



**Munich
American
Reassurance
Company**

Re-View

FROM THE EDITOR'S DESK...

Welcome to our late summer edition of Re-View, a publication for our very important Group and Credit customers and prospects. Football is finally here, school is back in session and we'll be watching another World Series and decorating for Halloween before we know it. Sure, time flies and we're truly working harder than we ever have, but if you take the time to stop and look around, you'll see that good deeds are happening all around us...

...Take the basketball player in Georgia who purposely missed two technical free throws that ultimately cost his team a state playoff game. He missed the shots because he felt that it was "the right thing to do". You see, his team was awarded the free throws because the star player on the opposing team arrived late and in street clothes. The reason the player was late? His mother had passed away earlier that day, and the boy believed that playing in the game would be exactly what his mom wanted him to do....

...Then there's the recent story of the commercial airline pilot who radioed ahead and asked for special permission to stop short of the jetway so some very important passengers could deplane early. The VIP's? A deceased American soldier and his entire family. The soldier escorting his fallen comrade had asked the pilot for the special treatment. The pilot spent hours during the flight home fighting red tape to make it happen. Finally, approval was granted. When the lead flight attendant asked everyone on the plane to please keep their seats so that the family could exit for a special ceremony on the tarmac, every single person on the plane not only kept their seat, but also gave the family a thunderous ovation.

We're particularly proud of this late summer edition of Re-View, and we sincerely hope that you will find the content timely and informative. We have assembled a group of experts, both from Munich American Re and from the industry and academia to share their insights with you.

We know there is proposed federal legislation that could significantly affect the US credit insurance industry, so we asked Bill Burfeind, CCIA's Senior EVP, to share his insights into the various scenarios that might unfold when Congress reconvenes in September.

You'll also find an informative article on the state of the reinsurance industry from Mike DeKoning, Munich American Re's Chief Executive Officer, an update on how recent activity at the NAIC may impact Group disability claims, news on recent economic trends from a noted economist, a good news report on Credit insurance premium refund class-action litigation, and important information on new and exciting Munich American Re underwriting tools that are now available to our valued Group and Credit customers.

Wait! One other important thing – be sure to participate in our super-easy Trivia Contest. The lucky winner receives a \$75 American Express Gift Certificate!

We sincerely hope you enjoy our latest edition of Re-View...

...Jim Hiers

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OBSERVATIONS ON REINSURANCE IN THE CURRENT US MARKET

By Mike DeKoning, FSA, MAAA, FCIA

That the life insurance industry has been affected by the turmoil in the financial markets is obvious. What does this mean for insurance and reinsurance in the US? We can expect a greater focus on the fundamentals of risk and capital management. It is likely that companies will put a greater emphasis on managing their capital, and they are facing a unique environment in which to do that successfully.

Key tenets of risk management include monitoring concentrations of risk and ensuring that concentrations of certain risks cannot bring down the entire company. What we have seen in the last year are the devastating effects of not strictly adhering to these principles. In general, we have seen that some life insurers' core businesses have been well managed and successful, but their franchises have been seriously harmed by enormous concentrations of risk in small areas. In good times, these risks paid off well and were immensely profitable; however, as we have seen, without proper controls, they have the power to bring down the entire organization. At the same time, the value of the core businesses, which are looked to by management, investors, and in some cases the taxpayer, as a way to recover, is lessened by a confluence of factors in the market. It is a "perfect storm" if you will: companies in trouble want to sell off valuable lines of business that, just four quarters ago, were worth three to four times what they are now because few companies have the ability to pull off the funding of acquisitions.

Support for XXX reserves continues to be a key issue for many life insurance companies. Most term writers are comfortable with the mortality risk associated with these moderately-sized policies and so, in recent years, many of the largest writers retained the mortality risk of their term portfolio, but went to the capital markets in order to fund their reserve strain. As the capital markets have become tighter and more volatile, this source of capital relief has largely dried up. Some of these companies are turning to reinsurance as a potential option for filling the gap. As a result, we may see cession rates increase slightly in the near term. We have already seen a boost in demand for term coinsurance and can expect to see this increase continue for the foreseeable future. Alternative XXX solutions are also in high demand, but there is little current capacity. Some of the reinsurance companies which have supplied the alternative solutions in the past are currently focusing on their own capital management challenges.

