

# Transure

For The Road Ahead... Since 1952

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## MARKET TURMOIL MAY FORCE BUSINESS INSURANCE HIKES—MARKET HARDENING

Brace yourselves, business owners— after seeing commercial insurance rates decline in recent years, your premiums probably are headed higher, thanks in large part to the turmoil in the investment markets.

Big investment losses that insurance companies are incurring from their holdings of troubled companies like American Inter-

national Group and Lehman Bros., plus enormous claims they must pay out to cover the damage done by the ill winds of Hurricane Ike, mean they'll need to make up that huge outflow of cash somewhere. And "somewhere" likely will be the premiums paid by their

clients, local business insurance brokers say.

"You can't have these kinds of events without" rates going up, said John Chaney, president of Hyland Group in Cleveland.

Ideally, insurance companies garner a positive return on their invest-

*Continued on page 2*

*Munich Re Claims  
"Market is Hardening"*

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## MORE NEW MARKETS (WORKERS COMP, ETC)

We strive to provide our customers with the broadest variety of insurance company choices possible.

We are pleased that we will have new access to insurance companies that will be quoting workers compensation for truckers

in time for January 1st renewals.

In addition, some new

**NEW**

options for auto liability markets are coming and one will target intermodal container haulers

Transure continues to offer more trucking insurance options than any other agency in the country.

## Dave Marion Joining Transure's Sales Team

It is with great pleasure and excitement that we welcome to our Transure Services team, Dave Marion.

Located in Asheboro, NC, Dave brings over 37 years of insurance experience; the most recent 18 years specifically in the transportation insurance arena.

Dave and his wife, Gwen, have 3 daughters and 5 grandchildren where they enjoy watching them

compete in football, basketball, and soccer.

Dave, in addition, is an avid ACC basketball fan, roots for our Carolina Panthers, and enjoys NASCAR.

With all this, Dave still has time to serve on the Board at Regents at Liberty University.

We are sure Dave will provide you with a commitment to service & excellence: our goal at Transure Services, Inc.!



*Dave is currently targeting the states of AL and TN in addition to NC, SC, GA and VA.*



For questions or suggestions, please feel free to contact Andy Sharpe at 800-326-8198 ext. 102 or [andy@transure.com](mailto:andy@transure.com).



*“...in Mississippi. The court held that where the motor carrier’s placards were on the truck and there was a lease between the motor carrier and the owner of the tractor the driver would be the statutory employee”*

*“Premiums, across the board, I think, are going to go up,” Mr.Souders said*



## RECENT COURT CASES

An insurer was granted judgment in a declaratory judgment action which considered the effect of the employee exclusion under a commercial auto policy. The 8th Circuit Court determined that the plaintiff, who was hired to transport agricultural products on an “as needed” basis was an employee under Arkansas law, and not a temporary employee or independent contract as argued by plaintiff. ([Northland Insurance Co. v. Weeks](#), 2008 WL

3927274) (thanks to Mike Dempsey of Northland!)

The 5th Circuit Court of Appeals considered the effect on a non-trucking use endorsement this month. The court granted judgment to the insurer, holding that the driver was in the business of the trucking company. The driver had completed delivery of one shipment and was on his way to a hotel with the expectation that another load would be available the following day.

([Mahaffey v General Security Insurance Co.](#), 2008 WL 4368926)

The Eastern District of California addressed the damages which can be recovered against a household goods carrier. The court set forth the rules for recovering attorney’s fees, also awarding pre and post judgment interest. In the favor of the motor carrier the court only awarded the plaintiff the actual hard damages, refusing to award the damages plain-

## Market Turmoil (continued)

ments and generate what’s known as a “policyholder surplus,” which represents the positive difference between the value of an insurer’s assets and its legal obligations to pay on potential claims. When insurers take losses on their investments, they lose some of that surplus and some of their earnings, which puts pressure on them to increase premiums.

“If the industry’s policyholder surplus falls, insurance rates will rise,” said James McMahon, chief operating officer for United Agencies, a Cleveland insurance broker.

“A lot of these carriers had Fannie Mae and Freddie Mac as investments in their portfolios,” noted Mr. McMahon, referring to the sagging mortgage giants that the federal government seized Sept. 7.

