

# SCAA

November 2010

Vol. 38 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.”*

## Stuff

By Jim Peterson, SCLA, SCAA President

Thank you to all who attended the joint TCAA/SCAA meeting and bowling tournament in October. It was a great success and lots of fun!

Thank you again to Anne Bremner for being our keynote speaker. It was a very insightful and personal speech that I'm sure many of us appreciated.

Thank you to all the sponsors of the bowling tournament, without you this event would have gone right in the gutter!

Next month is our Thanksgiving meal. This traditionally is quite busy, please be sure to RSVP early so we can accurately get a head count and order appropriately. **Paul Rosner** will be the speaker and he will be covering *Supreme Court decisions that directly affect the handling of claims*. See Paul's bio on page 3.

A reminder that the SCAA/TCAA Holiday Party is on December 3 at the Bell Harbor, please make your reservations soon. This will be a fun event and I know many of you are looking forward to having a great time. [See flyer on page 15.]

As always, if you have any ideas or suggestions on how I can make SCAA better please don't hesitate to call or email me. ♦

*“What do batteries run on?”*

### Next Meeting of the SCAA

**November 19, 2010**

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

### Program

**Attorney Paul Rosner of Soha & Lang  
on Supreme Court Decisions**

### Cost

**\$15 Members \$20 Non-Members**

### Time

**11:30am to 1:00pm**

It is important for you to RSVP if you are going to attend our luncheon meetings. Please do so through our website or contact Todd Clirehugh at [toddc@grange.com](mailto:toddc@grange.com). Thank you!



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# ON THE DOCKET FOR 2010

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Date	Speaker/Topic
Nov 19	SCAA Meeting Attorney Paul Rosner on Supreme Court Decisions
Dec 3	SCAA/TCAA Joint Holiday Party See flyer on page 15
Jan 21	SCAA Meeting



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### 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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About Our Speaker**Paul Rosner***Soha & Lang, P.S.*

Paul Rosner began his insurance career as a casualty adjuster for Farmers Insurance in 1989 and has over sixteen years of property and casualty claims experience. In 2005, he received his J.D., *summa cum laude*, from Southwestern University School of Law, where he served as Lead Articles Editor for the law review. Mr. Rosner earned his CPCU designation in 2008, and is currently serving as Vice President of the Pacific Northwest Chapter of the CPCU Society. He was named a 2010 Rising Star in the area of Insurance Coverage by *Washington Law & Politics Magazine*. Mr. Rosner is licensed to practice in both Washington and Oregon.

Mr. Rosner's insurance coverage practice is limited to representing insurance companies. His claims experience and legal knowledge allows him to effectively evaluate, synthesize, and resolve complex insurance coverage issues ranging from first party property, bodily injury liability, construction defect, professional liability, to errors and omissions. In addition to providing coverage opinions and advice, Mr. Rosner represents insurance carriers in coverage and bad faith litigation.

Mr. Rosner is a frequent author and lecturer on insurance coverage and bad faith issues including chapter co-author for the *Washington Motor Vehicle Accident Insurance Deskbook 2008* supplement, and co-author of the Oregon and Washington chapters of the upcoming edition of the "*Insurance Bad Faith: A Compendium of State Law*." His lectures include presentations to attorneys and insurance professional organizations. Mr. Rosner regularly contributes to the Soha & Lang Coverage Blawg at [www.northwestcoveragelaw.com](http://www.northwestcoveragelaw.com).

When not practicing law or blogging, Paul enjoys spending time with his family, running, hiking, camping, and mountain biking. ❖

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Case Study  
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## Attorney Fees and Settlement Offers: is Mandatory Arbitration a "Trial"?

— By Jeffrey D. Eberhard

**Claims Pointer:** For purposes of seeking attorney fees under RCW 4.84.250-280, a mandatory arbitration is considered the equivalent of a "trial"; settlement offers must be presented ten days prior to the mandatory arbitration in order to invoke the statute.

When plaintiffs have small but meritorious claims, they are frequently presented with a dilemma—should they pursue their claim despite the risk of having their recovery consumed by costly attorney bills incurred in the course of litigation? To remedy this problem, the Washington state legislature enacted the Revised Code of Washington (RCW) sections 4.84.250-.280 which operate to award a party attorney fees in small sized cases if that party presents the other party a settlement offer before trial, the offer is declined, and the jury's award is less favorable than the offer of settlement. In the recent

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

**Tacoma Claims Adjusters Association**

— Upcoming Meeting —

**November 12, 2010**

11:30 am - 1:00 pm

LaQuinta Inn

1425 East 27th Street, Tacoma, WA

For more information visit:

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

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

case Williams v. Tilaye (Case No. 63743-6-I, October 4, 2010), the Washington Court of Appeals considered whether this statute would apply if the “trial” were an “arbitration.”

