



# COMPLETE Coverage

LANDSCAPE CONTRACTORS INSURANCE SERVICES, INC. NEWSLETTER

MAY/JUNE 2006

## Got Umbrella? By Mike Dunn, Vice President of Sales

*Unable to stop in time, your driver rear ends a car – killing two elderly couples. Two other cars are hit in the chain reaction injuring several other people. The claim was settled for.....?*

I am often asked, “Do I need an ‘umbrella’ policy; and by the way what is an ‘umbrella’ policy?” I will try to answer both questions as clearly and succinctly as possible in the space allowed in this article. If I am unable to do so to your satisfaction, please feel free to call me at (800) 628-8735 ext. 589 and I will send you some additional information on the subject.



An umbrella policy is actually an excess liability policy. The excess liability policy is referred to as an “umbrella” policy because it adds to or stands above your general liability, auto and workers’ compensation policies, like an umbrella is positioned (stands) above your

head to protect you from the rain. The standard general liability and auto policies provide \$1,000,000 of coverage per occurrence. An umbrella policy will add an additional layer of coverage over the \$1,000,000 provided by these policies (coverage comes in units of \$1,000,000 each). Thus, if you purchase a \$2,000,000 excess liability policy, you

have \$3,000,000 available to pay any covered bodily injury or property damage claim brought and awarded against your company. It also pays defense costs even if the suit is fraudulent.

Do you need an umbrella policy? It depends. When will you have that accident that could exceed the \$1,000,000 of coverage you have in your general liability or auto policies? If you never have that accident, then you will never need an umbrella policy. Jury awards have escalated in the last decade, and those awards are not always rooted in logic or fairness. The average jury award has increased by over 31% in the last 10 years.

What will it cost to add the peace of mind an umbrella policy will add to your life? Again, it depends. Give your agent a call and he can provide you a free no obligation quote.

Oh, by the way, the accident mentioned above was settled for \$3,500,116.

## What's Inside

- Are You Treating Small WC Claims as First Aid?
- Employee Spotlight: Carol Romero and Judi Smith
- Avoid WC Discrimination
- Safety Tips of the Month: Stay Snake Safe!

## LCIS is Involved!



**MULTI-DIMENSIONAL** – Our LCIS representatives develop and maintain a good working knowledge of the landscape industry in order to serve our clients better. Here this trio of LCIS reps – Jeff Pogue, V.P. of Sales Mike Dunn (author of the article at left), and Tom Raasch – attend a Water Conservation Day event for CLCA at Ewing-Glendale.



**IT'S NOT ALL WORK** – If there is a CLCA golf tournament going on somewhere in the state, you can bet LCIS will be well represented – doing business on the links. Shown are LCIS rep Jeff Pogue (left) former Inland Empire Chapter Treasurer, and Tom Raasch.



**AWARDS JUDGING NAVIGATOR** – Receiving a hand for his critically-needed involvement in the LA/SGV awards program is LCIS rep Tom Raasch (standing).



STEVE HARTMAN  
CEO / President

## PRESIDENT'S MESSAGE

# WC Rate Reductions Expected

### \$5 Million In Rebates!

It seems as though this year just started, but we are already half way through 2006! For LCIS this has been a very busy and good year. We are going to be rebating almost

\$5,000,000 dollars again this year to our current insured's and CLCA members! This should amount to somewhere around 5% of your total premiums paid in 2005. No other agency provides this great financial benefit along with competitive markets.

Be sure to renew your CLCA membership by Sept. 1. Shortly after this date we start working on calculating everyone's rebate and your name needs to be on the renewal list when we do this to be eligible for the rebate.

### CLCA Summer Meeting

CLCA is having their Summer Meeting July 12-15 at the Hilton San Diego Resort On Mission Bay. Sign up and attend. LCIS is again proudly sponsoring a great speaker, Marty Grunder, a successful entrepreneur, author, motivator and Midwest landscaper, for the morning session on Friday, July 14 starting at 8 a.m. SFX is great for networking, professional education, and FUN. I would also encourage you to participate in the Golf Tournament Fundraiser.

