical that this right to object would extend to all health practitioners who may be involved in an assisted suicide. Accordingly, although legislation has yet to be enacted, I think it’s very unlikely that you could be forced to participate in a physician-assisted suicide against your will.

Needless to say, with the clock ticking down on the SCC’s one-year suspension of its decision, we will hear much more about physician-assisted suicide in the coming months.

¹ *Carter v. Canada (Attorney General)*, 2015 SCC 5, 2015-02-06, Report [2015] 1 SCR 331, Case Number 35591

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Winterizing your boat - Can be costly if you don't

Submitted by

Teri Mitchell, Crawford & Company

The summer of 2015 gave us hot weather, and excellent conditions for boating ... well, for the most part. The boating season is coming to an end, and now comes the task of winterizing your boat. For the boat owner, it makes sense to properly winterize your boat, and have it done by a professional, relieving you of liability should something happen over the winter. For the adjuster, a boat that was not properly winterized can lead to coverage issues if the insured did the winterizing themselves, or can lead to subrogation if it was done by a professional.

There are many sites on the internet to guide the individual who wants to do it themselves to save money, but we highly recommend a professional do it. So, what's involved in winterizing? Here's a generic list of some things to consider for both freshwater and saltwater boats (not an exhaustive list, hence the recommendation that a profession do it):

Inboard Engine(s)

- Run the engine to warm it up, and change the oil while it's warm – this allows impurities to drain away with the oil
- Change the oil filter(s)
- Flush the engine with fresh water; then circulate antifreeze through the manifold
- Start the engine to allow the antifreeze to circulate until water exits the exhaust
- Remove the spark plugs and use "fogging oil" to spray into each cylinder

Stern Drive(s)

- Inspect the drive and remove plant life, debris, and barnacles from the lower unit
- Drain the gear case and check for excessive moisture in the oil – this could indicate leaking seals and should be repaired
- Clean the lower unit with soap and water
- Grease all fittings and check fluid levels in hydraulic steering or lift pumps

Outboard Engine(s)

- Flush engine with fresh water – let all water drain from the engine
- Wash down the engine with soap and water and rinse thoroughly
- Disconnect fuel hose and run engine until it stops – it is important to follow a step-by-step process to make sure that all fuel is drained to prevent a build-up deposits of evaporated fuel
- Lubricate the cylinder walls and pistons with fogging oil
- Apply water-resistant grease to the propeller shaft and threads
- Change the gear oil in the lower unit

Fuel

- Fill the tank(s) to avoid a build-up of condensation over the winter – add a fuel stabilizer product
- Change the fuel filter(s) and water separator(s)

Bilge

- Use soap and hot water to clean, and ensure completely dry before applying a moisture displacing lubricant; and add a little antifreeze to prevent any water from freezing

Fresh Water System

- Completely drain the fresh water and hot water tanks
- Disconnect the "in and out" lines to the hot water tank and connect them together
- Pump a non-toxic antifreeze into the system and turn on all the faucets including the shower and any wash-down areas until antifreeze comes out

Head

- Pump out the holding tank at an approved facility – while pumping, add fresh water to the bowl and flush several times
- Add antifreeze and pump through hoses, holding tank, y-valve, macerator and discharge hose

Interior

- Remove all valuable, electronics, PFD's, fenders, etc., basically remove anything that isn't attached to the boat
- Turn cushions up on the edge so air is able to circulate around them
- Clean the interior top to bottom, including drawers, lockers, fridge, and stove

Out of Water Storage

- Pressure wash the hull; clean barnacles off the props and shafts, rudders, struts and trim tabs
- Clean all thru-hulls and strainers
- Open seacocks to allow any water to drain
- Inspect hull for blisters or damage – if you find any, consider arranging for repair over the winter so it doesn't interfere with the next boat season
- Remove the batteries (where possible) and either take them home, put them on a trickle charger, or charge them every 30-60 days

In Water Storage

- Close all seacocks; and check rudder shafts and stuffing boxes for leaks, tightening or repacking as necessary
- Check battery to make sure it is fully charged; clean the terminals; add water if necessary and make sure the charging system is working
- Check bilge pumps to ensure they are working and that float switches properly activate the pumps and are not hindered by debris
- Make sure you either check your boat periodically; or have the marina where the boat is moored check it and report to you
- If moored in an area that may freeze, ensure you have a de-icing device or bubbler system around the boat to prevent the water from freezing

Always consult the owner's manual for the recommendations by the manufacturer

If you, as a boat owner, are insistent upon doing the winterizing yourself and damage occurs during the winter, be prepared to present a detailed and complete list of what you did, and did not do, as coverage for the damage may be in question – take some photos before the boat is shrink-wrapped for visual evidence. When in doubt, have a professional do the winterizing.

