

SCAA

April 2008

Vol. 35 No. 8

Seattle Claims Adjusters Association

Celebrating over 75 years of service to the claims community — Founded in 1930

“A professional organization dedicated to the ongoing education of the claims community.

Providing an arena for member interaction and the sharing of resources.”



Gail's Spot

— by **Gail Tuomi**, President

Thanks to all of our vendors who participated this year in our Spring Seminar and Vendor Fair!!!! Thanks to the TCAA board and to **Denise Ellison** of WSTIP, and **Roger Howson** of Claims Dispute Resolution, for all their efforts in getting the CE credits made available for this event at the last minute. I want to add my special thanks to **Lizzy Adkins** of Country Insurance, for coordinating the Vendor Fair, and to **Terry Cook** of Casualty Adjuster Guide and

Donna Silver of Grange Insurance Association for handling the registration table.

Our April Meeting will be dedicated to expressing our appreciation to all of our Vendor Partners. Vendors, please watch your mail for the invitation and please RSVP in a timely manner so we can account for those of you who can attend. The mailing will include a form for you to bring to the meeting for one free lunch. Any questions please give me a call.

We will also be holding our election for treasurer at the April Meeting. **Jim Peterson**, of Grange Insurance is the only nominee so far. Please see his bio included in this newsletter.

Time is drawing near to get signed up for the June 7-8th RELAY FOR LIFE event at Shoreline, WA. Chris Aversano of the American

*(See **Relay for Life...** continued on page 3)*

Next Meeting of the SCAA

April 18, 2008

The Swedish Club, 1920 Dexter Ave North, Seattle, WA

Program

**Patrick DeLangis of Matson Driscoll
D'Amico on Employee Theft & Fraud Cases**

Cost

\$15 Members \$20 Non-Members

Time

11:30 a.m.

It is important for you to RSVP if you are going to attend our luncheon meetings. Do so through our website or contact Gail Tuomi at gail.tuomi@grange.com. Thank you!



DON'T FORGET TO RSVP!

Please let us know you will be attending our next meeting by submitting an RSVP at our website:
www.seattleadjuster.org



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ON THE DOCKET FOR 2008

Date	Speaker/Topic
April 18	SCAA Meeting Patrick DeLangis with <i>Matson Driscoll & D'Amico</i> on Employee Theft & Fraud cases Also, it's Vendor Appreciation Day! and Election Day!
May 16	SCAA Meeting Paul Rosner with <i>Soha & Lang</i> on Depreciation & Recent Case Law Relative to "Actual Cash Value" SCAA Past President's Luncheon
June 7-8	American Cancer Society RELAY FOR LIFE Sign up NOW!
June 20	SCAA Annual Golf Tournament

Meeting Information

Please keep in mind that we'd like to start and end promptly during our monthly meetings. Here is the timeline for each meeting:

11:30 a.m. Registration
 11:45 a.m. Buffet
 12:00 p.m. Meeting Called to Order
 1:00 p.m. End of Meeting

Please arrive on time and have your cash or check (payable to SCAA) ready. We appreciate your cooperation and assistance.



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April Presentation

Employee Theft and Fraud

This presentation will address several of the general methods of employee theft and key issues for an adjuster to be aware of when evaluating a fidelity loss.

About the Presenter

Patrick DeLangis of Matson Driscoll & Damico, has over 14 years of experience practicing forensic accounting. He is a Certified Public Accountant (CPA) in Washington and California and a Certified Forensic Financial Analyst (CFFA). He has experience working on hundreds of engagements involving the evaluation and quantification of damages, including lost profits, fidelity losses, construction disputes, personal injury and medical malpractice. He has testified in depositions, mediations, arbitrations and at trial.

Founded in 1933, Matson Driscoll & Damico is a leading forensic accounting firm specializing in insurance loss accounting and litigation services. For more info visit their website at www.mdd.net, or contact Patrick DeLangis at 425/455-0056, or by email to pdelangis@mdd.net.

SCAA Nominee for Treasurer

My name is **Jim Peterson** and I'm with Grange Insurance.