### Workers' Comp Rate Reductions Ahead

Workers' Comp rates have been recommended for reduction by 16% effective

July 1, 2006, per the WCIRB. The Insurance Commissioner should come out with his recommendation by the end of May. The rate reductions would be for policies renewing on or after July 1, 2006. In addition, those policies renewing July 1 and after would be seeing the rate reductions that took place in January 2006. The rate reductions could be different for class codes – such as the Landscape Class Code – meaning some may be less than others. LCIS is keeping an eye on this, and we will inform you as soon as the specifics are known. LCIS will and does have competitive markets for Workers' Comp.

### WC Insurance for Tree Trimmers

LCIS is continually reviewing and adding new markets that may help certain segments of the Landscape industry. As an example, LCIS, to my knowledge, now has the only standard Workers' Comp market available for Tree Trimmers. We can handle the business insurance needs of this entire class. Please refer anyone you know in the tree trimming business to us and we will

take care of them. Your referrals can be sent to Mike Dunn at [Mdunn@lcisinc.com](mailto:Mdunn@lcisinc.com) or by calling (800) 628-8735.

### Welcome, New Staff Members

LCIS has added staff to our Claims Department (Renee Mathews) and also to our Account Manager Department (Brenda Esparza and Lynn Martin). They all come to LCIS with a lot of experience and they are ready to serve you! We are very excited about the new additions to our company; please help us welcome them to LCIS.

For information about your coverages or insurance needs, feel free to contact your Account Manager, Mike Dunn (V.P. Sales), Kim Nichols (V.P. Services) or myself at (800) 628-8735, or visit our Website at [www.lcisinc.com](http://www.lcisinc.com) to connect via e-mail. As always, thanks for doing business with LCIS. We appreciate the opportunity to serve you. And if you are not a current customer, give LCIS a chance to earn your business!

Sincerely, *Steven W. Hartman, CEO/President*

## ¿Tiene Usted un Paraguas por si Llueve?

*Por Mike Dunn, Vice President de Ventas*

Imposibilitado de detener el tiempo, su chofer termina chocando por atrás a otro auto matando a una pareja de ancianos. Otros dos autos chocan en una reacción en cadena lastimando a muchas otras personas. ¿Y la demanda fue de...?

A mi me preguntan seguido, ¿"Necesito yo una póliza del tipo "paraguas"; y ya que estamos me podría explicar que es una póliza de tipo "paraguas"? Yo intento responder ambas preguntas lo más claramente y sucintamente posible en el espacio de este artículo. Y si no logro hacerlo a su entera satisfacción, por favor siéntase libre de llamarme al (800) 628-8735 x589 y yo le enviaré información adicional sobre el tema.

Una póliza del tipo paraguas es actualmente un exceso de la póliza de seguro. El exceso de una póliza de seguro es referido como "paraguas," por que ésta se suma o se eleva por encima de su póliza de seguro general, de automóvil o de compensación al trabajador, como un paraguas se coloca sobre su cabeza para protegerlo de la lluvia. El estándar de póliza de seguro general y vehicular que se provee es de \$ 1.000.000 de cobertura por caso. La póliza sombriilla sumará un monto adicional de cobertura de \$1.000.000 proveída

por esas pólizas (la cobertura viene en unidades de \$1.000.000 cada una). Entonces, si usted compra un exceso de seguro de \$2.000.000, usted tendrá disponible \$3.000.000 para pagar la cobertura de cualquier demanda de cuerpo lastimado o daño a la propiedad que se presente en contra de su compañía. Esto también puede pagar los costos de la defensa en los casos que son fraudulentos.

¿Necesita usted una póliza de cobertura tipo póliza? Depende. ¿Cuándo tendrá usted un accidente que puede exceder el millón de dólares en cobertura que posee su seguro general o póliza de seguro? Si usted nunca tuvo ese accidente, bueno posiblemente usted nunca necesite este tipo de pólizas. Las recompensas de los jurados han subido en la última década, y no siempre están enraizadas en la lógica y lo razonable. El crecimiento promedio se ha incrementado por encima del 31% en los últimos 10 años.

¿Cuánto será el costo de sumar a su paz mental una póliza de protección tipo paraguas a su vida? De nuevo, depende. Llame a su agente y él le podrá proveer una cuota gratuitamente sin compromisos ni costo alguno.