Another manifestation of the demand for capital management solutions is the financing of in force block reinsurance. Because of the strain that in force blocks put on company capital, there

continues to be significant demand for block reinsurance transactions. However, these transactions are difficult to put together because the blocks typically include a large block of assets supporting the liabilities in question. Coming to agreement on the appropriate value of the liabilities is usually challenging enough. With the current volatile investment markets, the added challenge is that it has become increasingly difficult for reinsurers and ceding companies to come to agreement on the appropriate market value for many assets within certain asset classes.



Mike DeKoning

The uptick in cession rates resulting from the increased need for XXX and other capital-related reinsurance solutions is probably temporary. Without it, cession rates are likely to remain steady going forward. Because of this focus on immediate and short term solutions, a change in the dynamic of the relationship between insurers and reinsurers is not likely. These transactions will probably remain more transactional and dependent upon

price and not influence the reinsurer/insurer relationship significantly in the long term.

There are emerging forces in the market that may have the effect of changing the demand for reinsurance; although, whether the change will result in higher or lower cession rates remains to be seen. Proposed reform in the NAIC collateral requirements – requiring less collateral to be posted to support offshore and other non-admitted reinsurance – may have the effect of making external reinsurance more efficient and economical, and therefore more attractive. On the other hand, the changes in collateral requirements may reduce the need to reinsure externally. It is simply too soon to predict which way the market will go. It is not too soon to predict that insurers and reinsurers alike will be thinking differently about asset risk and especially asset/liability management. The market developments over the last 6-12 months underscored the importance of careful consideration and management of all types of risks. To the extent that reinsurers can offer financial strength to their clients and mitigate certain risks, they will offer an attractive value proposition.

In the face of many competing market forces, the reinsurance industry has come to do several things very well. First of all, most have focused attention on their liability risks, and therefore reinsurers have generally communicating their value proposition to their customers and prospects. Often reinsurance is seen as a “necessary evil” that introduces additional cost and hassle to everyone involved. Reinsurers need to dispel that notion by clearly understanding what they offer clients and communicating that clearly. Also to the point of long term viability, is talent development and succession planning. There are many reinsurance leaders who will reach retirement in the coming years but it is not obvious to the outside who will step into these roles at that time.

While reinsurance will continue to be an attractive and profitable business, and while many ceding companies would like to see more competition that could hold down prices, it is not likely that there will be significant new entrants into the US reinsurance industry. In addition to being capital intensive, reinsurance is a data intensive business. Aggregation, management and analysis of a large amount of data is critical. It would be difficult for a new entrant to amass the large scale of data that is needed to be effective.

Concluding Thoughts

With the many major issues in the financial market, applying a conservative asset strategy is solid advice going forward. Further, focus should be placed on pricing discipline above that of increasing market share. As with Munich American, keep risk management discipline in mind and selectively look to serve new market needs, such as reinsurance of long term care combination products or critical illness.

Mike DeKoning is President and CEO of Munich American Reassurance Company with headquarters in Atlanta, Georgia.

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WELCOME TO RE-VIEW'S SUPER-EASY TRIVIA CONTEST!

Take a look at these three trivia questions. When you have the answers, email them to jhiers@marclife.com. All entrants with correct answers will be entered in to a drawing for a \$75 American Express gift card. Your correct answers must be received before September 25th.



These cities employ many individuals in the insurance industry. Which city is shown in the picture?

- ◆ Des Moines
- ◆ Indianapolis
- ◆ Hartford

Please name the city in this picture.

- ◆ New York City
- ◆ Boston, MA
- ◆ Macon, GA



Please tell us the name of this famous dam.

We told you it was easy - good luck, and may The Force be with you!

HUGS... A HANDY TOOL FOR MEDICAL UNDERWRITERS

Joe Malone, AVP Group Underwriting

We are pleased to announce that HUGS — Handy Underwriting Guidelines, that is — are now available for all medical underwriters! Munich American Re has been working hard to develop underwriting tools that will help medical underwriters to evaluate group and credit insurance applications more quickly and easily.

The “HUGS” underwriting tool was developed through a collaborative effort between one of Munich American Re’s Medical Directors, Dr. Mark Skillan, experienced medical underwriters, Aileen Uribe and Doug Smith, and our Group underwriting staff.

What can “HUGS” do for you?

“HUGS ” contains a comprehensive list of 377 diagnoses and conditions that are frequently disclosed on medical applications. These diagnoses range from A to Z and from the simple to the complex.

The underwriting tool provides a quick recommendation on the appropriate response to each diagnosis or condition:

- ♦ Accept
- ♦ Decline
- ♦ Get Details *

* by phone interview, questionnaire or APS and then refer to the Munich American Re underwriting manual.

