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Election of Chapter Officers for 2007-2008; Scholarships Announced

At the June 21st Philadelphia Chapter CPCU Society Breakfast Meeting, the following slate of officers was elected:

President: Rina Williams
President-Elect: Dawn Upperman
Vice President: Margo Subokow
Treasurer: Larry White
Secretary: Cindy Wolkiewicz
Director: Kelly Goldfien
Director: Shannon Rodgers
Director: Donna Popow
Director: Jim Sherlock
Director: Marcia Nigro

Director Mayleen Gallagher continues in the second year of a 2-year term. The officers were unofficially sworn in by Past President Marty Frappolli who administered an improvised oath of office that included a promise to visit the Chapter website and read the By-laws.

The **2007 Scholarship Winners** were also awarded at the June meeting. We are delighted to announce the recipients: **Kristina Tarnef, Rachael Wolkiewicz, James White, and Nika Pcoylar**. A committee reviewed the anonymous submissions and made their selections based on academic and extracurricular accomplishments. The Chapter is pleased to be able to encourage four outstanding students this year.



LEFT: Shannon Rodgers, Margo Subokow, Larry White, Donna Popow, Rina Williams, Dawn Upperman, Cindy Wolkiewicz, Marcia Nigro. Not pictured: Jim Sherlock, Mayleen Gallagher, Kellie Goldfien. **RIGHT:** Scholarship winners James White (top) and Rachael Wolkiewicz (bottom) with Donna Popow and Jon Hensinger.

MARK YOUR CALENDAR FOR UPCOMING EVENTS

Sep 8-11: Hawaii — CPCU Society Annual Meeting & Seminars; AICPCU New Designee Conferment Ceremony

Sep 20: Breakfast Meeting, 8:00 am –10:00 am, The Union League, Philadelphia. Topic: **View From the Top**

Oct 18: Breakfast Meeting, 8:00 am –10:00 am, The Union League, Philadelphia. Topic: **Financial**

Nov 15: Breakfast Meeting, 8:00 am –10:00 am, The Union League, Philadelphia. Topic: **Commercial Lines**

Dec 3: Philly I-Day, the region's premiere day-long insurance education event. Co-sponsored with ISOP. Location TBA.

Details for all events always available first on our website:
<http://Philadelphia.cpcusociety.org>

Jane Disher Speaks at June Breakfast Meeting

Recap by Donna Popow

The last breakfast meeting of the 2006-2007 Chapter year was an informative and entertaining session presented by Jane Disher, Senior Vice President, Global Learning & Development, ACE INA. Jane used her experiences with AIC and General Electric to instruct the attendees in how to improve their leadership skills.



June's featured speaker Jane Disher is thanked for her presentation by Chapter President Jon Hensinger.

Jane believes that leadership is intensely personal and that individuals need to be authentic. Therefore, her first tip on becoming a successful leader is not to try to imitate others. Her second tip is that everything looks like failure in the middle. That is when people give up. Good leaders will look to the future and find ways around the obstacles.

Jane stressed the difference between leadership and management. Leaders look to the future and try to solve problems. Managers look for predictability and order and use the generally accepted right approach to solve problems. Successful leaders have to be comfortable with not knowing the answer to every problem. But they also must be able to make others comfortable with not knowing the answer, as well. According to Jane, teams will follow a successful leader even though the leader does not know all the answers. Leadership is like standing on a balcony and seeing what happens below. Leaders spend about 40% of their time looking externally. Managers spend the majority of their time looking internally. Managers often view leadership as an either/or proposition – you either run the business or you lead the business. Jane believes that leadership will get you better business results than just running the business.

The derailment of leaders occurs because of a failure to learn new things. Successful leaders will let go of what worked in the past and look to what will work in the future. Another major cause of derailment is the leader's failure to deal with people effectively. People are not orderly or predictable, so a leader must spend significant time dealing with people issues. Studies have shown that employees do not leave companies, they leave managers. Money only becomes an issue when everything else is wrong. Jane suggests that leaders and managers undergo a 360 degree review. She characterizes the experience as very humbling but it will enlighten you as to who you impact and how much impact you have. The biggest challenge is to do something with the feedback.



Jane also believes that successful leaders are aware of their emotional triggers and have learned to control them. Successful leaders are also empathetic. And they have the courage to make hard decisions, such as firing someone. Leaders also learn from failure.

