

SCAA

May 2009

Vol. 36 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.”



James' Headlines

— by James K. Gomez, SCAA President

Well, we are down to the last stretch of the 2008-2009 year. Our last meeting will be on May 15, 2009. The meeting will celebrate our Past Presidents. At this meeting there will not be a guest speaker. The meeting will focus on a social event. One of our Past Presidents, **Nancy Bryant** has invited two guests, **Dick Marquardt** and **Phil Talmadge**. Both gentlemen have a long history in the insurance arena. At this time Dick Marquardt has confirmed attending and a confirmation from Phil Talmadge is pending.

Relative to our April meeting, the focus was Vendor Appreciation. We had a very large attendance of representatives from our advertising vendors. Our total meeting attendance was near 80...our largest for this year. Each vendor went home with a box of See's Candies. Thank you vendors!

A special thanks to our guest speaker at the April Meeting. **Bradley Probst, PhD** with ARCCA, Inc, returned to provide a presentation on automobile “Low Speed Impact” case studies. Thank you Brad!

Congratulations are in order for our two new officers; they are **Lynn Perry** and **Deborah Jette**, both with Grange Insurance Company. Lynn will take over the role of Secretary and Deborah will be our new Treasurer. Our present Vice-President, **Dean West**, will be moving up to President and **Jim Peterson**, our current Treasurer will take over the Vice-President spot. Our current Secretary, **Walt Pinkerton**, had to unfortunately resign.

(See Headlines... continued on page 3)

Next Meeting of the SCAA

May 15, 2009

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

Program

Honoring Our Past Presidents

Everyone please attend!

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



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ON THE DOCKET FOR 2009

Date	Speaker/Topic
May 15	SCAA Meeting — Past President's Luncheon
Sept 18	SCAA Meeting & Membership Drive
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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The Seattle Adjuster

*Published monthly September—June for the
 Seattle Claims Adjusters Association
 By **Alquemie Publishing Ink**
 541/937-2611 Fax: 541/937-4286
 Email: npassist@msn.com*

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

At the April meeting we resumed our \$25 Gift Drawings. The winner for the Adjuster Drawing went to our very own Treasurer, **Jim Peterson** and the winner for the Vendor Drawing went to **William Thompson**, with Charter Construction. Congratulations are in order for all the winners! Remember to participate in the drawing, please place your business card in the appropriate bowl labeled either for vendors or adjusters. We had a Blue Bucket rollover, since the adjuster must be present to win. Hopefully, we will have a winner at the May Past President's meeting. Who knows, the winner could be a Past President.

Just a reminder and just around the corner (next month in June), we have our last two functions, "SCAA President's Cup" Tennis outing on Saturday, June 6; and the 2009 SCAA Golf Tournament on Friday, June 19. Again, please sign up early, since space is limited for the tennis tournament and please visit our websites for further details on the golf tournament.

Please remember to RSVP and preferably a few days prior to the day of the meeting. Registering early helps with our planning and the proper head count for the Swedish Club and the caterers. Thanks again for coming and please remember to invite other adjusters to come with you! ❖

See everyone at our next meeting, May 15, 2009!

SCAA Lunch Menus for May 2009

Cedar Planked Salmon with Aioli, Seattle's best Swedish Meatballs with Sour Cream Brown Gravy and Lingonberries, Baby Red Potatoes with Dill, Green Pea Salad with Bacon and Water Chestnuts, Soft White Rolls and Butter, Decadent Chocolate Mousse with whipped cream and shaved chocolate, Arnold Palmers (lemonade and iced tea mixed), Coffee and Ice Water

VEGETARIAN OPTIONS

We can make vegetarian entrees for those who pre-order at least 48 hours in advance.