These recommended actions are based on the collective knowledge and years of experience of Munich American Re’s Medical Directors and underwriters. HUGS can often save you time from researching a particular condition in the Munich American underwriting manual.

HUGS underwriting tool is not intended to replace a medical underwriter or sound underwriting judgement, it is simply another tool that can be used to help evaluate medical applications.

Important Dates...

LIMRA Group Benefits Annual Meeting - September 14-16

Boston, Massachusetts
Attending: Richard Beckel

Maine Event - September 15-18

Hosted by the Smith Group and Munich American Re
Portland, Maine
Attending: Libby Corcillo, Joe Malone, Tim Moran &
Steve Rulis

Self-Insurance Institute of America Annual Conference September 22-24

Orlando, Florida
Attending: Libby Corcillo

Munich American Re’s Credit Client Appreciation Event September 27-29,

Asheville, North Carolina
Attending: Stephanie Brandt, Libby Corcillo, Rick
Denman, Jim Hiers, Meg Mathis, Steve
Rulis & Kenyon Stevenson

American Bankers Insurance Association - October 4-6

Washington DC
Attending: Jim Hiers

Credit Insurer’s Association - October 7-9

Atlanta, Georgia
Attending: Stephanie Brandt, Rick Denman, Jim Hiers,
Meg Mathis, Linda Rogers, Doug Smith &
Kenyon Stevenson

How CAN WE UNDERWRITE FOREIGN TRAVEL?

Medical underwriters are often called on to evaluate foreign travel risk. Munich American Re has a new underwriting tool to help you with this challenge too! We have developed “Foreign Travel Underwriting Guidelines” that are specific to Group and Credit insurance coverages – for both life and disability insurance.

Why do we underwrite foreign travel?

Business or personal travel may pose a higher risk of death or incidence of a critical illness, condition or disability that is not priced for in a Group or Credit life or disability insurance policy. Lengthy stays in foreign countries also expose the traveler to that nation’s endemic hazards, including:

- ♦ War
- ♦ Civil Unrest
- ♦ Terrorism
- ♦ Disease
- ♦ Substandard Medical Care.

BEST PRACTICES FOR DISABILITY CLAIMS SETTLEMENT

*Monica Rutkowski, 2nd VP Compliance & Regulatory Affairs
The Smith Group*

In this article, Monica Rutkowski provides information on regulatory best practice guidelines and discusses recent developments at the NAIC and their potential impact on adjudication of Group disability claims.

Regulatory Best Practice Guidelines are practices not requiring uniform adoption or the level of dedicated resources to implement and are not considered Model Laws of the NAIC, though they include regulatory best practices such as laws, regulations, handbooks, guidance, white papers, and/or bulletins. Best Practice Guidelines may also form the basis for laws and regulations implemented by the states.

The Market Regulation and Consumer Affairs (D) Committee in its 2008 charges created The Consumer Protections & Innovations Working Group to:

- ♦ review and consider additional complaint handling and reporting standards for incorporation into the NAIC's Consumer Complaint White Paper,
- ♦ provide policy oversight for the NAIC's Consumer Information Source,
- ♦ develop standards for the effectiveness of consumer disclosures, and
- ♦ develop uniform standards for consumer services.

The Working Group announced its activity in June, 2008 as a, "Look at the best practices developed by the regulated community – practices that make products work better for consumers." The draft materials provided for the initial working group call on September 10, 2008 consisted of an updated list of those best practices, and stated for the first time that the Working Group was considering, "Raising and clarifying standards for reasonable claims practices."

The Working Group, formerly chaired by Mila Kofman, Maine Insurance Director, met on Sept. 23, 2008 to review suggested best practices for the settlement of disability claims. The proposed document focused on the following areas: (1) training; (2) claim organization; (3) corporate organization; (4) claims procedures; and (5) appeal procedures. In addition, the Working Group discussed transparency of consumer disclosures and additional ways to encourage a more transparent and efficient marketplace for health insurance and agreed to hold a public hearing prior to the NAIC Winter National Meeting.