Jane encourages everyone to construct their personal version of leadership: determine what are your own values, experience, integrity and passion and then put them into practice. Leaders can lead from any chair, at any point in their life. To make her point, Jane closed with the story of three bricklayers. A passerby stopped and asked the first bricklayer what he was doing. "Laying bricks" was his reply. The second bricklayer responded to the question by saying that he was building a wall. The third bricklayer, when asked the question, enthusiastically responded "Building a cathedral." What would be your response?



At the conclusion of the meeting, incoming President Rina Williams presents a service award and a \$250 gift certificate for *The Capital Grille* in thanks to outgoing President Jon Hensinger, as chapter officers Shannon Rodgers, Larry White, and Margo Subokow look on.

SPOTLIGHT ON 2008



Ralph Archbold as Ben Franklin

By Jon Hensinger, CPCU, ARM

By now I hope you are aware that the CPCU annual meeting is coming to Philadelphia in September of 2008. This event is a wonderful opportunity for our chapter to promote the value of the CPCU designation in our region. This is the first installment of what will be a regular ChapterGram column to keep you informed about what the Philadelphia Chapter is doing to prepare for this exciting upcoming event.

Hawaii

If you are attending the CPCU annual meeting in Hawaii in September, please make a point of stopping by the Philly Chapter booth at the expo. You will have a chance to meet the Philadelphia chapter volunteers who are helping promote next year's annual meeting. You will also have a chance to have your picture taken with Ben Franklin. We'll be giving away tourist information from Philadelphia, and a unique gift that you might spot flying high above Waikiki beach!



Volunteer Opportunities

We will have plenty of opportunities for our chapter members and friends to help support the annual meeting in Philadelphia. The most critical labor need we will have is for marshals. These are the volunteers who help manage the educational seminars that are such a valuable part of the annual meeting. Marshals who volunteer on three or more days during the meeting qualify for a registration discount. They also get to wear official looking CPCU shirts. More information on this volunteer opportunity will be available in early 2008.

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The CPCU Society's Philadelphia Chapter, host for the 2008 Annual Meeting and Seminars, congratulates our 2007 CPCU designees.

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Photos courtesy of Jim McWilliams, Edward Savaria, Jr., and the Philadelphia Convention & Visitors Bureau.



2007 New Designees Feted with Wine Tasting at Jack's Firehouse

On June 27th, Philadelphia CPCU hosted a special event for our class of 2007 new designees — a wine tasting led by an experienced instructor from *The Wine School of Philadelphia* and held at *Jack's Firehouse* in Fairmont. Our wine tasting event attracted quite a few of our new designees, many of whom had not attended any other chapter events. Everyone who attended had a good time and our new designees had an opportunity to get to know some of our chapter leaders. With this event, our chapter achieved the important strategic objective of reaching out, connecting with, and welcoming our new designees. We owe a special note of thanks to VP Margo Subokow, Director Kellie Goldfien, and Volunteer Renee Yozzi for organizing and hosting this successful event!



New Designees Carrie Higgins and Theresa Gregory were among the members and guests at the wine tasting.



President Rina Williams with New Designee Melissa Baker.



Dawn Upperman and husband Aubrey welcome New Designee Rosemary Hartmann and husband Dave.



Our instructor tells us about wines and how to taste them!



Officers, New Designees, and guests mingle at the event.



Margo Subokow and Renee Yozzi at the registration desk.

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Insurance Coverage for Contract-Based Claims

**Insurance Coverage for Contract-Based Claims:
No Agreement Over Coverage for Agreements**

**Randy J. Maniloff
Jennifer Wojciechowski**

Parties enter into agreements to bring predictability and certainty to their business relationships. Yet, when it comes to the question of insurance coverage for unfulfilled promises under contracts or agreements, the answer is anything but predictable and certain. For a stark example of this disconnect, one need only look to four decisions from Pennsylvania courts – all issued during the month of May.



