

SCAA

March 2008

Vol. 35 No. 7

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

The 2008 SCAA/TCAA Spring Seminar and Vendor Fair is coming up soon. Please see the registration in this month's newsletter and on the website. You can sign up at the door but we do appreciate early registrations to help us with our planning.

As you are aware, the charities I have chosen during my term as president are Kyle's unit in Iraq and the "Relay for Life" American Cancer

Society event. We collected \$650 for our troops to purchase the items they have requested. My heartfelt thanks to each and every one of you for this support.

Yeah!!! Thanks to Chris Aversano from the American Cancer Society we have our team registered for this June 7-8 overnight event. Please contact me or Shelley Butler to join us.

We are accepting nominations for the SCAA treasurer to join the board for the 08-09 term. Please contact anyone on the board if you or someone you know has an interest. Hurry up though, we need to announce the nominees in March at the seminar.

Thanks to Travis Simpson for chairing our bowling tournament. All who attended had a great time. Travis is planning another tournament in the Fall. ❖

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
March 14	SCAA-TCAA Annual Spring Seminar & Vendor Fair See page 13 for registration
March 21	NO MEETING SCHEDULED
April 18	SCAA Meeting Patrick DeLangis with <i>Matson Driscoll & D'Amico</i> on Employee Theft & Fraud cases
May 16	SCAA Meeting Paul Rosner with <i>Soha & Lang</i> on Depreciation & Recent Case Law Relative to "Actual Cash Value"
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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Case Study

Negligent Infliction of Emotional Distress Requires Family Member Witness Injured Relative's Immediate Suffering

Negligent infliction of emotional distress is a limited tort that permits a family member to recover damages for the emotional distress caused by observing an injured relative shortly after a traumatic event and prior to any substantial change in the relative's condition or location. In February, the Washington Supreme Court ruled on a case that involved a father suing for negligent infliction of emotional distress after his daughter's drowning from "teak boarding", which is performed by holding onto a swim platform (or teak) at the back of a boat while the boat is in motion. In addition to the danger of being so close to the boat's propellers, the practice also exposes participants to potentially deadly carbon monoxide fumes. Teak boarding was banned by the Washington legislature in 2006.

In *Colbert v. Moomba Sports Inc., et al.*, Civ. No. 78833-2 (February 14, 2008), plaintiff Colbert's daughter, Denise, drowned after she inhaled a lethal dose of carbon monoxide while teak boarding at Lake Tapps in Pierce County in August 2003. Denise and her friends had been in the water holding onto the moving boat's platform when they decided to swim towards the shore. Almost as soon as she let go, Denise disappeared below the water. Colbert was not with his daughter but was notified shortly after her disappearance. He immediately went to the scene and observed approximately 3 hours of rescue efforts before Denise's body was located in the lake. Colbert observed rescuers pull her body from the water onto a boat, and later onto a stretcher before being loaded into an ambulance.

Colbert sued the manufacturer of the boat under several causes of actions, including negligence in failing to warn of carbon monoxide exposure, negligent design and manufacturing, product liability, breach of expressed and implied warranties and negligent infliction of emotional distress. On the negligent infliction of emotional distress claim, the trial court found Colbert had failed as a matter of

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

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.



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

~ Classified Ads ~

Employment Wanted: Veteran claims manager is seeking employment in the Pacific Northwest. He has been in claims management for 20+ years, managing large offices in auto, homeowners and workers compensation claims handling. Willing to discuss any management position. Please contact Stephen Laidlaw by phone at 281/639-0559 or by email to sclaidlaw@comcast.net.



Case Study... *(Continued from page 3)*

law to state an actionable claim because he did not witness his daughter's drowning nor the immediate aftermath of the drowning.

Claims Pointer: Washington courts have declined to state a "bright line" rule as to how soon after an accident a family member must observe a relative's injuries to state a claim negligent infliction of emotional distress. The emotional distress must be related to observing the traumatic injuries rather than the expected emotions related to the unanticipated death of a family member.

Recovery under negligent infliction of emotional distress is a limited to the "foreseeable intangible injuries" produced by viewing an injured family member during the short window of time after a traumatic event. In the past Washington courts have declined to state a "bright line" rule as to how soon after an accident a family member must witness the relative's injuries. According to the Washington Supreme Court, it must be immediate enough to observe the relative's injuries such as "the crushed

body, the bleeding, the cries of pain, and, in some cases, the dying words." The observation must be at the scene of the accident before there is any material change to the relative's location or condition. Furthermore, the family member claiming emotional distress must arrive on the scene "unwittingly", that is, without prior knowledge of the family member's traumatic injuries or condition.

The Court of Appeals affirmed the trial court's dismissal of the negligent infliction of emotional distress claim based on Colbert arriving on the scene with the knowledge that his daughter had possibly drowned and that he did not observe her drowning or the immediate aftermath of her drowning. The appeals court further held that Colbert's claim failed because he arrived on the scene after emergency personnel. On appeal, the Washington Supreme Court affirmed the lower courts, however, it disavowed the Court of Appeals requirement that a family member must arrive before emergency personnel.

The Washington Supreme Court held that Colbert observed the scene after conditions had signifi-

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

cantly changed from those that existed at the time his daughter drowned. The Court reasoned that Colbert's emotional distress did not arise from observing his daughter's "suffering" as the tort requires, but rather the emotional distress he experienced was related to the expected emotions related to the unanticipated death of a family member. ❖

— *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.



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 about the event; and throughout the year watch your newsletter and our website for SCAA sponsored fundraisers.

☆☆☆☆☆

**Update: June 7-8 will be the date for the next Relay for Life. Mark your calendars and plan to join the SCAA team!
For more info contact Gail.**

ATTENTION VENDORS — SCAA GOLF LOTTERY

Dear Vendors,

This year's luncheon to draw sponsors for the golf holes and other sponsorships will take place Wednesday, April 2, 11:30am start, at Maplewood Greens in Renton. The tournament is on June 20, 2008.

Please be prompt, and bring a business card for the drawing, which will begin at 12:00pm sharp. Please also bring a check for \$350 if you wish to sponsor a hole. Other sponsorships vary in cost, so if you want one of these or end up with one, payment will be arranged. Sharing hole sponsorship is being allowed again this year.

Lunch is \$25 per person, payable that day. Please RSVP to Shelley Butler, and let her know how many from your company will attend the luncheon.

The biggest change that SCAA will have to enforce this year, per request of the golf course, is that **NO GAMES/ACTIVITIES MAY BE PLAYED THAT SLOW DOWN PACE OF PLAY!!!! NO MASSAGES, NO HOOTER GIRLS, NOTHING THAT TAKES MUCH TIME!!!** We were very behind last year, and some players could not finish. Please expect to have your game/hole activities approved by the golf pro, which may be rejected if not reasonable. Keep this in mind while planning, please. Thank you, and know that you are all appreciated as well!

Sponsorships beyond the 18 holes include:

Putting green

T-shirts

Bar at the turn

Carts

Goody bags

Breakfast

Bag valet

Mulligan table sponsor/selling

Dessert

Bar/beer at luncheon

Centerpieces at luncheon

Trophies

These items will also be drawn for at the luncheon. The names drawn can choose a sponsorship item from the list until all are spoken for. Any remaining items we will seek a sponsor for following the lunch.

Time to start getting your teams signed up and registered for membership with SCAA as well! Remember, all players must be members/vendors of SCAA and at least two players per team must be adjusters. See the golfer registration form on page 17 and get registered early! Space is limited.

Thank you for your support!

Contact: Shelley Butler
SCAA Golf Co-Chair
CRDN of Seattle & Western WA
206.619.5427