The public hearing was held on December 4th at the NAIC Winter National Meeting. The Working Group members accepted testimony from speakers who included Mark D. DeBofsky of Daley, DeBofsky & Bryant – Chicago, Illinois; Dorothy Northrop, Vice President of Research & Clinical Operations for the National Multiple Sclerosis Society; and the Hemophilia Center of Indiana in support of establishing best

practices. These speakers agreed that the majority of insurers do a commendable job in adjudicating disability benefit claims, but maintained that having uniform guidelines would make the claim handling process fairer and more predictable for claimants and insurers alike. They strongly endorsed the adoption of uniform guidelines.

Testimony was also received from America's Health Insurance Plans and the American Council of Life Insurers, who shared a concern that the Working Group is operating outside of D Committee's 2008 charges, thereby violating the NAIC established regulatory practice guideline protocol. AHIP and ACLI further indicated that this appears to be creating a de facto regulation without providing any guidance as to how the new guidelines should be implemented or enforced. They suggested that adequate regulatory tools already exist in state law and regulation to permit appropriate oversight of the disability income insurance industry.

Since the December meeting, the Working Group, now chaired by Wayne Goodwin, Commissioner from North Carolina, has been renamed the Consumer Connections (D) Working Group and conducted its first face-to-face meeting on March 18, 2009 at its annual spring meeting. The agenda included the following:

- ♦ Comments regarding its 2009 charges
- ♦ Discussion about third party claims vendors
- ♦ Introduction of the State Consumer Advocacy Forum and the Consumer Assistance Bulletin Board
- ♦ Introduction of the Consumer Information Source (CIS) web page available on the NAIC website.

There was no further mention of the guidelines or the previously drafted document on suggested best practices for the adjudication of disability claims.

Monica Rutkowski joined the Smith Group in January 2009, after heading the Division of Life & Health Product Review in the Florida Office of Insurance Regulation. She has more than 16 years' experience in insurance regulatory and public and private health policy, government relations, development of corporate public relations strategies, product filings, advertising, consumer and departments' of insurance complaints, and political action committees. Monica assists clients with a broad range of compliance issues.

Please contact Monica at 850-894-5482 or mrutkowski@smithgroupre.com with any questions.

RE-VIEW INTERVIEWS: UPDATE: CURRENT LEGISLATION OF INTEREST TO CREDIT INSURERS

*A Re-View interview with Bill Burfeind, EVP,
Consumer Credit Industry Association*

Re-View: Bill, can you share with us what legislation is currently pending that might be of interest to credit insurers?

Burfeind: This Congressional session convened in January with three bills of interest to our industry:

- ♦ **S. 500** (Durbin D-IL), a bill to amend the Truth In Lending Act. The bill proposes a 36% APR limit on consumer credit and including within the APR calculation credit insurance premiums and ancillary product fees regardless of whether the purchase is voluntary. Congressional interest in this bill is waning, particularly in the Senate, but it is too early to declare the bill or the idea dead.
- ♦ **H.R. 1728** (Miller D-NC), the Mortgage Reform and Anti-Predatory Lending Act, which would prohibit single premium credit insurance and single fee debt cancellation products. This bill passed the House and has been referred to the Senate Committee on Banking, Housing, and Urban Affairs, which shows no interest in taking up the matter. In the last Congressional session a similar bill also passed in the House and died in the Senate.
- ♦ **S. 566** (Durbin D-IL), a bill creating a Financial Products Safety Commission, a new federal agency authorized to write consumer protection rules. Credit insurance and ancillary products are included within the definition of financial products. This bill has been superseded by **H.R. 3126** (Frank D-MA) and is the current focus of attention.

H.R. 3126 would create a new Consumer Financial Protection Agency (CFPA). Conceptually, the CFPA mirrors the mission of the existing Consumer Products Safety Commission but is focused on financial products. The scope of the Commission's authority would be all consumer financial protection rule-making. The consumer protection responsibilities of existing financial institution regulators such as the FDIC, the Office of Comptroller of Currency, the Office of Thrift Supervision, and the Federal Reserve Board would be transferred to the CFPA. Credit insurance, debt protection, and other ancillary products fall within the definition of financial products and therefore the scope of CFPA authority. The Commission could establish minimum product and practice standards which would preempt state standards that did not equal or exceed its rules. Given the prescribed composition of the CFPA Board, it is reasonable

to anticipate standards consistent with those advocated by consumer groups such as higher required loss ratios, a prohibition on single premium products, and limits on creditor compensation, post-closing product offers, etc.

Re-View: What is the position of the industry on the proposed legislation?