Please Welcome to the SCAA Board for 2009-2010

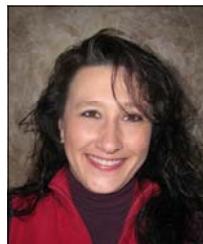
Lynn M. Perry ~ Secretary

Grange Insurance

Lynn was born in Los Angeles, CA, but raised in Portland, Oregon where he graduated from Portland State University with a BA in Economics. Lynn joined USNR in 1987 and received honorable discharge in 1990 (Legal Yeoman). His work history includes working at the Metropolitan Public Defenders Office in Portland as a Felony Trail Assistant; and started working in insurance claims in 1995 at Allstate Insurance as a Unrep BI Adjuster. He later became Litigation BI Adjuster with Grange Insurance Association (1998) in Vancouver, WA, then transferred to the Seattle Claims Office in 2005.

Deborah Jette ~ Treasurer

Grange Insurance



Deborah started her insurance career in 1989 at USAA as a File Clerk and then as a Support Clerk for the Large Loss Property Unit. She then moved into the exciting world of a Salvage Technician and in 1993 joined the Claims Department and has been there (stuck as some of you may say) ever since. Deborah's entire career has been in Property, first as an inside adjuster and then as an outside adjuster until USAA closed their Federal Way Office in 2002. Lucky for Deborah, Grange grabbed hold of her in June 2002 as one of their property inside adjusters and then moved her to an outside property position.

Deborah has her Associate in Claims (AIC) and recently obtained her Senior Claim Law Associate (SCLA) designation. By putting her Bio together, Deborah realized that come this fall, she will officially have spent 20 years in the Insurance Industry.



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

Medical Notes



What is the Best Treatment for Back Pain?

— by J. Michael Burke, DC
Article provided by Health Cost Management

Evidence-based guidelines recognize three categories of back pain:

- 1) Pathological, which includes back pain caused by serious diseases or trauma such as tumor, infection, or fracture. Fewer than 2% of back pain patients fall into this category.
- 2) Neurological, including nerve root compression and spinal canal stenosis. Less than 10% of back pain patients fit this category.
- 3) Nonspecific or mechanical back pain. Between 85% to 95% of patients presenting with low back pain, depending on the source, comprise this category of back pain.

Many spine experts have moved away from diagnosing specific low back conditions for patients in the latter category. Current evidence suggests that

the likelihood of making an accurate diagnosis in these cases is poor. For example, it has been shown that physical examination procedures commonly employed by chiropractors, physical therapists, and orthopedic surgeons cannot reliably distinguish between facet syndrome, sacroiliac joint pain, piriformis syndrome, and degenerative disc disease. The physical examination is still an important tool to correlate patient complaints with examination findings and pain behavior as well as to measure treatment outcomes, but most are not sensitive and specific enough for clinicians to reach a reliable diagnosis. Thus, many have come to use the admittedly vague and frustrating terms “nonspecific” and “mechanical” in describing these patients.

It should not be assumed that all patients presenting with mechanical back pain will respond to similar treatments. To ask if traction, manipulation, exercise, steroid injections, or any other type of therapy is a good treatment for back pain only leads to confusion. Even more specific questions such as “Is traction an effective treatment for a disc problem?” cannot be answered very well. In the past few years more research has been directed to discovering which back pain patients are more likely to benefit from various types of treatment.

Membership Application for 2008-2009



SCAA Annual Membership Application

Membership Dues for the year September 1, 2008 to August 31, 2009

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

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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

Julie Fritz, a researcher and physical therapist, will soon publish the findings of a randomized controlled trial (RCT) of axial lumbar traction on patients with sciatica. One aspect of the study is to determine which type of back pain patient is more likely to benefit from traction. Dr. Fritz and other researchers have done similar studies for other forms of treatment, too. Much of the research has focused on what factors of a patient's history and physical examination predict a successful outcome to a specific intervention. We can expect, for example, that manipulation will work better on a patient with acute low back pain with pain proximal to the knee than in a low back pain patient whose sciatic symptoms extend to the foot, or that a patient whose back and leg pain is improved with extension exercises is not likely to benefit from spinal decompression and other forms of traction.