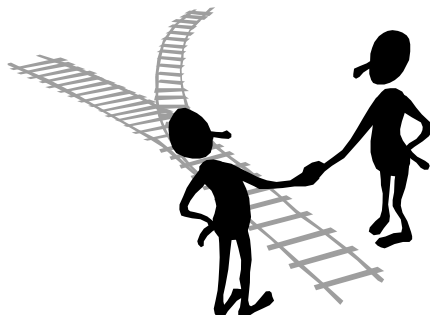
Randy J. Maniloff

Two of the decisions addressed coverage under wrongful act/professional liability policies and reached opposite conclusions whether Pennsylvania public policy prevents insurance coverage for contract-based claims. The other two decisions examined coverage under general liability policies. While both concluded that coverage was unavailable, they disagreed on a fundamental issue.

In **Verticalnet, Inc. v. U.S. Specialty Insurance Co., 2007 U.S. Dist. LEXIS 36945 (E.D. Pa.)**, the Eastern District stated that there is no Pennsylvania public policy precluding insurance coverage for contract-based claims. In this case, Verticalnet commenced a declaratory judgment action against its insurer, U.S. Specialty, seeking coverage under a Directors, Officers, and Corporate Liability policy. Verticalnet had been sued in connection with a merger that was governed by a number of contracts.

Although these agreements required Verticalnet to “use reasonable commercial effort” to complete certain acts “as promptly as practicable,” Verticalnet apparently failed to comply. U.S. Specialty denied coverage on the basis that, among other things, “loss” does not include “matters which are uninsurable under the law” -- such as Verticalnet’s failure to meet its contractual obligations. The court disagreed.

In support of its contention that public policy precluded coverage for contract-based claims, U.S. Specialty argued that such coverage would (1) convert an insurer into a “silent business partner,” (2) cause underwriting difficulty due to the uncertainty of when an insured will enter and fail to honor a contract, and (3) create a “moral hazard” by encouraging insureds to abandon contractual obligations. The court, sympathetic to the underwriting difficulties and the moral hazard,



nonetheless found no purported public policy against indemnification for contract-based claims.

The court noted that the case law cited by U.S. Specialty in support of an alleged public policy against insurance coverage for contract claims dealt with general liability policies. The court also noted that the insurance coverage available under the U.S. Specialty policy was not expressly limited to claims which did not arise from breach of contract and that the policy did not include any specific exclusion for contract claims.

In **Southcentral Employment Corporation v. Birmingham Fire Insurance Company of Pennsylvania, 2007 Pa. Super. LEXIS 1546**, the Pennsylvania Superior Court addressed Southcentral’s request for insurance coverage under a “wrongful acts” policy for funds it was required to repay to the Pennsylvania Department of Labor and Industries. [Disclosure Note – White and Williams, LLP represented the insurer in *Southcentral*] Specifically, the Department of Labor, after a series of audits, determined that Southcentral had failed to comply with the terms of its contracts with the Department and, as a result, was required to repay funds Southcentral should not have received.

The *Southcentral* court, contrary to *Verticalnet*, relied upon

Continued on page 8

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Jan 8, 9 & 10, 2008	Jan 22, 23, & 24, 2008
March 4, 5, & 6, 2008	Feb 19, 20, & 21, 2008

Pittston, PA - (Wilkes-Barre / Scranton Area)
Quality Inn, 400 State Route 315, Pittston, PA 18640

P&C Sept 18, 19, & 20, 2007	L&H Sept 11, 12 & 13, 2007
Nov 26, 27, & 28, 2007	Dec 4, 5, & 6, 2007
Jan 29, 30, & 31, 2008	Jan 29, 30, & 31, 2008

State College, PA - Sleep Inn
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P&C Oct 2, 3, & 4, 2007	L&H Sep 25, 26, & 27, 2007
Dec 4, 5, & 6, 2007	Dec 11, 12 & 13, 2007

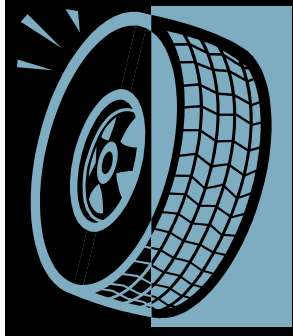
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Insurance Coverage for Contract-Based Claims (continued)

public policy in determining that coverage was unavailable for such contract-based claims. Citing to public policy and the precedent interpreting the term “loss,” the court determined that “loss” does not include funds that the insured was not legally entitled to keep. In precluding coverage, the court labeled these funds as “restitutionary” and found that coverage was precluded regardless of whether there are any applicable exclusions (which there was, for “return funds”).