Burfeind: While we support consumer protection and we recognize the need to strengthen those protections for financial products, particularly mortgage transactions, insurance and financial trade associations oppose creation of the CFPA. Existing regulatory agencies have begun to speak more forcefully for preserving their consumer protection responsibilities. The prevailing consensus is that legislation providing additional consumer financial protections will ultimately be enacted, but that it is not likely to include the CFPA as currently proposed.

Re-View: What action is the CCIA taking on the legislation?

Burfeind: The CCIA has hired Clark, Lytle & Geduldig to manage our federal lobbying efforts. CL&G and CCIA staff are coordinating with many of the trades and coalitions lobbying these issues. CCIA staff and member company officers have made "hill visits" to educate legislators and their staff about our business — credit insurance and non-insurance debt and asset protection products — and to encourage support for defeating or amending the legislation. The CCIA has asked all of its members and their accounts to make constituent contacts with select legislators.

Re-View: What about other groups?

Burfeind: With respect to the proposed CFPA, both the NAIC and NCOIL are lobbying for a clear carve out for the "business of insurance." The CCIA was successful in getting both of these organizations to expressly include credit insurance in their request. Other national insurance trade associations are also lobbying for a comprehensive insurance carve out that includes credit insurance. All are relying on CCIA to take the lead regarding credit insurance.

Taking the lead means CCIA is working to get others engaged in the process too. Direct constituent contact keeps elected officials accountable. They need to know the consequences of their actions on local individuals and business. If you're in the consumer credit insurance or debt and asset protection business in any way, now is the time to tell your US Representative and Senators your opinion on this legislation. This bill is a major piece of the administration's regulatory reform agenda. While much progress is being made by lobbyists and trade associations toward defeating or revising the bill, constituent contact is necessary to get the effort over the hump. Individuals and organizations supporting the bill are engaged in a grassroots effort. We must be too.

Re-View: What other organizations are actively engaged in representing the insurance industry?

Burfeind: I am aware of a long list of interested organizations and I'm sure there are other active organizations or coalitions that I'm unaware of. Along with the NAIC and NCOIL as mentioned before, most prominent groups in the insurance, banking, and credit industries, along with automobile dealer organizations are lobbying for changes or defeat of the bill.

Re-View: Bill, on another subject, let's talk about the CCIA. Some credit insurance companies may be on the fence when it comes to joining this organization. What are the key benefits for an active member of the CCIA?

Burfeind: Every day, companies in the unique business of credit insurance and/or offering debt and asset protection products face new challenges. CCIA is a community where these companies can share their concerns. We provide forums for discussion of business practices and problems and a place for networking and information sharing. CCIA has a knowledgeable staff that understands this industry's challenges and can answer questions. We monitor and analyze state and federal

Re-View: Roger, we saw a slight positive with the latest unemployment numbers. This can only be good news, right?

Tutterow: Much of the reduction in the unemployment rate in July was due to more than 400,000 workers leaving the workforce, so I wouldn't get too excited about the 0.1% reduction in the rate. What would be good news would be some growth in the non-farm payrolls. We probably have a little farther to go before we reach that point. The employment data will be a little volatile over the next couple months as the interaction between the auto bankruptcies and seasonal factors play out.

Re-View: The S&P 500 has trended upwards in 2009. Is this more tangible evidence that we're about to turn a corner?

Tutterow: Stock prices tend to turn up before the broader economy. In fact, the S&P 500 is one of the Conference Board's leading economic indicators. So, I would say, yes, it is encouraging that stocks have rallied so strongly over the past few months. That said, we are rallying off some very low levels. Equities had priced in some very catastrophic outcomes. So the first 20% of the equity recovery was likely just a recognition that the world was not ending.

Re-View: Is there a single economic indicator out there that will truly signal that we're finally out of the woods?

Tutterow: There are actually several indicators that I would keep an eye on. Within the last few months, the ISM's Purchasing Managers Index has crossed over into territory that we

legislation and regulation so our members are never caught by surprise. Our committee work formulates public policy that can be advocated in connection with legislative and regulatory issues. If you're an insurance company, lender, producer, or provider of supporting services, CCIA is your resource and advocate.

Re-View: Bill, thank you again for your time and all of the valuable information that you have shared with us.

For thirty years Bill has served as chief executive officer of the Association. He is the primary spokesman and works to promote and accomplish CCIA public policy goals across the country and before national forums. He plans, organizes, directs and coordinates the staff, programs and activities of the Association to assure that objectives and member needs are met.

