

# SCAA

November 2008

Vol. 36 No. 3

## 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

What a huge turnout for our October Meeting....our attendance was at 70. Thanks for everyone attending! Please remember to RSVP if possible and preferably a few days prior to the day of the meeting. For the last meeting I was accepting RSVPs up to the day of the meeting, which is fine...the Swedish Club was able to roll out another table to get everyone seated and fed. Thanks again for coming and please remember to invite adjusters that you work with or are associated with.

A special thanks goes out to our guest speaker, Bradley Probst. Mr. Probst is a Senior Biomechanical Engineer with ARCCA Incorporated. Mr. Probst provided a presentation on Slip/Trip and Fall cases. Mr. Probst and his firm incorporate physics and human physiology in the review of injury cases where the alleged cause of the accident was the result of a fall, whether from slipping (“falling backwards”) or tripping (“falling forward”). The presentation was very interesting and quite an attraction from several members calling to RSVP purposely to attend the presentation. For your review please find within this newsletter a copy of the ARCCA questionnaire entitled “Slip, Trip and Fall, Incident Investigation-Questions For The Claimant”. The questionnaire was not included in the packet of handouts that was left at the time of the presentation. This Spring we hope to have Mr. Probst return and provide his pres-

*(See Headlines... continued on page 3)*

#### Next Meeting of the SCAA

**November 21, 2008**

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

#### Program

**“Economics of Textiles Restoration”  
Shelley Butler CRDN of Seattle & Western WA**

#### 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](mailto:jgomez@frontieradjusters.com). Thank you!

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 see page 4 of this issue.

**RENEW TODAY!**

[www.seattleadjuster.org](http://www.seattleadjuster.org)



#### **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](http://www.seattleadjuster.org)



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## ON THE DOCKET FOR 2008-09

Date	Speaker/Topic
Nov 21	SCAA Meeting "Economics of Textiles Restoration" Shelley Butler, CRDN of Seattle & Western WA
Dec 5	SCAA Holiday Party 1-4pm at Sazerac See page 13 for registration flyer or visit our website
Jan 16	SCAA Meeting "Dancing with Bailón" Adjusting Across Linguistic Gaps Keo Capestany, AIC, SCAA Past President

### 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

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

entation on automobile “Low Speed Impact” case studies.

As in the past meetings we held our monthly gift drawings. The winner of the \$25 Adjuster Drawing was **Debra Jette** with Grange Insurance. Likewise, the winner of the \$25 Vendor Drawing was **Noel Putaansuu** with MDE, Inc. The winner for the Blue Bucket drawing went to our very own SCAA Treasurer, **Mr. Jim Peterson** with Grange Insurance. 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.



Our first planning meeting for the Spring Seminar and Vendor Fair was held on Friday, October 31, 2008. Our officers gathered with other TCAA representatives and began plotting the success of the 2009 Spring Seminar and Vendor Fair.

The guest speaker for next month is **Shelley Butler** with **CRDN of Seattle & Western, Washington**. Shelley will be providing a presentation on the latest techniques used in the Textile Restoration industry.

Also a few months down the road and in January, an SCAA past president, **Keo Capestany**, will provide a presentation entitled, “Adjusting Across the Language Gap”. You will find a brief biography for each guest speaker in the newsletter.

Our Annual SCAA Holiday Party is around the corner on Friday, December 5, 2008, from 1pm to 4pm. The party will be at the same venue as last year; the location is Sazerec Restaurant at the Hotel Monaco. The address is 1101 4<sup>th</sup> Avenue in Seattle. Please find the holiday party announcement in this month’s newsletter and on our website. Please complete the registration form and mail in with the appropriate fee to the address listed on the form. For FREE valet parking, adjusters must be registered no later than November 20! So register now! ❖

## SCAA Lunch Menus for 2008-09

### NOVEMBER

Oven Roasted Turkey with gravy  
Homemade Mashed Potatoes, Cornbread Dressing  
Green Salad with cheese and candied nuts  
Parker House Rolls and butter  
Pecan Pumpkin Pie with whipped cream  
Apple Cider, Coffee and Ice Water

