

Report

QUARTERLY UPDATE FROM CIS
May 2016

CIS looks ahead,
adapting to
meet members'
changing needs

Photo by Gary Halvorson, Oregon State Archives

CIS Provides Members with Risk Management Resources to Help Address the Loss of Recreational Immunity

Recreational Immunity Loss Brings New Challenges

In short: While recreational immunity may be gone by virtue of a court decision, CIS has resources to guide members in avoiding injuries (and limiting liability) at park and recreation facilities.

The Oregon Supreme Court decision in the case of *Johnson v. Gibson* has many members — and CIS — reacting with concern. The Court's decision in a case brought by an individual who was injured while jogging in a City of Portland park essentially invalidated recreational immunity, saying that while the public body remained immune from liability for injuries on recreational property, the employees of the public body could be sued. And, if negligence is proven, the public body, which must indemnify its employees, could be liable for damages.

Risk management can go a long way to prevent injuries, and potential claims of negligence. In addition to the recommendations in a recent edition of *Real-Time Risk*, CIS conducted two webinars to outline the Court's actions, and answer members' questions. One of the webinars, led by General Counsel Kirk Mylander, Property/Casualty Trust Director Scott Moss, and Claims Manager Jim McWilliams, was recorded and is available for viewing by members in the CIS Learning Center.

Following the webinars, staff compiled and answered members' questions, and some other commonly-asked questions about the new landscape for recreational immunity. Here's the Q&A:

Q: What is the legal implication when recreational immunity defense cannot be used, assuming that there is also no discretionary immunity?

A: Let's start with how things worked before *Johnson v. Gibson*. In the past, there were a person injured himself in a park and then sued a city or county, and also named a park maintenance employee in that same suit. [Q&A continued on last page]

Continued on next page



Quarterly Report

Continued from front

Final Rates Adopted: Same or Lower than Preliminary

In short: Rate changes in the Property/Casualty Trust are the same as announced at the CIS Conference in February. On the Benefits side, the final rates for the 2017 year also were unchanged, with the exception of rates for Kaiser Permanente coverage, which are lower.

The CIS Board of Trustees has adopted rate changes for 2016-17 that are the same as, and in one case lower than, the preliminary rates announced at the CIS Conference in February.

Here are the final adopted rate changes. Benefits rate changes are effective Jan. 1, 2017. Property/Casualty Trust changes are effective July 1, 2016.

CIS Benefits: Cities (EBS)

Medical	Dental	Life/LTD
<i>Pooled rates (groups <100) +/- experience mods</i>	<i>Pooled rates (groups <100) +/- experience mods</i>	
CIS/Regence: 2.5%	CIS/Delta Dental: 5.4%	Life: 0%
Kaiser: 5.1% (was 9.2%)	Kaiser: 7.95 – 9.04% (was 9.75%)	LTD: 0%
VSP Vision: 0%	Willamette Dental: 0%	

CIS Benefits: Counties (AOCIT)

Medical	Dental	Life/LTD
<i>Pooled rates (groups <100) +/- experience mods</i>	<i>Pooled rates (groups <100) +/- experience mods</i>	
CIS/Regence: 8.7%	CIS/Delta Dental: 0%	Life: 0%
Kaiser: 4.6% (was 8.7%)	Kaiser: 7.15 - 8.23% (was 8.6%)	LTD: 0%
VSP Vision: 3.75%	Willamette Dental: 0%	

The detailed Benefits rates (by plan and coverage tier) have been posted to the CIS website. Experience-rated Benefits members will receive their individual rates by May 6.

CIS Property/Casualty Trust

Overall, for Members with All Coverages	6.1%
Liability	9.0%
Property	0%
Workers' Compensation	7.16%
Auto Physical Damage	0%

“Weed in the Workplace”... and other Marijuana Issues

CIS Pre-Loss Attorney Tamara Jones will speak on “Weed in the Workplace,” one of three upcoming webinars on marijuana regulation presented by the League of Oregon Cities (LOC). Click on the links below for course descriptions and registration information or visit LOC’s website at orcities.org and select Marijuana Webinars from the homepage.

- May 17: "Marijuana: Taxes, Money and Malfeasance"
- May 24: "Cannabis, Courts & Local Control"
- June 7: "Weed in the Workplace"

All three trainings will begin at 1:30 p.m. and are free for LOC members (including Associate Members and Business Partners). Non-LOC members can register for a \$75 fee per webinar.

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Continued on next page

Quarterly Report



Katie Kammer, CIS' new pre-loss attorney

Continued from previous page

New Pre-Loss Associate Named

In short: Attorney Katie Kammer will join the CIS Pre-Loss team on May 31.

CIS members will have even more access to good pre-loss advice on employment issues, as we welcome Attorney Kathryn (Katie) Kammer as a pre-loss associate attorney. She starts work with CIS on May 31 and joins Pre-Loss Attorney Tamara Jones, backed by General Counsel Kirk Mylander and Administrative Officer/Attorney Steve Norman. HR Risk Management Consultant Janie McCollister rounds out the pre-loss team.

Katie has been with the firm of Miller Nash for the past eight years. At Miller Nash, she's advised clients on both employment and education law, represented clients before BOLI, the EEOC and in employment claims, and done the same kind of training that she'll perform for our members.

Katie is a magna cum laude graduate of the Loyola University Chicago School of Law; her bachelor's degree is from Northwestern University. She has been recognized for the past three years as a Rising Star in Oregon Super Lawyers magazine. We expect members will recognize her as a trusted advisor very quickly!

Recreational Immunity Q&A — Continued from p. 1

The public body could stop the suit and have it dismissed from court by asserting that recreational immunity protected both the maintenance employee and the public body from being sued at all.

After *Johnson v Gibson*, recreational immunity technically still applies to the city or the county, but it no longer applies to the employees of the city or the county. Using the same example, recreational immunity would stop the lawsuit from going forward against the city/county, but recreational immunity would have no effect on the case against the employee. And who pays for the suit against the employee? The employer*. The outcome is just like the city/county is being sued directly, as if recreational immunity never existed.

When recreational immunity is not in play, the plaintiffs will be able to go forward with lawsuits, but will still have the legal burden of proving that the city/county's employee was negligent, and that the employee's negligence is what caused the injury to the plaintiff. The defending city/county and its employee will then have the opportunity to bring forward evidence showing that they were not negligent and did not cause the person's injury.

*If the city/county is insured with CIS, then even though the member is legally obligated to defend its employee, CIS will cover the cost of that defense.

The complete recreational immunity Q&A is available on our website at www.cisoregon.org/Reclmmunity.

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