UPDATE: THE ECONOMY

*A Re-View interview with Roger Tutterow, PhD.
Professor of Economics, Mercer University*

generally associate with a growing economy and is even getting close to where we need to be for manufacturing to show some growth. The spread between the yield on corporate bonds and Treasury bonds has narrowed, which reflects some improvement in the flow of credit in the debt markets. But, I still think an expansion in non-farm payrolls will be the real bellwether that sustained growth has returned.

Re-View: Roger, we're looking forward to seeing you in Asheville for our upcoming Credit and Debt Protection seminar. Ever been there before?

Tutterow: Of course! Asheville is one of best conference destinations on the east coast. Grove Park Inn is a real top-notch resort, so you have to be excited about staying there. Just being in the North Carolina mountains is guaranteed to bring the blood pressure down a few bars.

A Georgia native, Dr. Tutterow holds a B.S. in Decision Science from Berry College and a M.A. and Ph.D. in Economics from Georgia State University. Prior to joining Mercer University, Dr. Tutterow held faculty and administrative appointments at West Virginia University, Georgia State University and Kennesaw State University.

In addition to his work in academia, Dr. Tutterow has served as a consultant on financial economics and statistical modeling for corporate clients ranging from Fortune 500 companies to closely-held businesses.

REFUND LITIGATION: WINDS OF CHANGE IN GEORGIA

Drew Kitchen, JD

As most everyone in the industry knows, Georgia has been at the epicenter of refund litigation over the past five years. And almost without exception, the industry has not fared well there: Georgia courts have certified more than seven nationwide class actions and have overseen settlements that have exceeded \$150 million in value. However, two recent cases decided by the U.S. District Court for the Middle District of Georgia suggest that the situation may be changing.

The first decision was rendered in the case of **Andrew Massih v. Jim Moran & Associates, Inc.**, et al, 542 F. Supp. 2d 1324 (M.D. Ga. 2008), aff'd, 2008 WL 4946213 (11th Cir. Nov. 20, 2008). Soon after the filing of the lawsuit the defendants filed a Motion for Judgment on the Pleadings asking that the Court dismiss the lawsuit on grounds that, among other things, the plaintiff had not properly cancelled his contract prior to filing suit. On March 28, 2008, the Middle District of Georgia Court granted the defendants' motion and dismissed all counts of the Plaintiff's lawsuit. In so deciding, the District Court wrote:

"Here, the language is clear that the intent of the contract required Plaintiff to give notice of cancellation in order to be eligible for a refund. Plaintiff does not allege that he provided any such notice to cancel his coverage and receive a refund for a portion of his enrollment charge. Thus, Plaintiff failed to satisfy the condition precedent to any obligation to make a refund."

The Plaintiff appealed the District Court's decision to the U.S. Court of Appeals for the 11th Circuit. On November 20, 2008, the 11th Circuit upheld the lower court's decision and issued an opinion stating in part:

"Nothing in the Addendum required Defendants to return any amount of monies to Plaintiff absent Plaintiff's cancellation of the Addendum during the term of the RISC. And, Plaintiff does not plead that he made a request to cancel the Addendum during the term of the RISC. Indeed, Plaintiff does not dispute that he made no such request. Thus, under the clear terms of the Addendum and the facts of the case, Defendants owed Plaintiff no refund."

The second decision of note occurred in the case of **Robert Wayne Bishop v. Protective Life Insurance Company**, 255 F.R.D. 619, 2009 WL 367512 (M.D. Ga. Feb. 9, 2009). In the

lawsuit, which was litigated for nearly four years, the Plaintiff had asked the Court to certify the case as a nationwide class action. In declining to do so, and ultimately dismissing the case in favor of Protective, the District Court held:

"The dilemma presented by Plaintiff's motion for class certification is that although all of the insurance certificates make it clear that the insured is entitled to a refund of the unearned premium upon the early termination of the credit insurance, the event that triggers the termination of the insurance - early payoff of the underlying loan - is not something that is within Defendant's control. Therefore, an unearned premium may exist, but Defendant may have no knowledge that the refund is owed."

These two cases – Bishop and Massih – will no doubt be important cases for the industry in the years to come.

Confidentiality IRS Circular 230 Disclosure - To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Drew Kitchen represented the defendants in both of the cases discussed above. Drew is a litigator in the Birmingham, Alabama office of Maynard, Cooper & Gale, P.C. where, over the past six years, he has represented credit insurers in dozens of cases across the United States including serving as co-lead counsel in several nationwide class actions alleging failure to refund unearned premiums.