

SCAA

May 2007

Vol. 34 No. 9

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.”

JULZ JEWELS

— by **Julie Benedict**, President



*“It was the charming month of May
When all the flow’rs were fresh and gay”*
— Robert Burns

When May arrives, it really feels like Spring. It brings to mind leaving bouquets of flowers on the doorsteps of neighbors when I was a child and attending the May Day may pole dance and graduation at my daughter’s Montessori school. There is something about spring flowers and children dancing around a may pole that just makes you feel happy and alive.

Next Meeting of the SCAA

May 18, 2007

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

Program

Past President’s Luncheon

Cost

\$13 Members

\$20 Non-Members

Time

11:30 a.m.

It is now important for you to RSVP if you are going to attend our luncheon meetings. Do so through our website or contact Julie Benedict at julie.benedict@grange.com. Thank you!

Last month, we saluted our vendors for their partnership and support of SCAA. Thank you again to all our vendors, we couldn’t exist as an organization without you.

We also enjoyed a presentation at the April meeting by Dale Mann of MDE Engineers on case studies from the scene to the lab, a real CSI for Claims Adjusters. (Will we ever look at a jar of jam again without thinking about it?)

Well, the results are in. Congratulations to our new treasurer-elect, **Kathy Green!**

Now that the elections are over, I can see that my term as President is drawing to a close. At our May meeting, we will install our new board: President **Gail Tuomi**; Vice President **James Gomez**; Secretary **Dean West**; and Treasurer **Kathy Green**.

In May we also will host our annual Past President’s luncheon. We have a great buffet menu planned and will look forward to seeing all those who gave their time and effort to support our organization and the claims community. On a somber note, many of you may have heard that **Lee McGonagle** (Past President 1949-50) had a bad fall at home on April 28 and is currently in the hospital. We are hoping he will recover soon. If you would like to send

(See Julz Jewels... continued on page 3)



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ON THE DOCKET FOR 2007

Date	Speaker/Topic
May 18	SCAA Meeting Past President's Luncheon See buffet menu on page 3
June 15	SCAA Golf & Tennis Tournaments Registration forms available in this issue and on our website at www.seattleadjuster.org !
Sept 21	SCAA Meeting — Membership Drive Time to renew your dues!

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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Julz Jewels... *(Continued from front page)*

a card, Lee is at the Swedish Hospital, Room 1014, 747 Broadway, Seattle, WA 98122-4307.

The SCAA Golf and Tennis events are coming up on June 15. A registration form for each tournament can be found on pages 12 and 13 in this newsletter. They are also available on the website in PDF format — so pull one down for a friend and get registered! Whether you choose the golf ball or the tennis ball, you are sure to have a great time. ❖

Introducing Your 2007-08 SCAA Treasurer

Kathy Green (WCIA)

Though originally from Ohio, I have been a Northwest resident for 16 years. Currently, I work at Washington Cities Insurance Authority in the claims department doing claims accounting, financial reporting, tax processing, adjusting and subrogation. I attended The Ohio Valley Hospital School of Nursing and Monterey Peninsula Community College. My work experience is varied, including radio repair and cryptographic equipment repair in The United States Army, office manager at a motorcycle magazine, customer service and medical assistant/transcriptionist training. I have been an active member of SCAA for the past five years and the Riskmaster Users Group for the past six years. In addition to being an avid animal lover, some of my hobbies include reading, biking, walking and jewelry making. I look forward to serving the members of SCAA over the next year — thank you all for this opportunity. ❖

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Request your copy by sending an email to npassist@msn.com

Vendor Appreciation

— by **James Gomez**, Frontier Adjusters, SCAA Secretary

The April meeting was a full house and was our vendor appreciation meeting. Thank you vendors!

Our Vendor of the Month for April is **Veritox/GT Engineering** and the Vendor of the Month for May is **V&M Restoration**.

We had two \$25.00 drawings and two winners. The winner for the Adjuster drawing was **Roger Pursell** with **Grange Insurance**. The winner for the Vendor drawing was **Kelly Morris** with **Sunrise Medical Consultants**. Everyone be sure to place your business cards in the appropriate baskets to participate in the adjuster and vendor drawings at each meeting. Also, there was not a winner for the “**Blue Bucket**” drawing. Please note, you must be present to win.

A special thanks and recognition to our vendors who provided door prizes, i.e. gift baskets, gift certificates, prizes, etc. **Inger Kjosnes** with Grange Insurance was drawn to win a gift from **MDE Engineers**. **Scott Ference** with Grange Insurance received a gift certificate from **CDRN**. **Thanks again Vendors!** ❖

Past President Buffet Lunch May 18, 2007

Caesar Salad
Cedar Planked Salmon Entrée
Chipotle-Orange Flank Steak
(Vegetarian Entree-Grilled Portobello Mushrooms)
Oven Roasted Potatoes
Seasonal Mixed Vegetables
Fresh Baked Rolls with Butter

Chocolate Chip Bread Pudding with Caramel Sauce

Iced Tea, Coffee Service & Ice Water



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



MS Walk 2007

It was April in Seattle, so what can you expect? The weather started out on the cold side with a few rain drops but that didn't dampen the spirit of over 2000 walkers! With beverages, food, cheerleaders (yup, ya missed an up close and personal with the Husky cheerleaders!) and bands, bananas, face painters, cookies, massage therapists, balloon artists, bouncy houses, and Dennis Bounds and the Huskytron and Starbucks coffee... YOU missed a GREAT event! By the time the walkers started arriving back at the Stadium the sun was out, the field was dry and we all felt a sense of accomplishment.