Ah, por cierto, el accidente mencionado arriba costó \$3.500.116.

## Contact Us

Toll-Free	(800) 628-8735
President	
Steve Hartman	ext. 520
Vice President – Sales	
Mike Dunn	ext. 589
Vice President – Services	
Kim Nichols	ext. 515
Chief Operating Officer	
Kim Ayala	ext. 511
Worker's Comp Manager	
Terry Mahlman	ext. 580
Certificate Request Fax	(800) 440-2378
LCIS Website	<a href="http://www.lcisinc.com">www.lcisinc.com</a>

# Employee Spotlight



**Carol Romero / Accounting Representative** has been with LCIS for 3½ years. She started out handling Cash Receipts and is now in charge of all carrier payables, financing and broker accounts. Carol has worked for several large corporations and has found the working environment here at LCIS is what she has been looking for. She enjoys the diversity of her position and people she works with, stating, “There is never a dull moment.” Carol has been a tremendous asset to the Accounting Department.

When outside the office, Carol enjoys traveling and camping with her husband, John. They both love to cook and entertain family and friends. Rocky and Buddy (Carol’s cats) also bring her much enjoyment, and she has great stories to share about them.

**Judi Smith / Workers’ Compensation Claims Consultant** has been with LCIS for just under 1½ years, but has 32 years of WC claims experience involving supervision and adjusting of WC claims.



Judi’s primary responsibility is to assist customers in establishing effective WC programs to help them control their losses/premiums. Her duties involve providing advice to customers, facilitating communications between customers and the claims administrators, troubleshooting problem situations, acting as an employer advocate when needed, monitoring key claims and reviewing claim reserves for accuracy.

Judi is available to help you with any questions you may have regarding WC claims. Judi has been married for 30 years, has four children and enjoys camping and traveling in her spare time.

Judi’s advice to customers: “Whether you have two employees or 200, the best thing you can do to impact your WC dollars, as well as the health of your injured employee,



**TERRY MAHLMAN**  
Workers’ Comp  
Manager

## WC Guru

By Terry L. Mahlman, CPCU

### Treating Small WC Claims as ‘First Aid’?

Several customers have inquired about handling small WC claims as **first aid** and paying the bills on their own. So I’ll attempt to bring some clarity to the subject.

California law categorizes certain small claims as first aid. If an injury meets the legal definition below, the employer does **not** need to provide the employee with a WC Claim Form (DWC-1); does **not** need to complete an Employer’s Report and report/submit the claim to the claims administrator; and finally, the employer is **allowed** to make arrangements with the medical provider to pay first aid bills.

Many California employers choose to pay their own first aid claims as it can assist the employer in keeping WC premiums down. However, this is an option, and many employers choose to report those claims and have the claims administrator pay the medical bills.

**So what is first aid?** To qualify as a first aid claim, the injured worker cannot miss any work beyond the work shift on the date of the injury. Furthermore, first aid treatment is defined as follows:

*“First aid” means any one-time treatment, and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.*

Here’s the rule of thumb I share with customers – if it is treatment you could provide to your child or spouse, it’s probably first aid. If your child cuts his hand and needs it to be washed and bandaged, a similar injury to an employee is likely first aid – even though a doctor provides the treatment. If your child needs sutures, none of us would have the capability of doing so, and a similar injury by an employee would not be first aid.

**What is not first aid?** If there is any lost time from work beyond the work shift when the employee is injured, the claim is not first aid. If treatment is not within the scope of the first aid definition, it’s not first aid. Your medical provider can guide you in determining what is and what is not considered first aid. Examples of non-first aid injuries include:

- Orthopedic injuries – back, neck, shoulder, knee, ankle sprains and strains
- Lacerations requiring stitches
- The physician prescribes prescription medication
- Treatment extends beyond the second visit with the medical provider

**What are the medical provider’s responsibilities for first aid claims?** Even though the employer does not have to report the claim to the claims administrator, California law requires the physician to file a Doctor’s First Report of Injury with the claims administrator – even on first aid claims. If the medical provider reports a first aid claim to the claims administrator, advise the claims examiner that it was first aid and they will code the claim as first aid so no payments are made. **Legitimate first aid claims on your loss run won’t impact your rates.**

As always, feel free to contact Terry Mahlman or Judi Smith at LCIS for any WC claim-related questions, including guidance on first aid.

