

SCAA

June 2009

Vol. 36 No. 10

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.”



James' Headlines

— by James K. Gomez, SCAA President

The month of May concluded the 2008-2009 year with a huge and successful meeting. The theme of the May Meeting was to honor our Past Presidents. We had a total of 30 past presidents and guests in attendance. It was also our largest meeting for the 2008-2009 year with an attendance of approximately 95 people! I believe everyone enjoyed the traditional Swedish Meatballs and Salmon. Desert was provided by Sweet T's Cakes and Catering. The cake was decorated with each of the names of the past presidents. Thank you for all who

attended. Below is a list of names of our attending past presidents and their guests:

Past Presidents: Joe Whitlow, Nancy Bryant, Sue Dahlin, Al McMann, Kathy Barnett, Sharon Setzler, Bob Jeans, Lizzy Adkins, Gail Tuomi, Lee McGonagle, Julie Benedict, Steve DeKoekkoek, Larry Garlinghouse, Donna Silver, Frank Lucarelli, Gordon Everett, Norm McFarland, Ron Abraham, Will Markey, Willie Markey, Keo Capestany, Carol Seepersad-Green, Roberta Gustafson, Fred Beihl, and Annette Grace.

Guests: Sandi Zehrung, Dick Marquardt, Philip A. Talmadge, Bill McGonagle, and Marcy Abraham.

At the May meeting our new officers were sworn in by Philip A. Talmadge, a former Washington Supreme Court Justice (quite exciting!). Congratulations are in order for our 2009-2010 officers: **Dean West**, President; **Jim Peterson**, Vice President; **Lynn Perry**, Secretary; and **Deborah Jette**, Treasurer.

(See Headlines... continued on page 3)

Next Meeting of the SCAA

September 18, 2009

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

Program

To be announced — See your September newsletter
Membership Drive

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 James Gomez at jgomez@frontieradjusters.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



OFFICERS

James Gomez President
Frontier Adjusters Office: 425/391-4951
 Email: jgomez@frontieradjusters.com

Dean West Vice President
West Adjusters Office: 425/522-4625
 Email: deanwest@westadjusters.com

Walt Pinkerton Secretary/Editor
Western Nat'l Assurance Office: 206/838-4041
 Email: walter.pinkerton@wnins.com

Jim Peterson Treasurer
Grange Insurance Office: 800/826-3197 x2448
 Email: jim.peterson@grange.com

Gail Tuomi Immediate Past President
Grange Insurance Office: 206/448-4911 x2400
 Email: gail.tuomi@grange.com

Department Heads

Jim Peterson Membership Liaison
Grange Insurance Office: 800/826-3197 x2448
 Email: jim.peterson@grange.com

Barb Tyler Membership List
Alquemie Publishing Publisher/Advertising
 Website Coordinator
 Office: 541/937-2611
 Fax: 541/937-4286
 Email: npassist@msn.com

Timothy Reid Case Review
Attorney at Law Office: 425/313-9414

Roger Howson Education Chair
Claims Dispute Resolution Office: 206/676-3851
 Email: rogerhowson@claimsdispute.com

Carol Seepersad-Green Holiday Event Chair
Liberty Mutual Office: 253/874-9876
 Email: carol.seepersadgreen@libertymutual.com

Lizzy Adkins Golf Tournament Chair
Country Insurance Office: 253/476-2175
 Email: lizzy.adkins@countryfinancial.com

Bob Jeans Tennis Tournament Chair
JMW Settlements Inc. Office: 425/396-4344
 Email: bob.jeans@jmwsettlements.com

Travis Simpson Bowling Tournament Chair
CRDN Office: 206/919-2395
 Email: travis.simpson@crdn.com

Lizzy Adkins Job Finder
Country Insurance Office: 253/476-2175

Walt Pinkerton Website Liaison
Western Nat'l Assurance Office: 206/838-4041
 Email: walter.pinkerton@wnins.com

ON THE DOCKET FOR 2009

Date	Speaker/Topic
Sept 18	SCAA Meeting & Membership Drive It's time to renew your dues! See back cover for the application or visit our website!
Oct 16	SCAA Meeting
Nov 20	SCAA Meeting

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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SCAA Tennis Team ~ Tournament 2009



**SCAA
2009
GOLF
TOURNAMENT**
SEE WEBSITE FOR
MORE PHOTOS!

Headlines... *(Continued from front page)*

Of course we had our traditional drawings and the winner for the Adjuster Drawing went to **Pat Brewster** with Great American Insurance Group. The winner for the Vendor Drawing went to **Jody Runge**, with RestorX. Our winner for the Past President's \$50 Drawing went to **Al McMann**. The Blue Bucket winner was **Eric Clark**. Congratulations are in order for all the winners!