As evidence continues to develop, clinicians should be able to more accurately predict which treatment interventions are likely to result in improved outcomes for patients. Treatment decisions will be based less on the provider's diagnosis and more on the features of the patient's presentation that are known to be predictive. Therefore, although there is no one best treatment for back pain, the best way to determine which treatment is appropriate for individuals with back pain may be by recognizing predictive signs and symptoms.

More on nonsurgical spinal decompression

Spinal decompression has become a widely used treatment among chiropractors as well as some osteopaths, physical therapists, and physicians. Daily newspaper advertisements bombard readers with claims that this "revolutionary new technology" has an 86% success rate and that research done by NASA has proven its efficacy. A recent poll found that 38% of chiropractors use this technology in their practices (although the reliability of the poll's results has been questioned).

Nonsurgical spinal decompression is not really new. Axial traction has been used in several forms for many years. What is relatively new is that the current technology is computerized to provide calculated distractive forces on an intermittent timed basis. Some systems, the controversial DRX9000 for one, also provide printable treatment documentation

(See **Medical Notes...** continued on page 6)



Case Study
SMITH FREED & EBERHARD P.C.
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Court May Infer that Claimant Has Been Fully Compensated for Purposes of PIP Reimbursement

— by Jeffrey D. Eberhard

Note: This opinion has not been published. It is provided to demonstrate how the court approaches the issues involved in the case. It cannot be cited as authority to a court of law.

Claims Pointer: Where a policy provides an insurer the right to be reimbursed for PIP payments when the claimant is "fully compensated," courts may infer that full compensation has taken place without adjudication of the matter. Claimants may rebut this inference, but such a rebuttal requires the presentation of some evidence.

An individual covered by personal injury protection (PIP) is entitled to benefits regardless of fault for, most typically, medical expenses and lost wages. The insurer providing those benefits has no right to reimbursement from the insured unless and until the claimant has been "fully compensated." In the case of State Farm Mutual Auto Ins. Co. v. Boyersmith, Not Reported in P.3d (Div. 1, March 30, 2009), the Washington Court of Appeals was asked to determine whether claimant had been "fully compensated." In so doing, the court explained the evidentiary burdens and adjudicatory requirements necessary for making such a determination.

Bryon Boyersmith had the misfortune of riding as a passenger in Emily Estrella's car on the day she was struck by a car driven by Charles Collier. Collier's negligence was the sole cause of the collision. Estrella died as a result of the accident and Boyersmith suffered serious injuries. Estrella's insurance provided approximately \$60,000 in PIP benefits to Boyersmith for medical expenses and lost wages.

Boyersmith eventually sued Collier for his injuries. The suit settled for \$690,000. As a result of this settlement, State Farm informed Boyersmith that it needed to be reimbursed for its PIP payment to Boyersmith (minus its share of Boyersmith's attor-

(See **Case Study...** continued on page 7)

Medical Notes... *(Continued from page 5)*

and computerized monitoring of treatment that is visible to both patient and doctor. Spinal decompression equipment can cost more than \$100,000.

At least one manufacturer of spinal decompression equipment has made deceptive and misleading claims which were then used by providers in their advertisements. As a result, restrictions against advertising certain claims have been imposed by state agencies.

Traction, distraction, and decompression are easily confused with each other, and as there are different types of equipment and technologies used within each category, the terms do not necessarily describe the exact treatment. Here are several types of “traction” treatments commonly in use:

