Reinsurance Provider GEM Marks Ten-Year Anniversary

By Michael Rhyner
Executive Director

IN 2003, MMRMA AND TWELVE other public entity pools from across the nation joined forces to form Government Entities Mutual, Inc. (GEM).

Domiciled in the District of Columbia, GEM is a captive reinsurance company owned by its members. It provides property, casualty, auto physical damage, and workers’ compensation coverage to eligible public entity pools. The other primary objectives of GEM are to deliver the highest level of risk management, claims management, underwriting, and rating services to its members and remain economically sound.

Having grown to 17 member pools, GEM is celebrating its ten-year anniversary this year. It has successfully provided reinsurance coverage for pools in a very competitive, “soft” market environment.

For the year ending December 31, 2012, GEM wrote $8.1 million in premiums, had net income of $2.5 million, and a net position of $28.4 million. GEM now has the capacity to retain $2 million per occurrence in risk on its own.

GEM is only one facet of MMRMA’s much larger reinsurance program that uses multiple reinsurance partners. This is necessary to allow MMRMA to provide up to $15 million in casualty limits to its members and cover more than $11 billion in member-owned property. The other partners include larger commercial reinsurance companies as well as Lloyds of London.

Sharing Risk
Since 2003, we have allocated a portion of our property and casualty reinsurance to GEM. Using multiple reinsurance partners affords diversity and avoids concentrating too much risk in a single reinsurer. It increases stability and helps us negotiate the most cost-effective overall approach.

Sharing the risk among reinsurers also gives members the assurance that MMRMA will meet its obligations today and for many years to come.

A significant advantage of GEM is that, unlike with commercial reinsurance, MMRMA is an owner and reaps the benefits of GEM’s success. In addition, we have an active role in the governance of GEM. I have served on GEM’s Board of Directors since its inception, and MMRMA Finance Director Bryan Anderson participates on the GEM Audit Committee.

As a founding and highly visible member of GEM, MMRMA demonstrates its leadership in the public entity pooling industry at the national level.

MMRMA’s reinsurance program shares risk among multiple reinsurance partners.

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Training Helps Minimize Risk of Sexual Harassment Claims

By Al Smolen
Risk Control Consultant

AT THE MOST RECENT MEETING of MMRMA’s Fire & EMS Advisory Committee, one of the items discussed was a newspaper story about a female fire medic who is suing her employer, Manatee County, near Bradenton, Florida.

According to the story, the fire medic, now terminated from her job, alleges a nearly 19-year history of harassment by her superiors. While not yet resolved, this case is an example of how a governmental entity can be exposed to litigation and possible disruption of service to its constituents—not to mention an erosion of their trust.

Federal Civil Rights Laws
Sexual harassment is a form of discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with 15 or more employees, including employment agencies and labor organizations. Title VII also applies to state and local governments and the federal government.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including, but not limited to, the following:

> The victim, as well as the harasser, may be a woman or a man. The victim does not have to be of the opposite sex.
> The harasser can be the victim’s supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
> The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
> The harasser’s conduct must be unwelcome.

The EEOC states that “prevention is the best tool to eliminate sexual harassment in the workplace.”

It is helpful for the victim to let the harasser know directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

Federal Enforcement
The Equal Employment Opportunity Commission (EEOC) is responsible for conducting enforcement litigation for Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the validity of the allegations is made from the facts on a case-by-case basis.

It is also unlawful to retaliate against a person for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

Training is Key to Reducing Liability
Under its Disability Bias Law, Michigan requires the department of civil rights to offer training programs to employers, labor organizations, and employment agencies to help them understand the requirements under the law.

The U.S. Supreme Court has ruled that, in order for a company to reduce liability for harassment claims, it must train employees and supervisors, require employees to report incidents of harassment, thoroughly investigate all reports, and take corrective action when necessary.

With respect to sexual harassment, the EEOC states that “prevention is the best tool to eliminate sexual harassment in the workplace.”

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Michigan's Court of Claims Reformed with Lightning Speed

By Michael Ellis
Director of Claims

ON TUESDAY, NOVEMBER 12, 2013, less than three weeks after its introduction in the Michigan Senate, Governor Snyder signed into law Public Act 164 of 2013, which shifted responsibility for administering the Court of Claims from the Ingham County Circuit Court to the Michigan Court of Appeals.