The "SCAA President's Cup Tennis Tournament" was held on Saturday, June 6, 2009. I would like to thank Past President, Bob Jeans for organizing the event, and all the sponsors who contributed food and prizes. We had 16 tennis players and ran three double matches simultaneously. I believe everyone had fun and had a great time playing tennis. **Gale DeLisio** with Halo Construction went home with the Tom Bishop Memorial Tennis Award. See the photo below of all the players.

This year's annual SCAA Golf Tournament was another exciting event. There were great sponsors and lots of goodies at each hole. The food and location was excellent also! Thanks to all the hard work of our Golf Tournament Committee. A special thank you goes to **Jody Runge** with RestorX of Washington. RestorX raised \$505 in their charity drive. The proceeds were split with **Tim Norris** of The Sterling Group. Tim was kind enough to donate his winnings to this year's SCAA selected charity — The Leukemia and Lymphoma Society. Thank you RestorX and Tim Norris!

The 2009-2010 year begins in September with our first meeting on Friday, September 18, 2009. Please remember to renew your dues NOW before you forget! See the application on the outside of the back cover.

Thank you everyone for a great year! 🙌

Membership in SCAA is open to all claims adjusters, and should be a priority on your list of things to do! Print the application from our website, or find it inside this newsletter.

RENEW TODAY!
www.seattleadjuster.org



In Memory Of...
Calvin G. Bump

Cal passed away peacefully at home on May 6, 2009. Cal had retired from United Pacific/Reliance Insurance in May 1994 after 25 years of service to the industry. He worked as either an auto damage appraiser or auto liability adjuster during his career. Our condolences to his family and friends.



Case Study
SMITH FREED & EBERHARD P.C.
Your Litigation Partner

In Collection of Subrogation Claims, Insurers Must Be Mindful of Collection Company Tactics or Risk Consumer Protection Claims

— by Jeffrey D. Eberhard

Claims Pointer: A business or consumer relationship is not required to file a claim under the Consumer Protection Act. An insurance subrogation claim, in which liability and damages have not been determined, masquerading as a due and owing debt, is likely to be considered deceptive and unfair for purposes of a CPA claim.

Subrogation claims by insurers are not immune from the regulations and guidelines placed on businesses by the Consumer Protection Act (CPA). It is imperative for insurance companies to be aware of their own practices in dealing with claimants as well as the practices of the companies used by the lawyer to collect on subrogation claims. Practices that border on deception, through conduct by the insurance company itself or by a contracted com-

pany, can be sufficient to form the basis of a CPA claim. Such was the case in Panag v. Farmers Ins. Co. of Washington, --- Wash.2d ---, 204 P.3d 885 (April 2, 2009), in which the court determined that deceptive techniques used to collect money on subrogation claims in which liability and damages had not been determined was a violation of the CPA.

Three consolidated cases involving multiple plaintiffs presented the issue on whether the CPA, chapter 19.86 RCW, applied to a collection agency's allegedly deceptive efforts to collect on an insurance company's subrogation claim against an underinsured motorist. The plaintiffs were involved in automobile accidents. The drivers of the other cars made claims for underinsured motorist (UIM) benefits from their insurance providers, Farmers Insurance and Omni Insurance. The insurers determined that the plaintiffs were at fault and proceeded to settle their insureds' UIM claims and then retained Credit Control Services (CCS) to collect the amount paid from the plaintiffs. In its efforts to collect on the subrogation claims, CCS sent to the plaintiffs "FORMAL COLLECTION NOTICE" forms, demanding payment for "AMOUNT(S) DUE" and warning of "ACTIVITY PENDING" and to "[a]ct immediately." CCS also indicated that it would proceed by any other method of collection allowable

Membership Application for 2009-2010



SCAA Annual Membership Application

Membership Dues for the year September 1, 2009 to August 31, 2010

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

by law, which could result in additional penalties, including license suspension and litigation costs.

The plaintiffs filed a class action suit, alleging that the collection methods used by the insurers and CCS constituted unfair and deceptive business practice in violation of CPA. The plaintiffs alleged injuries based on loss of business profits as a result of taking time away from their businesses to investigate the collection notices, as well as incidental damages including the costs of purchasing a credit report, purchasing a credit monitoring service, parking, wear and tear on their cars and consulting with attorneys. All of the parties moved for summary judgment.