### JANUARY

Fried Chicken  
Baked Macaroni and Cheese  
Crisp Green Salad with Thousand Island Dressing  
Soft Rolls and Butter, Brownies  
Iced Tea, Coffee and Ice Water

### FEBRUARY

Chicken Gumbo Soup  
Jambalaya - with andouille sausage, chicken, bell peppers in a rich tomato brown sauce and rice  
Spinach Salad with Poppyseed Dressing  
Baguette and Butter  
Baker's Choice Frosted Cake Slices  
Iced Tea, Coffee and Ice Water

### APRIL

Baby Greens with Gorgonzola Cheese and Pomegranate Vinaigrette  
Chicken Breasts with Peach Chutney, Rice Pilaf  
Grilled Washington Asparagus  
Crusty Rolls and Butter, Turtle Bars  
Mrs. Swindells Fruited Tea, Coffee and Ice Water

### MAY

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.



### Tacoma Claims Adjusters

— Upcoming Meeting —

**December 12, 2008**

Holiday Luncheon at  
The Swiss

For more information visit:  
[www.tacomaadjusters.org](http://www.tacomaadjusters.org)

# SCAA Luncheon Presentations

November 21, 2008

**Economics of Textiles Restoration  
Decreasing Severity on the Fastest-Growing  
Segment of Property Claims Contents”  
Shelley Butler, CRDN of Seattle & Western WA**

Shelley has worked in relationship management and as a First Responder for CRDN of Seattle & Western WA for four years; prior to that she has a background in sales and project management primarily in the hospitality industry. Shelley is also on the TCAA board as a Vendor Partner and very active in both of our associations.

January 16, 2009

**Dancing with Bailón  
Adjusting Across Linguistic Gaps  
Keo Capestany, AIC, SCAA Past President**

- While not knowing languages as a claims adjuster is not negligence per se, not knowing about interpreters could possibly be. Imagine being involved in an accident while visiting Lower Slobbovia.
- Everybody is capable of playing piano but very few could do it as well as Beethoven did who, nevertheless, could not dance.

- Two cases of insured’s wealth in jeopardy because of the cavalier handling of the linguistic aspect of claims under their policies.
- How a convicted drug dealer could impact some of your files: The significance of United States v. Gilberto Bailón 429F.3<sup>rd</sup> 1258.
- How to show due diligence in the selection of interpreters and avoid allegations of having improperly handled these kinds of cases.

Keo Capestany, AIC, a past president of SCAA, has the equivalent of a Bachelor in Administrative Law from the University of Havana and an AA from Seattle Community College. He was a claims representative and later a claims supervisor for the Hartford Insurance Group and then independent adjuster. His claims career totals 25 years.

He has written hundreds of columns for our newsletter and has had articles published in Claims and other periodicals. He has lectured about negotiations, human relations and communications to insurance groups in four states and has made over 60 presentations on language issues to colleges, business groups and others all over the state of Washington.

After retiring in 1998 he started a successful career as a court certified interpreter. Since 2000 he has been one of a handful of Federal interpreters active in the Seattle area.

**For our luncheon menus please see page 21.**

## 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

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

October Speaker Material

## Slip, Trip & Fall Incident Investigation — Questions for the Insured

With **Bradley Probst, Ph.D., Biomedical Engineer,**  
**ARCCA Inc.**

### Policies

Does the building owner/operator have a general safety policy?

If so, are there polices directed toward minimizing slip, trip and fall through designing out, guarding against, warning about and educating/training about the hazards associated with these mishaps?

What does the policy say?

Who is responsible for carrying out the policy?

What standards does the policy reference?

Have there been previous mishaps at the subject location? If so, describe.

### Walkway Selection

What is the walkway material?

How long has it been there?

Has any renovation occurred since the original installation?

What was the renovation?

Who did the installation?

Were there any processes for selecting the walkway material? If so, what was the selection criterion?

Has the walkway material's slip resistance ever been tested? If so, provide details.

### Floor Maintenance

Who maintains the floors?

What are the procedures?

What types of chemicals are used?

Are there logs associated with the floor maintenance?

If so, when was the last maintenance performed before the incident?

What was this maintenance?

### Footwear

If the incident occurred in controlled area, what types of shoes are required?