We fell short of our Team goal but the event was hugely successful – probably reaching our goal of \$1.8 million when it's all done! You can still donate to the Memorial HAMS team if you care to. You have until May 15. It's easy to do on line at:

http://main.nationalmssociety.org/site/TR?pg=team&fr_id=1240&team_id=38130

While our team page shows over \$2200 raised, you need to understand the numbers — Sariah, Joyful and Tyler shouldn't have been listed on our team page. Myself, along with Nicola and Tiffany from ServiceMaster of Seattle walked (Julie was supposed to). Cash in hand from these walkers and Julie is \$310. I have turned in another \$100 and Julie tells me she's going to try to get more in by the May deadline. Thanks for the opportunity!

— Sue Dahlin, Team Captain, Memorial HAMS



Get Well Soon!

Lee McGonagle (Past President 1949-50) had a bad fall at home on April 28 and is currently in the hospital. We are hoping he will recover soon. If you would like to send a card, Lee is at the Swedish Hospital, Room 1014, 747 Broadway, Seattle, WA 98122-4307.

Case Study



“Confidential” Insurance Claims Manuals May Become Part of the Public Record if Not Sufficiently Protected at Trial

— by Jeffrey D. Eberhard

In Washington, an insured whose insurer has either denied coverage or has refused to settle within policy limits can attempt to negotiate a settlement with the claimant without the insurer's consent. The insured can then either seek reimbursement from the insurer or, as is often the case, assign any coverage and bad faith claims against the insurer to the claimant, usually in exchange for a covenant not to sue or a stipulated judgment and dismissal along with a covenant not to execute. The insurer will be held liable for that portion of the settlement that is reasonable and obtained in good faith. In a case in-

Claims Pointer

If an insurer refuses to settle a claim, the insured can negotiate a settlement with the claimant without the insurer's consent. In a case involving joint tort-feasors, a settlement that includes a release or covenant not to sue requires a court hearing to determine whether the proposed settlement is reasonable, or to determine what would be reasonable. In the event of a finding of unreasonableness, nothing prohibits the parties from modifying their settlement to conform to what the court determined would be reasonable.

volving multiple tort-feasors, RCW 4.22.060 specifically requires a hearing on the reasonableness of any settlement that includes a release, covenant not to sue, or similar agreement in order to determine the reasonableness of a proposed settlement. In the event of a determination of unreasonableness, the statute also requires the court to determine an amount that would be reasonable.

The Court of Appeals for Division I recently addressed the validity of a settlement agreement that had been amended following a reasonableness hear-

(See Case Study... continued on page 5)

Case Study... (Continued from page 4)

ing in which a portion of the agreement had been held unreasonable. In Meadow Valley Owners Association v. St. Paul, --- P.3d ---, WL 1040995 (Wash.App. Div. 1, April 9, 2007), Meadow Valley, LLC developed a 78 unit condominium project in Auburn, Washington. Three years after the project was completed, the condominium owners association sued Meadow Valley for alleged construction defects. Meadow Valley filed a third party complaint against the general contractor, who in turn, sued a number of subcontractors. After several unsuccessful mediations between the various parties and their insurers, Meadow Valley, without the consent of its insurer, St. Paul, entered in to a settlement agreement in which it agreed to the entry of a stipulated judgment for \$4.8 million in damages, \$2.4 million in attorney fees, and the assignment of all coverage and bad faith claims against St. Paul to the Association. In exchange, the Association agreed not to execute on the stipulated judgment and to dismiss its lawsuit against Meadow Valley.

At the reasonableness hearing required by RCW 4.22.060, the court concluded that the settlement amount for the construction defects was reasonable, but that the \$2.4 million in attorney fees was not reasonable. The court went on to state, however, that \$1.6 million in attorney fees would be reasonable. Meadow Valley then presented the court with an amended stipulated judgment, this time including only \$1.6 million for attorney fees. The court held the settlement and stipulated judgment, as amended, to be reasonable.

