



March 2005

Vol. 32 No. 7

Seattle Claims Adjusters Association

*"A professional organization dedicated to the ongoing education of the claims community.
Providing an arena for member interaction and the sharing of resources."*

Insurance FRAUD News

- **The Indiana House overwhelmingly passed a bill** beefing up the state's weak insurance-fraud law. HB 1403 would lengthen jail sentences, increase fines and make premium fraud an insurance crime. The current law, which is one of the nation's weakest, only criminalizes bogus claims. The state Senate next debates the measure, and could vote as early as this month. The coalition's Howard Goldblatt testified in support of the bill before a key House committee two weeks ago.
- **A Kansas Senate committee held a hearing on a bill** strengthening that state's weak anti-fraud law this week. SB 207 would clarify that all insurance schemes are a crime, and require insurers to report suspected swindles to the state fraud bureau. "Stronger fraud laws and enforcement have helped reduce insurance costs in several states. This

bill is good for consumers, it's good for business and it's good public policy," the coalition said in a letter to legislators in support of the bill. The coalition advised the insurance department during drafting of the bill.

(See Fraud News... continued on page 4)



March 11, 2005 • DoubleTree Hotel
18740 Pacific Highway South • Seattle, WA 98188

Next Meeting of the SCAA

April 15, 2005

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

Program

To be announced

Menu

To be announced

Cost

\$10 Members \$18 Non-Members

Time

11:30 a.m.

If you have special dietary needs, please give a 48-hour notice by calling the Swedish Club at (206) 282-5903.

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OFFICERS

C. Annette Grace President
Insurance Overload Staffing Office: 425/226-0395
 Email: annette_grace@insuranceoverload.com

Lizzy Adkins Vice President
Grange Insurance Office: 206/448-4911 x2473
 Email: ladkins@grange.com

Julie Benedict Secretary/Editor
Grange Insurance Office: 206/448-4911 x2326
 Email: julie.benedict@grange.com

Shon O'Fallon Treasurer
AJG & Co. of Washington Office: 425/586-1075
 Email: shon_ofallon@ajg.com

Donna Silver Immediate Past President
Grange Insurance Office: 206/448-4911 x2472
 Email: donna.silver@grange.com

Department Heads

Shon O'Fallon Membership Liaison
AJG & Co. Office: 425/586-1075
 Email: shon_ofallon@ajg.com

Barb Tyler Membership List
Alquemie Publishing Publisher/Advertising
 Website Coordinator
 Office: 541/937-2611
 Fax: 541/937-4286
 Email: quill97@aol.com

Jay Jared Adjustments
Cunningham Lindsey Office: 425/672-0160

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

Shon O'Fallon Education Chair
AJG & Co. Office: 425/586-1075

Shelly Pond Holiday Event Co-Chair
ServiceMaster of Seattle Office: 425/637-9770

Jesse Williams Golf Tournament Chair
Classic Claims Service Office: 425/379-0485

Bob Jeans Tennis Tournament Chair
JMW Settlements Inc. Office: 425/396-4344

David Kean Bowling Tournament Chair
Custom Commercial Office: 253/952-4001

Sharon Setzler Job Finder
Allied Pacific Office: 425/481-2800

Julie Benedict Website Coordinator
Grange Insurance Office: 206/448-4911
 Email: julie.benedict@grange.com

ON THE DOCKET

Date	Speaker/Topic	Menu
March 11	SCAA/TCAA Annual Spring Seminar & Vendor Fair (No regular meeting in March)	N/A
April 15	SCAA Meeting — Tax Day! 2nd SCAA Bowling Tournament directly following the meeting!	TBA

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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Case Study

Product Liability Remedy for "Bystanders" in Asbestos Cases

— by Stephen E. Archer

Lunsford v. Saberhagen Holdings, Inc., ___ P.3d ___, 2005
WL 357366 (Wash. App. Div. 1 2005)

Mesothelioma is a malignant form of cancer caused by exposure to asbestos. Often, this disease strikes people whose occupations caused them to come into contact with asbestos fibers. For many years, Washington courts have recognized a strict liability tort for manufacturers and products sellers who sell any unreasonably dangerous product such as asbestos. Typically, the plaintiff in an asbestos lawsuit will be a person who worked at an industrial site with asbestos-containing products, such as most insulation materials before the mid-1970s. Persons who worked with roof, floor, and ceiling tiles, fire-proofing spray, and automobile brakes and clutches have developed the disease years after working with those products. Boilermakers, plasterers, shipyard workers shipyard and Navy personnel are among the many occupations who have been affected by the disease.

Mesothelioma sometimes develops in persons who had relatively little exposure to asbestos, such as the family members of persons who worked with asbestos and brought its dust, fibers and residue home on their personal effects. For example, spouses who washed the worker's clothes, and children who lived with the worker, have developed the disease.