One such company is Progressive Corp. in Mayfield Heights. In its Sept. 11 announcement of its results for the month of August, the big insurer said it had written down the value of its investments by \$324.7 million, including \$278.2 million in writedowns on its stock holdings in Fannie Mae and Freddie Mac. Progressive reported a \$135.2 million loss for August as a result of the writedowns.

Hylant Group’s Mr. Chaney said he expects rates on property and casualty insurance for businesses to stop their downward trend in the near future and to begin to climb as insurers look to shore up their finances. Brokers say rates have been falling since 2005 for most busi-

ness-related policies, such as property and casualty policies and fleet insurance, and business insurance costs generally have dropped by about 10% in the last 12 months.

Like Mr. Chaney, David Souders, an assistant vice president of insurance broker Todd Associates of Cleveland, sees a reversal of fortune ahead for insurance buyers.

“Premiums, across the board, I think, are going to go up,” Mr.Souders said.

Ironically, the instantly infamous downfall of AIG, which required an \$85 billion loan bailout by the federal government to avoid bankruptcy, might be the least of the factors affecting premiums. That’s because, despite its problems overall, AIG’s insurance subsidiaries remain sound.

“Remember, they didn’t get in trouble because of their insurance business,” said Umberto Fedeli, CEO of the Independence-based Fedeli Group. “They got in trouble by leveraging their balance sheets and doing things they shouldn’t have.”

None of the insurance brokerage executives who spoke with Crain’s said they have moved any of their clients out of AIG insurance products, though some said clients have been asking to see other options as they wait and see how the giant carrier emerges from its current crisis.

“You can bet every CEO, every CFO and every controller has said, ‘Do we have anything with AIG?’ and ‘What should we do about it?’” Mr. Chaney said.

Source: By Dan Shingler  
Crain’s Cleveland Business

## RECENT COURT CASES (continued)

tiff could not fully support, including sentimental value. ([Waller v. Gary & Koby Transportation](#), 2008 WL 4224722)

What does this say? A court will often take judicial notice of facts which are not in dispute and are generally deemed to be accurate and ready to determination. In the Middle District of Georgia, the court refused to take judicial notice of the Safer website! Actually the court held that the website did not fit within the parameters to items for which judicial notice should be taken. ([FCCI Insurance Group. V. Rodgers Metal Craft](#), 2008 WL 4185997)

Shippers beware! In an action in the Seventh Circuit the court held that a shipper who sells goods FOB origin may still be held liable to the consignee for damages which occur when the shipper voluntarily elects to load the cargo into the carrier's truck. If he does not do it right he can be held responsible for the damages. Some times it does not pay to be helpful. ([Atlantic Mutual v. Jardis Industries](#), 2008 WL 3977381)

The issue of when a driver is considered the statutory employee of a motor carrier was considered in the District Court in Mississippi. The court held that where the motor carrier's placards were on the truck and there was a lease between the motor carrier and the owner of the tractor the driver would be the statutory employee of the motor carrier. ([Horridge v. Keystone Lines](#), 2008 WL 4104188)

The Ninth Circuit considered the issue of whether a plaintiff's claim for intentional infliction of emotional distress was preempted by the Carmack Amendment. The Court held that as long as the distress arose out of the delay or damage to the goods, plaintiff's cause of action would be preempted. ([White v. Mayflower Transit](#), 2008 WL 4181600)

The Middle District of Georgia also upheld the preemption rule in an action against Federal Express. ([Rykar v. FedEx Ground Package System, Inc.](#), 2008 WL 4003629)

We do not see many unattended vehicle exclusion insurance cases although it is a common addition to many motor truck cargo poli-

cies. The Eastern District in Arkansas upheld an insurer's denial of coverage where the driver left the vehicle in a parking lot which provided no security for the trailer. The court held that the unattended clause was unambiguous. ([Hot Food Xpress, LLC v. Century Company](#), 2008 WL 4080111)

