The Cost and Rewards of Risk  
By Grace M. Crickette

Every day we make choices in our personal and professional lives that involve risk. We usually associate risk as being negative; something that could go wrong - a choice with a downside. Often, the biggest risk that we take is the decision not to do something and then we have a missed opportunity. Taking on the role of Chief Risk Officer at the University required personal and professional risks: leaving a job I had enjoyed for over 13 years, moving my family to a new city, going from operating in the private sector to the public sector. With great risk comes great reward, and although it has only been 9 months since my arrival, I am certain I made the right choice and I’m grateful for the opportunity I have here at UC.

UC is constantly in motion, choices are being made, and risk is inherent in everything the University does or does not do. As the Chief Risk Officer my goal is to:

• Create a risk aware culture.
• Formally bring consideration of risk into strategic decision-making.
• Develop a center of excellence for managing risk, drawing on the expertise of highly-skilled individuals throughout the University.

A synopsis of a case recently taken to trial – yes, the University can be successful in taking cases to trial even when up against the toughest opponent. And when successful, the plaintiff may be ordered by the court to pay the University.

Below, you will find a synopsis of a case recently taken to trial where the University prevailed.

The law firm of Gordon & Rees, LLP recently earned a defense verdict in a sexual orientation, age discrimination and retaliation lawsuit. Californian politician and nationally prominent plaintiff’s attorney Angela Alioto represented the plaintiff, a prominent physician who had been employed at UC for over 20 years. The plaintiff claimed that beginning around 1994 he began experiencing...
discrimination for both his age and sexual orientation and retaliation
for complaining about discrimination. He sued the Regents of the
University of California as well as the chairman of his department
and several other professors.

The plaintiff alleged that he had been demoted, passed over for
promotion and subjected to an unfair investigation, all due to the
discriminatory actions of his superiors. He argued that when he
complained about unfair treatment, he was transferred to a less desir-
able job where he earned less money. UC contended that its actions
were necessary and based appropriately on the plaintiff’s repeated
abusive behavior towards staff and physician subordinates, which
included yelling and name calling. UC argued that the plaintiff acted
abusively when the job became stressful, so the chairman transferred
him to a less stressful environment in which he could be monitored
more closely.

The plaintiff claimed more than $400,000 in lost wages and his
settlement demand never fell below $1,000,000. After 17 days of
trial, the jury returned a verdict in favor of the University. The Court
denied a motion for new trial and ordered that plaintiff pay UC’s court
costs (approximately $10,000) which were successfully recovered.

If you have any questions about Employment Practices claims, please
contact Cheryl Lloyd at 510-987-9289 or cheryl.lloyd@ucop.edu

Fraud in the Workers’ Compensation Arena
By Hugh Parker, Director of Workers’ Compensation and Disability Management, UC Davis Health System
Shane Cole, Regional Claim Manager, Octagon Risk Services

Workers’ Compensation fraud remains an ongoing concern for
all employers doing business in the State of California. It affects
employers from every segment of the business community, and the
University of California is no exception. Fraudulent claims waste
both monetary and administrative resources.

During Fiscal Year 2002-03 the California Department of Insur-
ance recorded 3,544 suspected fraud case referrals, with 660 of those
cases being prosecuted by local District Attorneys. These efforts rep-
resented approximately $55,000,000 in chargeable fraud, although
the actual number of fraudulent cases is thought to be greater.

Keys to successful prosecution of fraud cases include timely
notice of the suspected fraud, coordinated and timely gathering of
supporting evidence and clear direction to the local District Attorney
responsible for prosecution. The ability to prove that the applicant
is lying to obtain benefits is crucial to the successful prosecution of a
suspected fraud case. This requires that supporting evidence (video
tape, deposition, etc.) be obtained within approximately the same
time frame that the applicant makes a false statement intended to
obtain benefits that would not otherwise be due.

Workers’ Compensation fraud can take the form of employee
(applicant) fraud, employer (premium) fraud, and medical provider
fraud. Applicant Workers’ Compensation fraud includes, but is not
limited to:
• Working in an unreported second job while collecting Workers’
  Compensation temporary disability benefits.
• Providing false information to the employer, insurance com-
pany, or physician(s) to secure Workers’ Compensation benefits.
• Staging an accident/injury to secure Workers’ Compensation
  benefits.
• Providing false and/or incomplete disability information to the
  hiring authority during a pre-employment physical examina-
tion.

In 2002, the University of California Davis Health System
(UCDHS) Chief Executive Officer Robert Chason and Human Re-
sources Executive Director Gloria Alvarado requested that the Work-
ers’ Compensation Unit and Octagon take an aggressive approach to
rooting out suspected fraud cases. Mr. Chason also requested that
the Workers’ Compensation Unit publish periodic fraud information
in the UCDHS Workers’ Compensation Supervisors Update news-
letter as an informational item and potential deterrent. We believe
this publication has captured the attention of many at UCDHS.

By way of example, consider a recent success story. The em-
ployee in question suffered an accepted injury resulting in temporary
disability. The employee failed to disclose secondary employment
that would have eliminated this employee’s entitlement to temporary
disability benefit. Based on excellent communication between the
Workers’ Compensation unit and Octagon Risk Services, an inves-
tigation was undertaken and the secondary employment was fully

University ever try cases  continued from front
Best Practice: Professional Liability Coordination

Customer Service Comes First

At UC Davis Health System (UCDHS), we consider our employees our most important customers. Their satisfaction with our services is a priority to us. In order to make this principle of customer service a reality we implemented the Professional Liability Coordination Meeting process in November 2003. This was founded on the belief in the importance of including the employee in the litigation process early on. We also understood that failure to involve the employee early in the process of litigation could negatively impact the defense of the case.