Patrick Williams, his wife, Andrea Harris, and their two children were injured when a taxi driven by Fesseha Tilaye lost control and struck their vehicle. Williams and his family filed a personal injury lawsuit against Tilaye, and the case was transferred to mandatory arbitration. The arbitrator found in favor of Tilaye, and plaintiffs appealed and requested a jury trial. Prior to the jury trial, Williams made an offer to settle his claim for \$3,900, and Harris made an offer to settle her claim for \$9,000. Neither offer was accepted. Trial began, and the court found for Williams in the amount of \$7,852 and for Harris in the amount of \$20,512.

Under the Revised Code of Washington (RCW), in an action for damages where the amount pleaded is \$10,000 or less, the prevailing party is entitled to an award of reasonable attorney fees pursuant to RCW 4.84.250. According to RCW 4.84.260 and 4.84.270, the plaintiff is deemed the “prevailing party” when the recovery awarded is as much or more than the amount offered by plaintiff to settle

the matter, and the defendant is deemed the “prevailing party” if the plaintiff recovers less than the amount offered in settlement by defendant. And, under RCW 4.84.280, offers of settlement must be made to the adverse party at least ten days prior to “trial.”

Here, since the amounts awarded by the jury exceeded both of their settlement offers, Williams and Harris moved for an award of reasonable attorney fees pursuant to RCW 4.84.250. The trial court granted their request, awarding attorney fees to Williams in the amount of \$25,722 and to Harris in the amount of \$49,847.50. Tilaye appealed to the Washington Court of Appeals, arguing that the court erred in granting attorney fees because the settlement offers, although made more than ten days prior to the jury trial, were not made at least ten days prior to the mandatory arbitration.

The Court agreed with Tilaye, finding that a mandatory arbitration should be treated as an original trial for purposes of RCW 4.84.250-280. In making this determination, the Court considered the public pol-



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**SCAA Annual Membership Application**

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icy behind the statute: to encourage settlement and to enable parties to pursue small, but legitimate, claims without fear of having the award being “swallowed up” by the expense of attorney fees. The Court reasoned that treating a mandatory arbitration as a “trial” would further this policy. Therefore, the Court reversed the trial court and held that since Williams and Harris did not present their settlement offers at least ten days before the mandatory arbitration – the “trial” – they did not invoke the statute and thus were not entitled to attorney fees. ❖

*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.*

## App Makes Winning a Real Loss for Adjusters

— By Marguerite Swallow

Reprinted from [www.claimsmag.com](http://www.claimsmag.com). © 2010.

An iPhone app game that focuses on denying claims to win “points” is reinforcing the negative stereotypes associated with those involved in the insurance adjustment process.

Onyx Design’s “Claim Denied!” app for iTunes puts anyone with an iPhone or other compatible gadget in the role of a young claim adjuster at a private health insurance company. The player stands on top of a hospital roof and uses a “denied” rubber stamp as a weapon against incoming patients.

The game description on iTunes describes the strategy, explaining that the player will, “Shoot shiny red stamps, throw heaps of paperwork, call in the pre-existing condition clause, and set the blue dogs on the crowds to save your company money and make your future bright!”

Though some may find the jokes and puns amusing, the “satire” is harsh and disparages the claim adjuster profession. The health insurance industry is the main target of the app’s unabashed criticism, but the game bolsters any public worry that claim adjusters as a whole are out to literally rubber-stamp customers into submission, and won’t

## Benefits of SCAA Membership Join or Renew Today!

We can’t say enough about the advantages of membership in the Seattle Claims Adjusters Association. The benefits are numerous, for example:

- **Newsletter** — Receive a copy of the SCAA newsletter September through June, packed full of educational articles and other information of interest to adjusters. It is also a resource guide to goods and services provided by our industry vendors — who also support our Association.
- **Monthly Meetings** — Attend these meetings to hear local presenters on topics that are pertinent to today’s adjuster — always educational and sometimes entertaining!
- **Spring Seminar & Vendor Fair** — An entire year’s worth of work goes into planning and hosting this annual educational event held in the spring — touching on all the hot topics and providing you an opportunity to meet with industry vendors face-to-face outside of your office. A joint venture with TCAA.
- **Golf** — Not much educational about golf, but what adjuster today doesn’t need a little relaxation and fun — held in the summer each year.
- **Website** — Stay in touch with local happenings and other claims associations in the Pacific Northwest. Open a web version of our newsletter. Find contact information for SCAA board and committee members. Or find a new job from the employment listings. And there’s more.....

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 inside this issue.

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help them when they have a claim on any sort of insurance policy.

Though presented in a joking way, “Claim Denied!” shows that there is much work to do to counter the perception and undercurrent of distrust that the public has in the insurance industry, and its fix will require a little more than thumb-tapping and scrolling to fix. ❖