In ***Plasticert, Inc. v. Westfield Insurance Company*, 923 A.2d 489 (Pa. Super. 2007)**, the Pennsylvania Superior Court addressed coverage for contract-based claims under a general liability policy that contained a number of potentially applicable exclusions. At issue was damage caused by Plasticert’s failure to provide wheels in compliance with the terms of its contract with Westfalia Technologies, Inc. The contract between Plasticert and Westfalia required Plasticert to use a certain quality of materials in the Plasticert wheels. However, Plasticert provided wheels manufactured with apparently inferior materials. As a result, the wheels would consistently shatter under normal use.

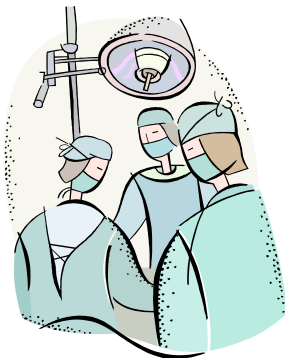


The *Plasticert* court concluded, without deciding, that the underlying facts alleged an “occurrence” that resulted in property damage. But the court then determined that no coverage was available for Westfalia’s contract-based claims by application of the exclusion for “damage to your product.” Notably, there was no allegation of any damage to *other property*. Rather, the only damage was to the wheels themselves. The *Plasticert* court relied upon case law holding that to extend coverage to damage to the insured’s own product would effectively convert the policy into a performance bond or a guarantee of contractual performance.

In ***Atlantic Mutual Insurance Company v. Gula*, 2007 Pa. Super. 139**, the Pennsylvania Superior Court addressed coverage under a general liability policy for claims made against a workers’ compensation case manager that it erroneously delayed authorization of surgery.

The court concluded that the underlying facts did not allege an “occurrence,” because it was not an accident, since the workers’ compensation case manager did exactly what it was supposed to do (certification for physical therapy and permission to obtain a certain diagnostic test).

Looking at certain hypotheticals, the *Gula* court noted that even if the case manager knew or should



have known that the doctor was negligent, and should have presented the patient with an alternative treatment option, this represents a faulty medical decision, which is not meant to be covered by a general liability policy.

While *Gula* is not entirely clear, and the decision appears to have been influenced by the fact that the case manager did not have professional liability coverage in place, it could be viewed as being in contrast to *Plasticert*. *Plasticert* held that, while coverage was unavailable for damage to the insured’s own product, coverage nonetheless exists where a defect in the insured’s work causes injury or damage to the property of a *third party*. However, in *Gula*, under the court’s hypothetical, if the case manager knew or should have known that the doctor was negligent – an action which seemingly caused injury to a third-party -- coverage would have still been unavailable.

Conclusion

These issues, and the cases discussed herein, are complex and this brief article simply scratches the surface. Much more could be said. Nonetheless, these four decisions, all recently issued during the course of a single month, demonstrate that there is no clear statement of Pennsylvania law concerning the availability or manner for determining coverage for contract-based claims. Indeed, the courts can not even agree on something as seemingly fundamental as the question whether coverage can exist under Pennsylvania’s public policy.



Randy J. Maniloff is a Partner in the Business Insurance Practice Group at White and Williams, LLP in Philadelphia. He concentrates his practice in the representation of insurers in coverage disputes over various types of claims. Maniloff writes frequently on insurance coverage topics for a variety of industry publications (including authoring the annual Mealey’s Insurance “Top 10 Cases of the Year” article) and his views on such issues have been quoted by *The Wall Street Journal*, *The New York Times*, *USA Today*, *Associated Press*, *Dow Jones Newswires*, *The Philadelphia Inquirer* and *The National Law Journal*.

Jennifer Wojciechowski is an Associate in the Business Insurance Practice Group at White and Williams, LLP in Philadelphia. She concentrates her practice in the representation of insurers in coverage disputes over various types of claims.

May Recap: Let's Get Personal – What's New in Personal Lines

Recap by Donna Popow

The May 17, 2007 Chapter meeting delivered on its promise to get personal. Anne Kopanski, CPCU and past chapter president, assembled a distinguished panel to discuss the current state of personal lines insurance in a Q&A format. The panel featured Philip Weymouth, CPCU, of Weymouth & Smith, Wilmington, DE.; John Paolini, Field Vice President, Fireman's Fund Insurance Company; and Doug Hostvedt, Business Development Manager, AIG Private Client Group.