**Do you have any workers’ compensation questions that you would like answered in future LCIS newsletters? Email your questions to [tmahlman@lcisinc.com](mailto:tmahlman@lcisinc.com).**

is to report the claim as quickly as possible and then stay involved in the process until the file is closed. Accomplish this by communicating with the medical provider and

the assigned claims examiner, and by letting your employee know that you are aware of what is going on with his claim.”

# On The Legal Front

By Christopher M. Galichon

## Avoid Workers' Compensation Discrimination

**H**ave you ever gotten angry because a worker filed a workers' compensation claim? Have you ever been frustrated about the worker's performance upon return to light duty? Have you ever been really suspicious of a work injury and let it affect the way you treat the employee? Of course...we all have. However, in order to protect your legal rights, you must know that the Labor Code prohibits actions taken against an employee solely because of their workers' compensation claim.

Section 132(a) of the California Labor Code prohibits discrimination against injured workers because of their workers' compensation claims. **The Code provides that you cannot discharge, threaten to discharge, or in any manner discriminate against an employee because they have filed a workers' compensation claim.**

The Statute also applies to any employee who testifies, or indicates intent to testify, in another employee's workers' compensation case.

### UNCOVERED CLAIMS – YOU PAY THE TAB

So far, I have not really told you anything. The first thing that you must know is that violation of LC 132(a) is AN **UNCOVERED CLAIM**. Once a violation is alleged, you must hire your own attorney to defend you, at your cost, and pay any award or settlement to resolve the case. A violation of this Statute is a misdemeanor punishable by fine and possible

jail time. Therefore, it is in your best interests to avoid these claims if at all possible.

If a WC Judge rules that you have violated this statute, the employee will be reinstated, be provided all lost wages and lost benefits with interest, and be provided with up to \$10,250 in increased workers' compensation benefits. For a worker who is making \$10 an hour and is out of work for three years, the damages alone exceed \$100,000. This is, of course, in addition to the costs of defense. Even worse, the injured worker would still have their rights to sue in civil court for violations of the California Fair Employment and Housing Act, the Americans with Disabilities Act, and suit for wrongful discharge.

That is the bad news.

The good news is that not every action you take is considered discrimination. The courts recognize that you have business realities and necessities that require specific, fair, impartial and appropriate personnel actions. The most important thing to remember to avoid discrimination claims is:

**Be consistent to all employees, both those injured at work, and those who have non-industrial conditions.**

The statute does not compel an employer to ignore the realities of doing business by re-employing unqualified employees or employees for who positions are no longer available. Similarly, when a union contract permits termination of seniority status for non-performance of work for twelve consecutive months in

instances of both illness and injury, the termination is reasonable. However, if there is a standard procedure whereby the employer will extend time

**“The courts recognize that you have business realities and necessities that require specific, fair, impartial and appropriate personnel actions.”**

absent from work without loss of seniority in cases of compensable injuries, the employer must then do that for all injured employees, not just one.

The imposition of the statute has not been read so broadly as to require you to provide a job for an injured worker “just because.” If the injured employee cannot do the job, with or without reasonable accommodation, you can terminate that employee. However, you must be careful that the employee has a final release from the physician. You must also be careful that you are fair and unbiased in your application of this standard. Again, the best practical tip is to be consistent with all employees.

### TREAT EVERYONE THE SAME

To avoid discrimination, it is imperative that you treat

everyone the same. Do not let emotions and non-business realities and necessities control your decision of how you treat injured workers. Ultimately, you will be saved the aggravation and expense of unwanted claims. Practice the three “Be’s” of avoiding discrimination. **Be fair. Be practical. Be right!**

If you are considering termination or discipline of an employee who has filed a WC claim, you would be wise to consult with an attorney or human resources expert before doing so. Even if you are “in the right,” be cautious of the exposures from LC132a.