How many times do you see a motor carrier attempt delivery only to be rebuffed when the consignee can not accept the shipment? Invariably you see it because the load is then stolen and a cargo claim is presented. In the Eastern District of California the court held that the carrier's strict liability as a motor carrier terminated when he tendered the goods for delivery. The court held that it would then be a question of fact as to whether the carrier was negligent in his storage of the cargo pending final delivery. ([Advantage Freight Network v. Sanchez](#), 2008 WL 4183987)

Can an additional insured seek coverage under a policy for its own liability to the plaintiff? In the Eastern District of Virginia, at least under the applicable policy endorsement, it can not. In this case the additional insured endorsement was sufficiently clear to limit the obligations of the insurer to provide a defense and indemnity only when the additional insured was vicariously liable for the actions of the named insured. ([Smurfit Stone Container Enterprises, Inc. v. National Interstate Insurance Co.](#), 2008 WL 4153762)

In an action in the Southern District of New York an injured consignee sought recovery against a motor carrier when injured while moving the cargo into his building. The motor carrier had refused to deliver the product into the building, leaving it on the sidewalk. The court held that the plaintiff made his own decision to lift the heavy piece and granted judgment to the motor carrier. ([Gonzalez v. Caballero](#), 2008 WL 3919404)



*The 8th Circuit Court determined that the plaintiff, who was hired to transport agricultural products on an "as needed" basis was an employee under Arkansas law, and not a temporary employee or independent contract as argued by plaintiff.*





# RICKISMS...JOKES BY RICK JOYCE

Transure's Controller



How come we choose from just two people to run for President and over fifty for Miss America?

And now for the financial times we're in right now!

What's the difference between an investment banker and a pigeon?  
The pigeon is still capable of leaving a deposit on a new Ferrari.

Overheard in a City bar:  
'This credit crunch is worse than a divorce. I've lost half my net worth and I still have a wife.'

I signed up for an exercise class and was told to wear loose-fitting clothing. If I HAD any loose-fitting clothing, I wouldn't have signed up in the first place.

When I was young we used to go 'skinny dipping,' now I just 'chunky dunk.'

Don't argue with an idiot; people watching may not be able to tell the difference.

Wouldn't it be nice if whenever we messed up our life we could simply press 'Ctrl Alt Delete' and start all over? AMEN, AMEN!

**I'm just serious!**

## ***This Issue's Recipe:***

### **Melva's Holiday Pepper Cheese Dip**

- 1 cup sour cream
- 1 (8oz) package cream cheese, (softened)
- ¼ cup chopped pitted olives
- 2 cups Hot Pepper Monterey Jack Cheese, shredded
- 1 (2oz) jar diced pimento, drained
- 1 tablespoon sliced green onion

Tortilla chips

Combine sour cream and cream cheese; beat until smooth. Stir (by hand) next 4 ingredients. Cover and refrigerate at least 2 hours. Serve with tortilla chips.

## ***Transure Services, Inc.*** **Your Truck Insurance Specialists**

Since 1952, Transure has been fulfilling the insurance needs of the transportation trade. By specializing exclusively in the associated risks of that business, Transure is clearly the best qualified broker to recognize and respond to the exceptional demands created by a unique industry.

Specialization is a key to Transure's success. Our clients are provided with a host of ancillary services not available through other brokers that are not focused in the transportation insurance field. This single industry concentration enables Transure to remain consistently informed about cycles and changes in both the insurance and transportation industries. A single focus helps us match clients with the most cost effective program offered, custom tailored by a Transure team, you (the client), and the insurance carrier.

Transure Services is composed of a staff of proven professionals with over 200 years of collective experience in transportation insurance. Both sales and administrative personnel have had experience and success in direct and retail sales of this kind of insurance placement. This industry knowledge and dedication, coupled with our outstanding insurance company relationships, adds value to Transure's strength in marketing.

We pride ourselves on individual attention to service which contributes to our success and to client satisfaction. Statistical loss analysis is designed specially for various client needs. Our staff identifies the risks that adversely impact your financial statement. Once identified, we make recommendations to eliminate, reduce or transfer the risks via insurance or alternative risk financing methods.

One of our most important services is providing prompt claims services to clients when a claim occurs. Our claims department handles each loss with efficiency and speed whether we do the adjustment or it is sent to a company for handling. We follow through with the companies to ensure the satisfaction of our most valued asset, our client.