L to R: John Paolini, Doug Hostvedt, Philip Weymouth, and Anne Kopanski discuss personal lines insurance issues.

AK – How has Personal Lines changed?

DH – I practice in the high net worth area. There has been a lot of innovation and new entrants into the marketplace in the recent past. There has not been a dominant company in the marketplace, either. And there have been some capacity issues. Yet, during the past five years the market has grown considerably with lots of potential for high revenue.

JP – Technology has changed the distribution channels. Information is more readily available to consumers. A more educated consumer is both an opportunity and a challenge. The competition has changed as well. Banks are selling insurance and carriers are continuing to merge.

PW – In the past five years, there has been a noticeable lack of management training on the part of insurer personnel as well as a significant increase in their stress levels due to technology. Homeowners insurance has become a losing proposition because of water damage claims. Auto insurance has become profitable because of aggressive internet marketing. Additionally, all lines have had to deal with new regulations.

AK – What changes have you seen in personal lines exposures?

PW – Mold and mildew are new. Construction methods are not allowing homes to breathe. Identity theft and technology risks have become apparent.

JP – There are more liability exposures to be considered than ever before.

DH – Workers comp and employment practices issues are arising under Homeowners policies. Insurers are responding with more loss control services to aid the policyholder.

AK – What are the major challenges facing the agents in the Personal Lines market?

JP – Brand recognition is a big challenge for independent agents, given the mobile nature of the U.S. population. Consumers know the carrier but don't know the agent. Fireman's Fund is reaching out to agents by offering support to their local fire departments.

DH – The industry has made personal lines a commodity. As a result, consumers are more interested in hearing how they will save 15% rather than focusing on their individual exposures.

PW – The industry needs to standardize the workflow and processes so that agents are not burdened by so many different systems.

AK – What are your thoughts on the affordability of personal lines insurance?

JP – Auto insurance is very expensive. The high cost puts everyone at risk for a UM/UIM claim. Courts are forcing claims because they believe that the underlying policy limits are inadequate. Problem is that adequate underlying limits are too expensive.

PW – Agents need to push umbrella liability insurance because of the rising cost of bodily injury claims.

DH – Adequate and affordable liability limits are the biggest issue since you don't know when the claim will arise or how big it will be.

AK – What is the biggest challenge in personal lines?

PW – Prompt and fair treatment of all loss. And good treatment of employees.

DH – Trying to educate the front line employee about employment practices and D&O insurance. The employees can't keep up with the changes in the marketplace.

JP – The industry's capacity for coastal properties with high limits of insurance. Reinsurers are trying to regain their health so they are charging more but the primary insurer can't raise their prices to meet this cost because of regulation.

AK – What tips can you pass along to our audience as consumers of personal lines insurance?

PW – If you have wood-burning fireplaces, have the chimney and flue swept every 2 years. Take advantage of defensive driving schools. Take care of the trees on your property. Video or make another type of photographic record of the contents of your home to use should a claim arise.

DH – Look at your homeowners policy as catastrophe insurance. Raise your deductible and use the money that you save to buy more liability insurance. Be very cognizant of water and how it might enter your home. Invest in something like Water Cop that will shut off the flow to your house.

JP – Update the values on any scheduled item on a routine basis, especially fine arts items.

AK – Finally, I suggest that everyone add a carbon monoxide detector to your home.



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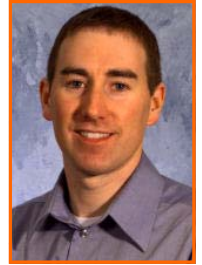
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Thank You For The Opportunity!

Members of the Philadelphia Chapter,

I want to take this opportunity to say thank you very much for giving me the opportunity to serve as president of the Philadelphia Chapter for the last two years. This volunteer leadership role has been a wonderful learning experience for me. In fact, it has arguably been the most rewarding professional development experience of my career. It has been really fun too!