### About The Author

*Christopher M. Galichon is the sole corporate shareholder of the Law Office of Christopher Galichon. He has represented employers and insurance carriers for their workers' compensation claims for the last twelve years. In addition to being licensed by the State of California, he holds a bar license from the United States Supreme Court. You are invited to visit his website at [www.galichonlaw.com](http://www.galichonlaw.com).*



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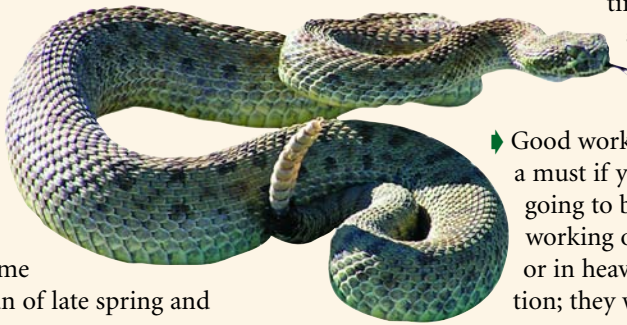
## Snake Season is Approaching – Stay Snake Safe!

**N**ext time you reach into or under a valve box, make very sure you don't grab hold of a snake along with those wires you were looking for!

Snakes may love the warmer weather, but they also love to snooze in shady spots in and around the landscape. One favorite place is in or under valve boxes where they can get some shade from the hot sun of late spring and summer.

Here are a few valuable tips to help you stay Snake Safe:

◆ Since snakes like to spend part of the day in shady places protected from the sun, be especially careful when approaching tall foliage, when reaching under large shrubs, or when working near or uncovering covered equipment.



◆ Disturb the area first with a long stick or rake before you enter or reach in. If a snake is lurking there, it will either scurry away or rattle. This will give you time to take

appropriate action.

◆ Good work boots are a must if you are going to be working on slopes or in heavy vegetation; they will afford you some protection against snake strikes.

◆ Develop a snakebite action plan before an accident occurs. Know where the local emergency hospitals are located in the areas you or your company works. Keep a snakebite kit in your truck and make sure you and your crewmembers know how to use it.

◆ If someone is bitten in your crew, try to keep the person calm. Excitement will only cause the venom to go through the bloodstream faster. In a calm state, you have about a half-hour to get medical attention. In an excited state, you only have about 15 minutes.

◆ If you are bitten, let your supervisor or fellow workers in the area know right away. Depending on your company's snakebite action plan, have your supervisor or a coworker get you to the nearest emergency hospital immediately. If no one else is around, you'll have to drive yourself there. Drive safely – don't compound the problem.

◆ Warmer days announce the beginning of snake season. Be extra alert and be Snake Safe.

As with all work-related injuries, remember to report a snakebite incident to your supervisor, when it is practical to do so.

## To Shred or Not to Shred?

*One agency had an experience that no one wants to repeat.*

**D**oes your office have one of those little shredders that you can buy at Office Depot? If it should stop working, this tip could be a lifesaver – literally.

An employee was convinced there must be a jam. She unplugged the machine (wise) and started sticking objects in it to see if she could detect a jam. She could not. Little did she know, it wasn't a jam at all. The motor simply gave out.

However, in a further attempt to correct the "jam," she took a can of compressed air and started spraying it in the machine. Again, sounds logical, right? Well, she plugged it back in and stuck her head by it to inspect the fruits of her labor.

**NEVER spray (compressed air) into a motor, specifically a paper shredder, due to the danger of explosions.**

At this point, the shredder exploded (flames and all). It burned half of her hair from her head. She inhaled the smoke and debris and was unable to speak.

Upon later inspection of the can of compressed air, it specifically indicated (in very large print, apparently) that you are NEVER to spray in a motor, specifically in a paper shredder, due to the danger of explosions. (I guess that will blow the subrogation for a products liability claim).

The moral of the story is to hire a service to pick up and shred your paper.

Source: *The Source, Advance Automation, Inc.*



**NOTE:**

*Do you have some safety tips that have made a difference for your company? Send them to LCIS at the address below, ATTN: Editor, and they might appear as future Safety Tips of the Month to share with your fellow CLCA members.*

 **LANDSCAPE CONTRACTORS INSURANCE SERVICES, INC.**

1835 N. Fine Ave., Fresno, CA 93727  
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## Se acerca la temporada de serpientes – ¡Sea precavido con ellas!

