

PUERTO RICO

MARCH 2006

NATIONAL GOVERNOR VISITS THE CHAPTER

The CPCU Puerto Rico Chapter was honored by the visit of National Governor Michael Weinberg, CPCU to our February meeting. He presented the meeting attendants with an enlightening talk titled "Baseball, The 4-H's and the Insurance Industry". We look forward to having him back on future visits.



Governor Michael Weinberg with meeting attendants

April 26-29, 2006 Phoenix, AZ

**2006 Leadership Summit and
CPCU Society National Leadership Institute**



Raymond Pérez Brayfield, CPCU will be representing the Chapter in this year's Leadership Summit to be held in Phoenix, Arizona on April 27-29, 2006.



Arnaldo Rivera, CPCU currently chairs the Community Outreach Committee. The Chapter has chosen to sponsor a girls foster home and an activity is programmed for Summer 2006. If you wish to volunteer for this Committee please contact Arnaldo Rivera at (787)622-8585 or via e-mail at arnaldo@seguros multiples.com.

**Next Chapter Meeting On
April 20, 2006 (8:30 am)
At Cooperativa De
Seguros Múltiples**



Rafael Lebrón, CPCU will be heading the Chapter's Visibility/Candidate Development Committee. If you wish to form part of this committee please contact Rafael Lebrón at (787)278-0474 or via e-mail at rlebron@firstinsurancepr.com.



The CPCU Society has designated the month of March as the Ethics Awareness Month. Please visit the CPCU Society Web Page at www.cpcusociety.org for the various activities and information provided by the Society.

Puerto Rico Supreme Court Speaks Out on the Total Pollution Exclusion

by Raymond Pérez Brayfield, CPCU

The Puerto Rico Supreme Court has chosen sides in the ongoing judicial tussle over the interpretation of the "Total Pollution Exclusion" in the case of *Molina Texidor v. Plaza Acuatica* 2005 JTS 177.

In this case, twelve suits were filed against Plaza Acuatica Water Park and its insurer

after several persons suffered intoxication from chloride acid at one of the pools in the park. This chemical was used by the park for treatment of the water. The insurer refused to honor coverage to its insured based on the Total Pollution Exclusion Endorsement found in its CGL policy.

The Puerto Rico Supreme Court reasoned as follows:

1. The language of the Total Pollution Exclusion is ambiguous since it allows for confusion when applied to a particular claim and is subject to various interpretations. The Court also argues that the literal interpretation of the exclusion may lead to absurd results. It cites previous case law to the effect that an interpretation of a law or a contract which leads to absurd results can not be sustained. The Court uses as an example that a literal interpretation of the exclusion would lead to a denial of coverage in the case were a person slips on spilled Clorox detergent, since this substance can be considered to be an irritant.

2. Based on the well established principle that insurance contracts are contracts of adhesion and that any ambiguity shall be interpreted in favor of the insured, the Court concludes that the Total Pollution Exclusion only applies to traditional environmental pollution losses. The Court based its ruling on case law from the various states which hold that the historical purpose of the pollution exclusion limits the scope of the exclusion to environmental damage and not to every contaminant or irritant imaginable. The Puerto Rico Supreme Court does not define in its decision what constitutes traditional environmental pollution.

3. Based on these considerations, the Court ruled that since the insured regularly used the chloride acid in the maintenance of its pools, the incident in question does not fall under the definition of traditional environmental pollution and thus coverage and defense must be afforded.

This ruling greatly restricts the application of the total pollution exclusion in CGL policies issued in Puerto Rico. Pursuant to this decision, this exclusion may apply only to cases where “traditional environmental pollution” damages are claimed as in the case of industrial emissions. However, there will always be grey area cases which should generate further litigation in Puerto Rico with regards to this clause.

1st Annual CPCU Puerto Rico Chapter Luncheon

The 1st Annual Luncheon was held on November 4, 2005 at Los Chavales Restaurant in San Juan, Puerto Rico. This event was attended by Chapter members, CPCU candidates as well as guest insurance professionals. We also enjoyed the visit of Robert Miller, CPCU, past region governor. The guest speaker for the event was Atty. Edward Rivera of the Puerto Rico Insurance Commissioners Office who presented an overview of the new law creating the much anticipated Puerto Rico Offshore and International Insurance Center.



In Appreciation

*The Puerto Rico Chapter of the CPCU Society wishes to thank **Cooperativa de Seguros Múltiples** for their generosity in hosting our meetings at their facilities. We would also like to thank **Antilles Insurance Company** for their invaluable assistance in the planning of the 2005 Annual Luncheon as well as **Mc Connell Valdes Law Firm** for hosting our meetings during the past year.*



Chapter Officers

Eunice Betancourt, CPCU — President
Raymond Pérez Brayfield, CPCU — Vice President
Patrick Alemán, CPCU — Secretary
Carlos Irizárry, CPCU — Treasurer

Committee Heads

Arnaldo Rivera, CPCU — Community Outreach
Rafael Lebrón, CPCU — Visibility/New Candidates

CALENDAR

April, 20, 2006

Chapter Meeting.

Cooperativa de Seguros Múltiples
8:30 am.

June-July, 2006

Community Outreach Activity.
Date and details of activity to be
announced shortly.

The Newsletter is an ongoing effort to provide an additional meeting place for the Chapter members. We welcome any news, announcements or information, as well as articles on your respective areas of interest. Please forward any information, comments or articles to perezlaw@prtc.net, paleman@anglo-antilles.com or eunicebetancourt@prtc.net