For those who aren’t familiar with the Court of Claims, it is where citizens go to sue the State of Michigan over the actions of the governor or other state officials. Prior to the new legislation, all Court of Claims lawsuits against the state were heard by a special session of the Ingham County Circuit Court, with a judge elected to that court by the citizens of Ingham County.

New Court of Claims Panel
Under the new law, four judges from the Court of Appeals, appointed by the Michigan Supreme Court, will hear Court of Claims cases. To its credit, the Republican-dominated Supreme Court, without any requirement to do so, appointed two Republican and two Democratic Court of Appeals judges to comprise the new Court of Claims.

Reports indicate that 151 open lawsuits will now be moved from Ingham County Circuit Court judges to the new Court of Claims panel. Perhaps anticipating controversy over this change, PA 164 requires any challenge of the new Court of Claims power to also be heard by the Court of Appeals.

Motivation Debated
While this might sound like a dry, technical issue relating to court procedures, the new law has proven to be rather politically charged.

First, it seems clear that the Republican-controlled Michigan legislature flexed some political muscle to hurry this bill through the legislative process in a mere two weeks. SB 652 was introduced on October 24, 2013, and passed successfully through the Senate and House by November 7. It was presented to the governor on November 8, and he signed it into law on November 12, when it took immediate effect. By legislative standards, this bill became law at a record pace.

Political implications then began to arise, with some critics alleging that the governor and his allies expedited this new law in order to move current battles over the governor’s so-called “Nerd Fund,” Detroit’s bankruptcy, the emergency manager law, and other contentious issues from Ingham County circuit judges to Republican-friendly judges in the state appellate courts.

A counterargument swiftly followed, asserting that the change was nothing more than basic common sense. These voices essentially asked, “Why should judges elected by merely three percent of the state’s citizens (i.e., the population of Ingham County), decide cases involving the entire state?”

Legislative Compromise
Reports have also surfaced very recently about a possible accommodation between proponents of the new law and unhappy judges around the state, which may offer long-awaited judicial pay raises in exchange for their quietus on the new Court of Claims law.

Interestingly, House Bill 5153, introduced on November 14 by Republican Representative John Walsh of Livonia’s 19th District, provides for a judicial pay raise, the first in almost 20 years, by some estimates.

MMRMA will continue to monitor these and other important legislative and judicial developments and keep members informed of their implications.

By legislative standards, PA 164 became law at a record pace, prompting some to question the political motives prompting such swift action.
ON NOVEMBER 20, the Eaton County Parks Commission presented its third annual Alvin Whitfield Community Service Awards. MMRMA Risk Control Consultant Terry Van Doren was among the 2013 recipients.

Also honored this year was Jerry Jaloszynski, Parks and Green Space Coordinator for neighboring Clinton County, another MMRMA member.

Van Doren conducts onsite reviews of MMRMA members’ park, beach, athletic, and other recreation facilities to help mitigate risk and reduce liability exposure. He also serves as the liaison to two of MMRMA’s risk control advisory committees: Parks & Recreation and DPS.

At the recognition ceremony, Eaton County Director of Parks John Greenslit thanked Van Doren and other recipients for their outstanding contributions in 2013. At the ceremony, Van Doren received a resolution from the Parks Commission and a State Legislative Tribute sponsored by a coalition of Senate and House members and signed by Governor Rick Snyder.

The awards are named for Alvin Whitfield, current Eaton County park commissioner and past president of the Friends of Eaton County Parks, as well as a former executive with the Michigan Department of Corrections.

According to an October resolution introduced into the Michigan Congressional Record by 7th District Congressman Tim Walberg, the award recipients “exemplify the spirit of service displayed by Alvin Whitfield.”

In his address at the ceremony, Parks Director Greenslit noted that the honorees received special accommodation from U.S. Senator Debbie Stabenow.

Greenslit then remarked that state and national recognition for the awards is well deserved in light of the growth in the Eaton County Park system and its programs.

Congratulations to Terry Van Doren on this outstanding achievement. It is a proud moment for him and for MMRMA.

Sexual Harassment, continued from page 2

The EEOC continues: “Employers are encouraged to take steps necessary to prevent sexual harassment from occurring.

“Employers should clearly communicate to their workers that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.”

MMRMA urges its members to provide the required information and employee training to help maintain a fair and efficient workplace and be in compliance with applicable Federal and state laws.