By serving as president of the Chapter, I have had an opportunity to learn by doing. I have developed skills and experience in the following areas: strategic planning, strategic leadership, public speaking, influencing, budgeting, financial management, succession planning, leadership development, and event planning. These are all skills and experiences that I never could have developed within the context of the full-time job I held when I agreed to take on the role of chapter president. I highly recommend the job of chapter president to anyone looking for a challenging professional development opportunity.

Finally, I wish to extend a special thanks to all of our chapter leaders and volunteers for their support, enthusiasm, dedication, laughter and friendship over the last 2+ years. I consider working with this exceptional group of people to be the single greatest benefit of serving as Chapter President. I have learned more from them than they will ever realize.

Jon Hensinger, CPCU, ARM
Immediate Past-President, Philadelphia CPCU

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2007 CPCU New Designees: Build Your Professional Network

By Margo Subokow, CPCU

2007 is your year! You have much to be proud of and I am sure you are filled with excitement and anticipation. The National Conferment, as well as the educational and social opportunities available during the Annual Meeting, will enhance the celebration of your success.

As an active participant in the CPCU Society and member of the Philadelphia Chapter, doors are opened for you that you may have not yet considered. Our membership is filled with professionals in insurance and related fields that offer you the chance to expand your network, increase your knowledge, and maybe even find your next job opportunity.

Many of our members have found new starts or steps up through contacts made at Chapter events. We invite you to consider active membership as a tool to your continuing career success. Here are two real-life accounts from members demonstrating this value:

“Getting involved as a volunteer with Philadelphia CPCU has helped me increase my industry exposure, grow my professional network, and develop my professional skills through new experiences. My involvement has clearly helped me achieve higher levels of effectiveness and success in my career.”

“After earning my CPCU, I began attending the breakfast meetings of the Philly Chapter and quickly realized that by inviting me to participate, the active members of this chapter were providing an opening to a powerful business and social network. Every company has a few people who are smart and friendly and who enrich your career; here was a concentrated group of just that kind of person.

After a few years of becoming professional and personal friends with these folks, I learned of a job opportunity, the kind of life-changing career move that many of us dream about. As it turns out, one of my chapter colleagues was already working at this prospective employer. Because of the Philly CPCU network, I was able to get a good feel for the nature of the opening and whether it was the right move. I can't think of another or better way to get this kind of insight than from a strong network of like-minded peers.

Now, I actually look forward to Monday mornings. The CPCU designation and my active membership in the Philly Chapter were instrumental in making that happen. Your CPCU can open doors for you if you take advantage of the opportunities and privileges of the designation.”



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Did you enjoy this issue of the ChapterGram, and the photos from the various activities? Did you know you can see this ChapterGram with full color versions of those photographs? Log on to our website at <http://Philadelphia.cpcusociety.org> and from the homepage, click the link for "ChapterGram Online" to see a PDF of this issue, or past issues back to September 2004, all in full color.



Dawn Upperman

Whether you are a long-time member of the Philadelphia Chapter of the CPCU Society or a 2007 New Designee, be sure to visit our website frequently to stay in touch with our events. The CPCU Society has more than 150 chapters in the United States, Bermuda, Japan, Korea, and Europe. Nearly all have a unique website, but the very best one is your own—Philadelphia.

The Philly Chapter website was started and managed for years by Pete Palestina, past-president and current coordinator for the Fire Safety Essay Award contest held annually. Pete made our website into the full-featured member resource that continues today, under the superb direction of chapter President-Elect and webmaster Dawn Upperman.



Pete Palestina

Dawn posts our calendar of events, including breakfast meetings (eight each chapter year), Philly I-Day, the Franklin Award, social events like the New Designee wine tasting and our popular Mix'N'Mingles, and our good works efforts. She links each paid-admission event to our pay-online capacity to enable you to register and pay online for our events. Naturally, the site also contains the mail-in forms for those who prefer to register and pay that way, too.

We also feature a Job Opportunities page, lots of chapter history, recaps and photos of monthly meetings and other events, our chapter by-laws, and rosters of current and past chapter directors and officers.

As good as this site is, we of course are open to suggestions for improvements, and we welcome additional contributors. Dawn, like most chapter webmasters, took advantage of the free one-day training provided in Malvern by Leslie Higgins of the (national) CPCU Society, our parent organization. You don't need any software, you can add to our site from any PC connected to the web. No special tech skills are required!