I started my Insurance career in the Federal Way office at USAA in 1997. I was part of the Instant Resolution Unit (IRU) team pilot program. I worked in claims for about two years then I ventured to the Policy Service side of the house where I became a Senior Policy Service Representative and wrote Auto thru Umbrella Policies. I also was the Accounting Focal for the Seattle Office. Then they announced the Federal Way office was closing because they wanted an office that was closer to a larger Military presence — they chose Phoenix, AZ.


I did not move to Phoenix, instead I chose to move to the accounting department in Colorado Springs, CO.

I was in the accounting department for two weeks, when they announced they were moving the department to Phoenix. Again, I did not move to Phoenix. Instead I moved back to the Dark Side into the role of a Senior Claims Adjuster, where I prospered and grew and took on both Auto and Property claims.

Then an opportunity arose to be in the Subrogation Department in Phoenix. I finally moved to Phoenix. I lasted five weeks in 114 Degrees. Enough said about Phoenix.

I was offered a job with Direct Response. I moved back to Seattle. I took on the role of Claims, PIP and Total Loss Adjuster. My hat was rather large (no comments on my head, thank you). I decided to venture out and found my current home at Grange Insurance where I am a Material Damages Adjuster.

I'm also vertically challenged, horizontally gifted and follically impaired. I look forward to being part of the SCAA team as the new Treasurer. ❖



President's Choice Charity

Join SCAA President Gail Tuomi in supporting the American Cancer Society Relay for Life. Visit the SCAA website and click on the Relay for Life logo for more information.

Relay for Life... *(Continued from front page)*

Cancer Society has been contacting me to question why no one has signed on as yet to join the team. I will have all the information at the next meeting to get you signed on so we can start raising money for the Relay For Life.....to help fight cancer.

See you at the meeting!

PLEASE REMEMBER TO RSVP!!! ❖



DON'T FORGET TO RSVP!

Please let us know you will be attending our next meeting by submitting an RSVP at our website:
www.seattleadjuster.org

Comments from the VP Table

— by James K. Gomez, SCAA Vice President

The SCAA/TCAA Spring Seminar and Vendor Fair can be summed up as ...Defects, Rejects, & Other Subjects. Our wonderful title was created by **Roger Howson**, of *Claims Dispute Resolution*, our Co-Chair of this year's Seminar and Vendor Fair. The catchy title reflected this year's theme and supported the various topics presented by our guest speakers. As for those who attended the seminar, you were able to listen to our excellent speakers, eat tasty treats, eat a delicious lunch and then were able to partake in all of our drawings and vendor give-aways. And for those who could not attend, we missed you.

In Summary, our morning guest speakers were **Dale Mann** with *MDE, Inc.*, **Mark Lawless**, *Construction Systems & Management*, **Paul Smith** with *Forsberg & Umlauf, PS*, and **Trooper Kevin Pratt** with the *Washington State Patrol*. In the afternoon **Mark Cole** with *Cole Lether Wathen & Leid PC* presented current information on the Washington Unfair Claims Practices Act and our final speaker **Simone Bachaud** provided tips on listening and speaking. Thank you to all our guest speakers.

Next on the list — all our wonderful vendors.... **Lizzy Adkins**, of *Country Insurance*, can be credited for amassing and managing all the vendors that filled practically every spot in the large conference room. The meeting guests were able to go home with a new supply of pens, pads and all types of gifts and gadgets. Our vendors can be recognized as being a huge asset to our organization. They provide support to the organization through attending our functions, advertising and sponsorships.

Finally, thanks can be assessed to SCAA President, **Gail Toumi**, of *Grange Insurance*; TCAA President, **Denise Ellison**, of *WSTIP*; TCAA Vendor Partner, **Shelley Butler**, of *CRDN of WA*; **Terry Cook** with the *CAG of WA*; and all the SCAA and TCAA officers who participated in planning and attending the Seminar and Vendor Fair.

Please remember our next meeting will be on April 18, 2008. April is Vendor Appreciation month. We hope to see all the vendors at the meeting. Please remember to RSVP. For the meeting, our guest speaker is **Patrick DeLangis**. Patrick is with *Matson, Driscoll & D'Amico*. The topic will be **Employee Theft & Fraud Cases**. ❖

See everyone at the April Meeting!