Coordination Meeting participants include the involved or named employee(s), defense counsel, the University’s third party claims administrator (Octagon Risk Services, Inc.), and UCDHS Risk Management staff. After a brief discussion by Risk Management as to the purpose of the meeting, defense counsel has an opportunity to speak to the attorney-client privilege and how to protect it and to discuss the allegations as outlined in the complaint. Additionally, this is a perfect opportunity to discuss the employee’s obligations in relation to the lawsuit, e.g., making oneself available for depositions and perhaps trial, being responsive to requests for information, etc. Risk Management staff also provide an overview of the Claims Allocation process at the Coordination Meeting.

The employee is provided contact information for Risk Management staff, defense counsel, Octagon Risk Services, and select UC Office of the President staff. Documents on deposition and trial testimony as well as legal terms are provided to the employee. Copies of these documents were provided to our defense counsel panel and all gave a thumbs-up to including the documents in the employee’s packet.

After the Coordination Meeting the UCDHS employee is kept informed regarding the case through regular updates by the assigned Risk Management Analyst. We initially provided these notices quarterly and recently changed to every 6 months as we found there was often little new information to provide quarterly. If something substantial develops during the time period between updates, however, we provide the information at that time. The information is brief and usually very general in nature. Assigned defense counsel is copied on all written communication.

We find the updates to be very useful as customer service tools and use this process in all our cases, whether or not they are litigated. Once an employee is identified as potentially responsible in a claim or suit, the employee is contacted by Risk Management and provided regular updates from then until the date the case is closed.

We have a future goal of asking the employee to complete an evaluation form at the conclusion of a case in order to assess our customer service.

Please contact Kathy Rowe at 916-734-2161 or kathleen.rowe@ucdmc.ucdavis.edu if you want additional details on this program.

Cost and Rewards continued from front

- Communicate to stakeholders and be an advisor to other executives and managers.

In the last 9 months, I have spent most of my time away from my desk and out at the locations learning about the University, meeting with a variety of people representing many different disciplines, and listening to and working with many talented risk management and healthcare professionals to develop strategies to reduce the cost of risk.

As you can see, injuries to our employees make up the most significant part of our risk, and the cost reflected in the Cost of Risk chart only tells part of the story. A recent Liberty Mutual poll shows that for every $1 spent on direct costs related to an accident, there are another $3 to $5 worth of indirect costs – putting the actual cost of an accident with direct medical and compensation costs of $15,000 at somewhere between $45,000 and $75,000. Most entities polled by Liberty Mutual said that they saved at least $3 for every $1 their company spent on workplace safety. OSHA’s Office of Regulatory Affairs reports savings of $4 to $6 for every $1 invested in safety.

The Office of Risk Services is working with local EH&S Directors, Occupational Health Practitioners, and Workers’ Compensation Managers to implement a variety of local and system-wide strategic initiatives to reduce costs and create a safer workplace including:

- Incident Reporting, a process to track and gather information on minor industrial injuries which includes determining causation and identifying actions to prevent injuries going forward.

We look forward to bringing you more information about our programs in future issues of this newsletter. We welcome all readers to visit our website at [http://www.ucop.edu/riskmgt/welcome.html](http://www.ucop.edu/riskmgt/welcome.html) to learn more about our initiatives and department.
**Introduction to Environmental Health and Safety**

The Environmental Health and Safety (EH&S) programs at the University of California campuses, medical centers, Division of Agriculture and Natural Resources, and national laboratories are a major effort, which includes over fifteen hundred employees working in numerous disciplines. The largest EH&S departments, located at the national laboratories, have in excess of one thousand personnel, while the smallest department, at UC Merced, has only three employees. Their programs and areas of responsibility vary by location. UC San Diego is the only centralized department with all EH&S and Risk Management functions under one director.

The EH&S function is unique because it interfaces on a daily basis with the entire university community, faculty, staff, students, visitors, and the surrounding communities. The global mission is to provide a safe, healthy, and environmentally responsible place for people to work, learn, visit, and live. The primary focus must be on loss prevention because when we can prevent the accident from happening everyone wins.

The EH&S departments are the primary contact for local, state and federal agencies to inform the university communities of regulatory requirements and to perform related compliance functions. Requests for information, training, regulatory interpretation and applicability, approval of potentially hazardous procedures, resolution of safety problems, surveillance, and monitoring are all functions handled by the EH&S departments. They serve as the workplace safety consulting resource and are working partners in advisory groups such as the Chemical Safety Committee, Radiation Safety Committee, Animal Use and Care Committee, Biological Safety Committee, and numerous other administrative and research committees. It is always their responsibility to provide recommendations on how to safely accomplish any mission the university undertakes.

*If you have any questions about EH&S programs, please contact Joe Adams at 510-987-0170 or joe.adams@ucop.edu*

---

**Fraud continued from page 2**

discovered. The employee refused to concede the facts in deposition.

A suspected fraud case referral was made to the District Attorney’s office, and the employee was recently convicted for illegally receiving Workers’ Compensation benefits. The employee received a 120-day jail sentence, four years probation, and has been ordered to pay $37,500 in restitution to the University.

The most effective tool in fighting workers’ compensation fraud is timely communication. By sharing information between the claim administrator, the workers’ compensation department, and the treating doctor, the likelihood that suspected fraud will be discovered and submitted for potential prosecution is greatly increased.