How were these shoes selected?

### Education/Training

Are employees trained with regards to minimizing slip, trip and fall hazards?

If so, what is this training?

How are invitees warned of slip, trip and fall hazards? Describe warning signs. ❖

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## WA Supreme Court Address the Selective Tender and Late Tender Rules

— by **Paul M. Rosner, J.D., CPCU, Soha & Lang P.S.**

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In *Mut. of Enumclaw Ins. Co. v. USF Ins. Co.*, the Washington Supreme Court adopted the “selective tender” rule and clarified the “late tender” rule. The “selective tender” rule “states that where an insured has not tendered a claim to an insurer, that insurer is excused from its duty to perform under the policy or to contribute to a settlement of the claim”; whereas the “late tender” rule “provides that an insurer must perform under the insurance contract even where an insured breaches the timely notice provision of the contract unless the insurer can show actual and substantial prejudice due to the late notice.” The court held that the selective tender rule prevents settling insurers from seeking equitable contribution from another insurer to which the insured never tendered the claim, but did not preclude

(See WA Supreme Court... continued on page 6)

## WA Supreme Court... *(Continued from page 5)*

the settling insurer's subrogation claims.

Mutual of Enumclaw and Commercial Underwriters Insurance Company funded the settlement of a construction defect suit and received an assignment of the insured's rights to pursue non-settling insurers. They then sought equitable contribution and subrogation from USF.

The court then held that because the insured had not tendered to USF, the settling insurers could not maintain equitable contribution claims against USF. Nevertheless, the settling insurers could maintain subrogation claims against USF based on the insured's assignment of its rights to them. The court held the "selective tender" rule, although applicable to equitable contribution claims, provided no defense to subrogation claims, as the rights assigned originally belonged to the insured.

The court then addressed whether the settling insurer's claims were barred as a matter of law based upon the "late tender" rule. The court held that to show prejudice an insurer must prove an "identifiable and material detrimental effect on its ability to defend its interests." Even though USF first received notice of the claim four years after the complaint was filed, two years after the settlement, and after the settling insurers completed litigation against other non-settling insurers, the court rejected USF's argument that it was prejudiced as a matter of law. ❖

— *If you have any questions concerning this article please contact Paul M. Rosner, J. D., CPCU of Soha & Lang at (206)624-1800. Soha & Lang, P.S. is regional and national coverage counsel for a number of the nation's major insurance companies. Advising and representing insurers in the resolution of coverage and bad faith disputes is the major focus of the firm's practice.*

## Employment Opportunities

As of 11/5/08

**Property/Casualty Adjuster, Educational Service District 112, Vancouver, WA:** Qualifications include BA or AA degree with 2 years claims adjusting experience; 3-yrs experience adjusting commercial lines property and casualty claims; 1-yr experience adjusting litigated commercial lines property and casualty claims; 1-yr experience working with an automated claims system and word processing system. For complete application and job description go to [www.esd112.org/hropenings](http://www.esd112.org/hropenings).

**Allstate** has two openings for **Auto Field Technician/Estimators** in the Bothell, WA area. Responsible for inspecting damaged vehicles and preparing itemized damage appraisals outlining cost of parts, materials, and labor necessary to restore vehicles to their pre-loss condition. Ideal candidate has a four-year college degree, 2-3 years of auto estimating experience, knowledge of auto related repair techniques, experience inspecting vehicles and preparing estimates using an automated system. For more information on responsibilities and qualifications and to apply for one of these positions, visit [www.allstate.job](http://www.allstate.job) and look for job number 00076C or 00076D.

**Allstate** has an opening for a **Field Senior Property Claim Service Adjuster** for the Bothell, WA area. Responsible for investigating property damage to determine liability, corresponding with customers in person and over the phone, preparing estimates, and negotiating damage settlements. Ideal candidate has at least 1+ years large loss structural estimating experience, as well as, additional experience estimating other types of property damages, and a four-year college degree. Construction knowledge is preferred. For more information on responsibilities and qualifications and to apply for this position visit [www.allstate.job](http://www.allstate.job) and look for job number 000761.



### 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](http://www.seattleadjuster.org)