Membership Application for 2007-2008



SCAA Annual Membership Application

Membership Dues for the year September 1, 2007 to August 31, 2008

DUES ARE NOT PRO-RATED

Please print neatly, one application per person

Applicant _____ Company _____

Mailing Address _____ City _____ State _____ Zip+4 (Required) _____

Phone _____ Email _____

Check the appropriate boxes: Renewal, year first joined _____ Change of Address New

Active Member — Adjusters & Claims Persons **\$25 Due** Life Member — Past President or Retired **No Money Due**

Associate Member — Member of Defense Bar or Former Claims Person **\$25 Due** Corporate Sponsor — Legal Firms **\$125 Due**

Send payment and completed application to: **The Seattle Claims Adjusters Association**
Barb Tyler—Alquemie Publishing
PO Box 87
Dexter, OR 97431

If you have any questions on type of membership or membership status, contact Barb Tyler at 541/937-2611, or by email: npassist@msn.com



Case Study

Federal District Court Rules IFCA Not Retroactive

— by Jeffrey D. Eberhard

As most adjusters know, last November Washington voters approved Referendum 67, titled “The Insurance Fair Conduct Act” (IFCA). Codified at RCW 48.30.015, the law became effective on December 6, 2007. IFCA substantially changed the law for first-party claims, allowing attorney fees and uncapped treble damages for the unreasonable denial of coverage or unreasonable denial of payment of benefits. Furthermore, if a first-party claim is unreasonably undervalued, there may be significantly more damages obtained by a plaintiff.

Not soon after the law became effective, the plaintiff in *HSS Enterprises, LLC v. AMCO Ins. Co.*, No. C06-1485-JPD, U.S. District Court for the Western District of Washington (February 1, 2008), moved to amend its earlier filed complaint to include an IFCA claim. Plaintiff’s case stemmed from an initial claim made to its insurer, AMCO Insurance Company, for building damage caused by fire in September 2005. A year later in September 2006, plaintiff sued, alleging AMCO had failed to pay a “vast majority” of the claim and plaintiff had sustained additional losses due to AMCO’s conduct. On January 14, 2008, just thirty-nine days after IFCA became effective, plaintiff moved the federal district court to amend its complaint to include relief under IFCA over AMCO’s objection.

Plaintiff argued that IFCA should apply retroactively. Alternatively, plaintiff argued that even if the law did not apply retroactively, it should be able to amend its complaint to assert claims for AMCO’s post-December 6, 2007 conduct. AMCO argued the opposite, claiming plaintiff’s amendment “futile” because it sought relief for past conduct not covered by IFCA. The federal district court agreed with AMCO, finding 1) the Washington legislature never expressed an intent to apply IFCA retroactively, 2) the statute did not contain any past-tense language that would suggest retroactive application, and 3) because the statute created a new cause of action, IFCA was not “remedial” in nature

Claims Pointer

A federal magistrate judge recently held that Washington’s Insurance Fair Conduct Act (IFCA) is not retroactive in application. Though the federal district trial court’s opinion is not binding on any Washington courts, it does serve as an early example as to how other courts may evaluate this issue.

and thus did not require any modification of a pre-existing right.

The court stated “as a general proposition, courts disfavor retroactivity.” Applying this presumption and finding the other factors that suggest the forward-looking nature of the law, the court concluded that IFCA should be applied prospectively only and denied plaintiff’s motion to amend its complaint. The court further held that plaintiff’s argument that it should be able to amend its complaint for post-December 6, 2007 conduct failed because plaintiff relied on pre-IFCA conduct as grounds for its post-IFCA enactment allegations.

Please note that as a federal district trial court opinion, the *Enterprises* case is not binding on other courts. However, the case does demonstrate how Washington courts may analyze this issue and has been summarized for that reason. ❖

— If you would like to be notified of these new cases, please send an email to caseupdate@smithfreed.com.

This article is intended to inform our clients and others about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in this article without seeking professional counsel.



Tacoma Claims Adjusters

— Upcoming Meeting —

May 9, 2008

11:30 am - 2:00 pm

LaQuinta Inn

1425 East 27th Street, Tacoma, WA

For more information visit:

www.tacomadjusters.org