The trial court granted partial summary judgment in favor of the plaintiffs as to liability. The Court of Appeals affirmed the trial court.

On appeal, CCS and the insurers made two arguments. First, CCS argued that the plaintiffs lacked standing to bring suit under the CPA because the CPA applies only to disputes arising from a consumer or business transaction, not an alleged tort, and that only a consumer or someone in a business relationship can bring a private cause of action un-

der the CPA. The court disagreed. It stated that a plaintiff's standing requirement is fulfilled when a plaintiff proves: "(1) an unfair or deceptive act or practice, (2) occurring in trade or commerce, (3) affecting the public interest, (4) injury to a person's business or property, and (5) causation." *Hangman Ridge Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn. 2d 778, 784, 719 P.2d 531 (1986). Separate proof of a consumer transaction between the parties is not required. The court further declined to mandate that a claim under the CPA must arise from a consensual consumer or business transaction, citing the language of the CPA itself which allows "[a]ny person who is injured" to bring a CPA claim. As such, the court found that it was not necessary to establish any direct or indirect consumer or business relationship between the parties.

Second, CCS argued that the collection notices at issue were not unfair or deceptive because they accurately stated that the demand was related to a subrogation claim. The court was not convinced, reasoning that accurate information may still be deceptive if an ordinary consumer would not understand the meaning of a "subrogation claim" and would be

(See Case Study... continued on page 6)

Benefits of Membership in SCAA — Join or Renew Today!

We can't say enough about the advantages of membership in the Seattle Claims Adjusters Association. The benefits are numerous, for example:

- **Newsletter** — Receive a copy of the SCAA newsletter September through June, packed full of educational articles and other information of interest to adjusters. It is also a resource guide to goods and services provided by our industry vendors — who also support our Association.
- **Monthly Meetings** — Attend these meetings to hear local presenters on topics that are pertinent to today's adjuster — always educational and sometimes entertaining!
- **Spring Seminar & Vendor Fair** — An entire year's worth of work goes into planning and hosting this annual educational event held in the spring — touching on all the hot topics and providing you an opportunity to meet with industry vendors face-to-face outside of your office.
- **Golf** — Not much educational about golf, but what adjuster today doesn't need a little relaxation and fun — held in the summer each year.
- **Website** — Stay in touch with local happenings and other claims associations in the Pacific Northwest. Open a web version of our newsletter. Find contact information for SCAA board and committee members. Or find a new job from the employment listings. And there's more.....

Membership in SCAA is open to all claims adjusters, and should be a priority on your list of things to do!
Print the application from our website, or use the one on the previous page.

JOIN or RENEW TODAY!

www.seattleadjuster.org

Claim-Handling Woes are Prominent in Consumer Insurance Gripes

Reprinted from www.claimscoach.blogspot.com. March 30, 2009.

According to a recent study by the National Association of Insurance Commissioners, claim disputes and problems figure prominently among the reasons for consumer complaints. The top five reasons behind insurance complaints in 2008:

Claim delays 19.1%

Claim denials 18.4%

Unsatisfactory settlement/offer 14.2%

Premium & rating 4.7%

Cancellation 4%

What types of insurance generate the most claims?

Accident & Health 36.9%

Auto 36.7%

Homeowners 11.8%

Life & Annuity 9.5%

Commercial Multi-Peril 1.9%

Case Study... *(Continued from page 5)*

induced to render payment on the mistaken belief that there was a legal obligation to do so. In addition, the court found CCS's argument that the Federal Debt Collection Practices Act (FDCPA) and the Collection Agency Act (CAA) specifically allow a creditor to characterize an alleged claim as a "debt" and an "amount due" unpersuasive based on the fact that the collection of insurance subrogation claims did not fall within the regulation of either of these acts. The court stated that even though certain debt collection activities may not fall within the regulations of the CAA, under the broader scope of the CPA, holding an unadjudicated subrogation claim out as a debt that is due and owing may still constitute unfair and deceptive practice.

The court held that under the five-part Hangman Ridge test, the plaintiffs had properly established standing. The court also held that deceptively characterizing an insurance subrogation claim, in which liability and damages have not been determined, as a liquidated debt that must be paid immediately may form the basis of a CPA claim. ❖

— Full Case Available at: <http://www.courts.wa.gov/opinions/pdf/803579.opn.pdf>

— 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.