- Flexion distraction, sometimes called Cox flexion distraction after James Cox, D.C., who popularized its use over the past 25-30 years, utilizes a table designed after the McMannis osteopathic table. It was originally intended as a “hands-on” treatment which was assisted by the ability of the caudal end of the table to flex, extend, distract, laterally bend, and rotate. Several brands of manual and automated tables are currently sold. At least one RCT of flexion distraction has been published. The study demonstrated favorable results for flexion distraction compared to an active exercise program.
- Decompression therapy, aka nonsurgical spinal decompression, is performed using products such as the VAX-D, DRX9000, and Lordex. Patients are treated in the prone position on the VAX-D, while other versions treat supine patients. Although several studies of spinal decompression are reported in the medical literature, none are well designed. A recent review concluded, “Only limited evidence is available to warrant the routine use of non-surgical spinal decompression, particularly when many other well investigated, less expensive alternatives are available.”
- Axial traction can be done several different ways. Many brands employ a pelvic harness which provides traction to the supine patient’s lumbar spine. The patient often lies with hips

and knees flexed, sometimes in a “90/90” position. Traction units are available for home use as well as for in-office treatment. Several systematic reviews of traction can be found in the literature. Although some studies report favorable results, other studies are equivocal. Patient selection, according to specific predictive criteria, is probably a necessary prerequisite to successful outcomes utilizing these types of traction devices. ❖

Please contact HCM for a copy of the full text with references. (800) 755-4283.

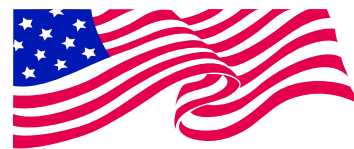


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11:30 am - 1:00 pm
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Case Study... *(Continued from page 5)*

ney fees). Estrella's automobile policy stated that State Farm has the right to be reimbursed for its PIP payments if the insured "is fully compensated." Both parties agreed that this is what the policy provided, but they did not agree on whether Boyersmith had been "fully compensated." State farm filed a declaratory judgment action seeking reimbursement. Each party moved for summary judgment. The trial court granted State Farm's motion and Boyersmith appealed.

On appeal, State Farm argued that Boyersmith had been "fully compensated" as a matter of law because he settled for considerably more than his claimed special damages (\$310,000) and well below Collier's liability limits (\$2 million). Boyersmith did not admit or deny that he had been "fully compensated," but simply argued that in every case of this kind, there needed to be some adjudication of total damages to determine if claimant had been "fully compensated." The Washington Court of Appeals disagreed. It held that the evidence led to the reasonable inference that Boyersmith had been "fully compensated." If Boyersmith did not accept this as being true, he had the burden of presenting some evidence that the inference was incorrect. He failed to do this. Therefore, the appeals court affirmed the summary judgment granted in State Farm's favor. ❖

— Full Case Available at: <http://www.courts.wa.gov/opinions/index.cfm?fa=opinions.showOpinion&filename=619683MAJ>

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

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RESTORx of WA Honored with 2008 Claims Award

— Submitted by Jody Runge, RESTORx of WA

(Wood Dale, IL, March 10, 2009) – DKI, North America's largest disaster restoration contracting organization, today announced that RESTORx of Washington, of Auburn, Washington, received the 2008 Claims Award at Insights 2009: The Property Restoration Conference and Tradeshow, held in Scottsdale, Arizona, from February 22 to 25, 2009.

The Claims Award is presented to DKI Member Companies who exhibit exceptional claims service during the previous year. Selection for the Claims Award is based on four factors, including client feedback, DKI employee feedback, and an analysis showing how well the company responds to claims on DKI's DIAMOND system. DKI employees consider such things as which companies work in the spirit of partnership with the DKI claims operations staff, and which companies strive to benefit the entire DKI network.

After a careful review of all of the above factors, it was determined that seven companies in 2008 excelled in providing a high level of service, reporting, and assistance relative to DKI claims. RestorX of Washington was one of those seven.

Rick Bevins, president of RESTORx of Washington, is pleased with RESTORx of Washington's achievement, and is proud to be part of a company that continues to uphold the DKI mission, vision and values. Providing quality service to customers is RESTORx of Washington's number one priority, and the company consistently works to provide quality service to their customers and promote DKI as The Source for Quality Restoration. ❖

Congratulations to RESTORx of WA, one of our contributing Vendor Partners!