Courts in other states have recognized a strict products liability tort remedy for such "bystanders," but until last month, no Washington courts had. On February 14, 2005, Division 1 of the Washington Court of Appeals became the first to do so, expanding coverage under strict liability to bystander injuries in *Lunsford v. Saberhagen Holdings, Inc.*, ___

Blue Bucket Drawing



January's winner was **Bob Mullin** of Moore & Mullin, however, since he was not present, the pot increases to \$150 for April.

Must be present to win the next drawing on April 15!

February Winner's Circle

\$50 Adjuster/Member Drawing

Inger Kjosnes
Grange Insurance

\$25 Adjuster Drawing

Sue Dahlin
Past President 1995-96

\$25 Vendor Drawing

C. Annette Grace
Insurance Overload

\$100 Gift Certificate to El Gaucho

Provided by Vendor of the Month SIR Construction
Won by
Tom Ewing
Puget Sound Energy

P.3d ___, 2005 WL 357366 (Wash. App. Div. 1 2005).

In *Lunsford*, the plaintiff, Mr. Lunsford, was a man whose father worked at a Texaco refinery in Anacortes, Washington in 1958, who sued defendant for its alleged connection to a company which provided asbestos-containing insulation for the refinery. He

Adjusting Tip

*The pool of potential plaintiffs in
asbestos lawsuits has become larger*

asserted that he was exposed to asbestos when his father would return from work with asbestos dust on his clothes, hat, vehicle and tools. The trial court granted defendant's motion

for summary judgment on the issue of strict liability because it determined that Mr. Lunsford was not a "user" of the asbestos product.

The Court of Appeals reversed the trial court, first observing that courts in other states, such as California, Michigan, Indiana, Maryland, Texas, Arizona and Ohio had expanded products liability

(See Case Study... continued on page 4)



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Case Study...

(Continued from page 3)

to bystanders. It also observed that, although no Washington cases had addressed that issue, some Washington cases indicated an assumption that bystanders could bring suit under a theory of strict liability. However, the court ultimately based its decision on policy considerations. The court explained that because of the lack of authority and the literal language of the section of Restatement (Second) of Torts upon which the tort is based, "policy considerations are key" in determining that whether strict liability should extend to injuries to bystanders.

The court provided several policy rationales, including that the seller of the products have assumed a special responsibility to the public who may be harmed by the products the sellers market,, and "the burden of accidental injuries caused by the products should be treated as a cost of production against which liability insurance can be obtained." The court held that these policy rationales "support application of strict liability to a household family member of a user of an asbestos containing product if it is reasonably foreseeable that household members would be exposed in this manner." ❖

— 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.

Fraud News... *(Continued from front page)*

- **Frustrated by rising costs stemming in part from bogus injury** claims from real or staged car crashes, several legislators are trying to dump Minnesota's no-fault auto-insurance law. Bills were introduced in the state House and Senate on Wednesday. There's bipartisan agreement that the no-fault system needs fixing, according to reports, but there's disagreement over whether to reform or repeal no-fault. Minnesota has the

highest premiums in the Upper Midwest, some state legislators contend.

- **The coalition's Howard Goldblatt will testify in support** of a bill creating Vermont's first insurance-fraud law before a state House committee next Thursday. Vermont is one of a handful of states without an insurance-fraud law. HB 150 is based on the coalition's model fraud law.
- **The Washington State legislature is debating a bill** requiring the insurance commissioner and AG to review the state's anti-fraud effort. HB 1977 would have the state agencies review all of the state's laws involving insurance fraud, see how other states combat the crime, and advise whether Washington should create a fraud bureau.
- **U.S. Sen. Mike Enzi introduced a bill yesterday** to protect military personnel from agents and others who try to sell them costly and unneeded life-insurance and other financial products. Allegations recently surfaced about widespread sale of expensive life products to soldiers, many of who allegedly were led to believe they were required to buy the coverage. Enzi's bill establishes state jurisdiction over the sale of insurance on military bases, and requires the U.S. Department of Defense to keep a list of individuals banned from bases due to abusive sales tactics. A companion bill has been introduced in the House.
- **The coalition took part in a news briefing opposing bills** creating so-called Association Health Plans (AHP). HR 525 and S 406 would open the doors wide to fraud, health insurers and consumer groups said at the Washington, DC briefing. The bill would deny states any role in overseeing AHPs, leaving oversight solely to the overstretched feds. Swindlers could easily exploit this regulatory vacuum by creating fake AHPs. The Bush Administration, however, strongly backs the creation of AHPs to help small businesses find affordable health coverage. ❖

Adjustments

If you have any questions and/or any "Adjustments" please contact **Jay Jared**, *Cunningham Lindsey* at
 Phone: 425/672-0160 Fax: 425/672-0106
 Email: mjared@na.cunninghamlindsey.com



"What has two legs and can be seen running fast every third Friday of the month? An adjuster on their way to an SCAA meeting!"

April 15 — Be there!