St. Paul appealed, arguing that the trial court's determination that \$1.6 million in attorney fees would be reasonable was, in effect, an adjustment of the settlement by the court, which is expressly prohibited by statute (RCW 4.22.060(3)). The appeals court rejected St. Paul's argument, finding that by merely setting what would be a reasonable amount, the court did not adjust the amount paid according to the agreement and that there was nothing in RCW 4.22.060 that would prevent the parties from independently agreeing to a different amount. The trial court's reasonableness determination and entry of the \$6.4 million stipulated judgment was affirmed. ❖



Key Elements of Business Income Loss Calculations

Part III The Sales Projection

— by Russ Matheson, CPA, CFE

Last month's column focused on the period of restoration and factors to consider to reduce misunderstandings with the insured about periods of time that may not qualify for Business Income loss recovery. Part III focuses on the importance of the sales projection in a Business Income loss calculation.

The sales projection is a critical element of a Business Income loss calculation, and is often an area of disagreement and spirited debate between policyholders and insurance companies. Some key considerations that impact the sales projection are seasonality and trend analysis. To support a sales projection, it is important to present a forecast that falls within a reasonable range, i.e., what the business likely *would* have done, as opposed to what the business *could* have done. The former has a basis in fact, while the latter is merely "possible."

In projecting sales, it is important to review the insured's sales history. The amount of sales data needed to project sales is dependent upon the length of the loss period and other situational factors. As a general rule of thumb, monthly sales for two years prior to the loss should be reviewed. Typically, monthly profit and loss or income statements contain the detail needed to project sales. However, there are other business records that provide sales data such as federal tax returns, state sales tax returns, sales journals, general ledgers, and cash receipt journals. Once a sales history has been obtained, there are a number of methods that can be used to project sales, including:

1. Percentage Change From Prior Year

This is the most common method used to project sales. The first step in utilizing this method is to determine the increase or decrease in sales

(See Key Elements... continued on page 6)

Key Elements... *(Continued from page 5)*

(expressed as a percentage) prior to the loss based on a comparison of the same months from the prior year. After a base period is established, the next step is to apply the percentage increase or decrease to the loss period.

At first glance, this appears to be a straightforward calculation. However, it is important to keep in mind that a credible sales projection is one that can be explained in real terms, not just in terms of the math, and is consistent with the experience of the business and/or changes in market conditions. For instance, an annual sales trend may not be applicable if just prior to the loss incident the insured lost its largest customer, closed or sold an unprofitable segment, or its employees went on strike. It is critical to exercise good judgment in formulating sales projections. Without common sense, sales projections are just mathematical computations.

2. Pre-Loss Average

When a business is stable (no growth or declining trends) and not seasonal, a pre-loss monthly or daily average can be used to project sales. This method works best for a short loss period. For example, it might be appropriate to project sales for an established dental practice that is closed for one week using a pre-loss daily average.

The pre-loss sales projection method is not appropriate when the insured is a highly seasonal business, or when the loss period extends several months. Also, it is best to avoid this method if sales have been trending up or down.

3. Ratio of Actual to Budgeted Sales Prior to Loss

Budgets can be a good source for projecting sales, but first you must determine the reliability of the budgeted sales. On a monthly basis, compare pre-loss budgeted sales to actual sales. If the ratio between actual and budgeted sales is consistent over numerous months, reliance upon the budget as a basis to project sales may have merit.

Typically, the insured's own sales history is the best indicator of future sales. But before choosing a

(See Key Elements... continued on page 7)

**Tacoma
Claims
Adjusters
Association**



Golf Tournament

June 8, 2007

**1:00 pm Shotgun Start
Northshore Golf & Country Club**



For more info and to register contact:

Lizzy Adkins

800/826-3197 x2473

www.tacomadjusters.org

**Western
Insurance
Network
Golf
Tournament**



June 29, 2007

**8:00 am Shotgun Start
Team Scramble
Camas Meadows Golf Club**



For more info and to register contact:

Wayne Lightburne

503/234-0363

www.wainsnet.com

**Oregon
Casualty
Adjusters
Association**



Golf Tournament

July 20, 2007

**1:00 pm Shotgun Start
Rock Creek Golf Course**



For more info and to register visit:

www.oregoncasualtyadjusters.org



Membership Application for 2006-2007

SCAA Annual Membership Application

Membership Dues for the year September 1, 2006 to August 31, 2007

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 **\$20 Due** Life Member — Past President or Retired **No Money Due**

Associate Member — Member of Defense Bar or Former Claims Person **\$20 Due** Corporate Sponsor — Legal Firms **\$120 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 Dean West at 425/522-4625.
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april 5, 2007

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Key Elements... (Continued from page 6)

method to project sales, it is important to understand the insured's business and the impact of any experience or change in business conditions leading up to the loss event. Good judgment and common sense should be used in selecting a base period to project sales. The best sales projections are those considered to be *likely* as opposed to *merely possible*. ❖

— Russell Matheson CPA, CFE, is a Director in RGL's Seattle office. He has more than 20 years forensic accounting experience, including investigative auditing, financial research, damages evaluation, and litigation support. He may be reached at rmatheson@us.rgl.com or (206) 682-6500.



"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!"

May 18 — Be there!



DON'T FORGET TO RSVP!

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