La siguiente vez que usted abra o trabaje en una caja de válvulas, asegúrese de que no tome junto con ese manojito de cables que usted está buscando ¡una serpiente!

Las serpientes pueden amar el clima caluroso, pero también aman dormir en lugares oscuros y cerca de los jardines. Uno de los favoritos lugares que tienen es bajo las cajas de válvulas donde ellas pueden volver de la sombra al calor del sol de la primavera tardía y del verano.

Aquí hay una lista de algunas recomendaciones para mantenerse a salvo de las serpientes:

♦ Desde que las serpientes les gusta pasar parte de su día en lugares oscuros protegidas del sol, sea particularmente cuidadoso cuando se aproxime a follaje alto, grandes arbustos, o cuando se

encuentre trabajando cerca de equipo cubierto o descubierto.

♦ Moleste primero el área con un palo largo o rastrillo de horas antes de entrar en él. Si una serpiente está oculta allí, ella se marchará o comenzará a sonar su cascabel. Esto va a darle tiempo para tomar la acción apropiada.

♦ Vista buenas botas de trabajo cuando usted vaya a trabajar en laderas de montañas o en secciones de

vegetación densa; ellas podrán darle algo de protección en contra de los ataques de las serpientes.

♦ Desarrolle un plan de acción para mordeduras de serpiente antes que el accidente ocurra. Conozca donde está el hospital local de atención de emergencia en las áreas en donde la compañía trabaja. Mantenga un equipo contra mordeduras de serpiente en su camión y asegúrese que

los jefes de grupo saben como usarlo.

♦ Si alguien es mordido en su grupo, trate de mantener en calma a la persona. La excitación solo puede causar que el veneno vaya a través del sistema sanguíneo más rápidamente. En estado de calma usted tiene como media hora para obtener atención médica. En estado excitado, usted solo cuenta con 15 minutos.

♦ Si usted es mordido, deje que su supervisor o compañeros de trabajo en el área que lo sepan inmediatamente. Dependiendo en el plan de acción en caso de mordedura de serpiente que posea su compañía, deje que el jefe de grupo o su supervisor lo lleve hasta el hospital más cercano. Si nadie se encuentra cerca, usted va a tener que manejar por usted mismo hasta allí. Maneje con precaución, no empeore el problema.

♦ Los días calurosos anuncian el inicio de la temporada de serpientes. Este alerta para mantenerse a salvo de las serpientes.

Como todos los accidentes relacionados con el trabajo, recuerde reportar todos los incidentes de mordeduras de serpiente a su supervisor, cuando sea práctico hacerlo.



## DESTRUIR O NO DESTRUIR

*Una agencia tiene la experiencia que nadie quiere repetir*

¿Tiene su oficina una de esas máquinas usadas para destruir documentos que usted puede comprar en Office Depot? Si la máquina para de trabajar, esta sugerencia puede salvarle la vida... literalmente.

Una empleada estaba convencida de que se trataba de un atasco. Ella desconectó (sabidamente) la máquina y empezó a meter objetos en ella para ver si podía detectar el atasco. No pudo. El motor simplemente había dejado de funcionar.

De todas maneras, en un nuevo intento de corregir el "ataasco", ella tomó una lata de aire comprimido y comenzó a soplar la máquina. Nuevamente, suena lógico ¿No? Bien, ella la conectó nuevamente y se acercó para observar el fruto de su labor.

En éste punto, la máquina explotó (con llamas y todo), quemando un cuarto del cabello de su cabeza. La inhalación del humo y de las partículas le imposibilitó el habla.

En una inspección posterior de la lata de aire comprimido, se encontró que específicamente indica (en grandes letras impresas) que usted NUNCA debe de soplar en un motor, especialmente en máquinas destructoras de documentos, debido al peligro de provocar explosiones. (Yo creo que esto elimina cualquier intento de una demanda por daños).

La moraleja de la historia es, contrate un servicio para que le de mantenimiento a su máquina destructora de documentos.



Fuente:  
The Source,  
Advance Automation, Inc.

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INSURANCE SERVICES, INC.**

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