Happy Winter Storage!



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OIAA Georgian Bay Chapter

Christmas Dinner & Dance

Friday December 4th,
2015

Cocktails: 6:30pm

Dinner: 7:30pm

Dance: 9:00pm

Barrie Country Club
635 St. Vincent St. Barrie

\$65.00/person
(Payable by cheque only)

Cash Bar

Please R.S.V.P. by November 25 to
Kristin Dusome
705-549-9994 or kristindusome@winmar.ca
c/o Winmar
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Penetang, ON
L9M 1G8

We are anticipating an exciting year for our OIAA chapter & hope you'll join us!

It is you and your Company that makes our Chapter a success & we are appreciative of your past support - we wouldn't be able to do it without you.

On behalf of the entire Executive & Social Committee, thank you again. Your generous support has allowed us to run a great Chapter including the recent success of our Provincial Conference at Deerhurst (co-hosted with Northern Chapter).

We will be providing some interesting seminars and events this 2015-2016 term. Please see our website for upcoming information and advertising.

SOCIAL MEMBERSHIP

(non-adjusters)

The yearly cost for social membership is \$40.00 (inclusive of HST). This cost includes the Newsletter as well as a link of your Website at: www.oiaagb.com. Any suggestions to improve our website are always welcome.

You and your staff also receive a reduced rate at monthly meetings, which include an informative session, a hot dinner & time to socialize with other industry members.

ADVERTISING

Several advertising options are available. Our Newsletter is published 9 times throughout the year. The cost to advertise for the 2015-2016 term (issued monthly September 2015 - June 2016) is:

Black & White Ad

Business Card	\$100.00, plus HST
Double Business Card	\$170.00, plus HST
Half Page	\$300.00, plus HST
Full Page	\$500.00, plus HST

Colour Ad

Business Card	\$150.00, plus HST
Double Business Card	\$250.00, plus HST
Half Page	\$450.00, plus HST
Full Page	\$750.00, plus HST

Your advertisement must be in a eps or pdf format.

Artwork should be sent to our newsletter editor: Helene & Peter specifying the size of the ad and stipulating colour or b/w.

COMPANY NAME/LOCATION: _____

Company name: _____

Contact name: _____

Address: _____

Phone: _____

email(s): _____

(Please provide **ALL** email addresses within your company that you would like to receive our notices)

Currently a social member of Georgian Bay OIAA? YES / NO

Our contact information is the same? YES / NO

I have "ICS" delivery to my office: YES / NO

I have more than one office location & require duplicate Newsletters YES / NO

of offices & addresses: _____

CHECK APPLICABLE BOX(S): Advertising (check off choice below) \$ _____

HST on advertising \$ _____

Social membership (includes HST) \$ 40.00

TOTAL PAID (cheque attached): \$ _____

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Business Card Size ad: BLACK & WHITE: \$100.00, plus HST

COLOUR: \$150.00, plus HST

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Full Page ad: BLACK & WHITE: \$500.00, plus HST

COLOUR: \$750.00, plus HST

PLEASE submit this page & cheque payable to "OIAA Georgian Bay Chapter" to:

Sheri Turner, Doerr Claims, 92 Caplan Avenue, Suite 114 Barrie, ON L4N 9J2

Please be advised that if there is an issue with your artwork, you will be contacted by our Newsletter editor, Helene & Peter for further details.

Thank you again for your support & hope to see you at our events!

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Thursday November 5th, 2015

OIAA GB Monthly Meeting
 Barrie Country Club
 635 St. Vincent St. N, Midhurst

Friday December 4th, 2015

OIAA GB Christmas Party
 Barrie Country Club
 635 St. Vincent St. N, Midhurst





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