

SCAA

September 2007

Vol. 35 No. 1

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

Here we go! Welcome to the start of another year for SCAA, kicking off with our first meeting at the Swedish club on September 21.

It is time to renew your dues for 2007-08. We are focusing on a membership drive this year to increase our numbers. Please encourage a friend or a co-worker to attend a meeting. There will be prizes for those who bring in the most new members.

James Gomez has some new ideas for speakers at our monthly meetings this year, along with another great Spring Seminar in March 2008.

Chris Aversano, Relay Director from the American Cancer Society will be at our first meeting to give us information on the Relay for Life event. This is an overnight relay walk to raise money for cancer research — my President's Choice Charity for this year.

Please remember to RSVP if you plan on attending the lunch. You can contact me using gail.tuomi@grange.com or submit your RSVP on the SCAA website. We need this information no later than September 14 (but if you don't get your RSVP in you won't be turned away from the meeting). Please, it is **imperative** to let me know you are coming so I can order our lunches accordingly. We are charged for the lunches we order.

See you at the meeting!

Next Meeting of the SCAA

September 21, 2007

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

Program

**Dale C. Mann of MDE, Inc. on
Selecting an Expert**

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 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 2007

Date	Speaker/Topic
Sept 21	SCAA Meeting Speaker: Dale C. Mann, MDE, Inc. Topic: Selecting an Expert Membership Drive — Dues Renewal Announcing President's Choice for Charity with Chris Avesano, Director for Puget Sound Relay for Life
Oct 19	SCAA Meeting
Nov 16	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 “Buzz” was on in the Peleton as PDR and friends teamed up for this “Rite of Passage” pedaling for two days from the UW parking lot in Seattle to Lloyd Center in Portland, Oregon (204 miles, with 6,000 feet of climbing). Above is our Team standing for the team photo session. The Thode & Graham Team looked great decked out in the yellow and black PDR Jerseys. Left to Right PDR Team Members included:

Justin Graham, PDR; **Drew Graham**, PDR; **Karen Easterday**, WA-OR Claim Service; **Greg Sneed**, PDR; **Greg Thode**, PDR; **Slaed Spiller**, McLaren-Young Claim Service; **Susan Cady**, PDR; **Megan Boettcher**, Fireman’s Fund; **Don Boothby**, Fireman’s Fund; and **Tom Boothby**, Fireman’s Fund.

The team raised money for Group Health’s Medical Center.




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

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 for this great cause.



Get Well Soon!

Donna Silver, SCAA Past President (2003-04), has recently undergone major surgery and needs our good thoughts and prayers.

Please send cards to:

Donna Silver
17722 27th Ave NE
Marysville, WA 98271



Benefits of Membership

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.
- **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 the back cover of this issue.

RENEW TODAY!

www.seattleadjuster.org



Case Study

Self-Insured Automobile Rental Company Not Required to Provide Liability Insurance

— by Jeffrey D. Eberhard

The Division I Court of Appeals recently clarified the obligations of a self-insured automobile rental company under Washington's Financial Responsibility Act (FRA) in *Shields v. Enterprise Leasing Company*, 161 P.3d 1068 (July 16, 2007). The case involved an accident that occurred in a vehicle rented from Enterprise Leasing Company, a self-insured rental car company. The renter of the automobile, Brian Shields, declined to purchase the optional Supplemental Liability Protection (SLP) Enterprise offered which, according to the terms of the lease agreement, would have provided him with third-party liability coverage. While driving the rented vehicle, Shields rear-ended another automobile. Shields completed an accident report and represented that he was insured through Allstate. That

Claims Pointer

Automobile rental agreements will be considered stand-alone liability insurance contracts only if they include insurance provisions. Washington's Financial Responsibility Act does not require self-insured rental car companies to provide third-party liability insurance to customers who reject optional liability insurance.

policy, however, had lapsed for non-payment. Despite having rejected the optional SLP coverage, Shields nonetheless demanded liability coverage for the accident from Enterprise. Enterprise instructed Shields to pursue coverage from Allstate and advised him that because he had rejected the SLP, there was no coverage for the accident under the terms of the lease agreement. Shields sued Enterprise, alleging that it had a duty to indemnify him up to the minimum limits of liability prescribed by Washington's Financial Responsibility Act (FRA). In addition, Shields alleged that Enterprise breached its rental agreement with him, acted in bad faith, and violated the Consumer Protection Act.

Enterprise filed a motion for summary judgment to dismiss Shields' lawsuit asserting that, as a matter

of law, it has no duty to provide third-party liability coverage to renters who do not purchase the optional SLP coverage. The trial court granted Enterprise's motion, dismissed Shields' lawsuit, and awarded statutory attorney fees in favor of Enterprise. Shields appealed.

On appeal, Shields argued that notwithstanding the terms of the Enterprise rental agreement, self-insurers have an obligation to provide minimum third party liability coverage of \$25,000 pursuant to the FRA. The Court of Appeals for Division I disagreed, holding that, as a matter of law, Enterprise is not required to provide minimum third party liability coverage to renters under the FRA. Further, the court found that rental car agreements will be treated as stand-alone motor vehicle insurance policies only to the extent that they contain insurance provisions. Here, Shields expressly rejected the optional SLP coverage which would have incorporated liability insurance provisions into the agreement.

The court went on to hold that because Enterprise had no obligation to provide liability insurance under the terms of its rental agreement with Shields or the provisions of the FRA, and because it had a reasonable basis to deny Shields' claim, it did not breach its contract with him, act in bad faith, or violate the CPA. The trial court's decision to grant Enterprise's motion for summary judgment was affirmed. ❖

— *If you want to be notified of new cases, please send an email to caseupdate@smithfreed.com.*

— *For additional information, please visit our website at www.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.

RGLForensic Accountants
and Consultants**Key Elements of
Business Income Loss
Calculations Part V**— by **Russ Matheson, CPA, CFE**

My first column in this series provided a general overview of the key elements of a Business Income loss calculation. In Parts II through IV I provided further details related to three of the key elements: Period of Restoration, Sales Projection and Mitigation. My previous articles have explained how each key element impacts a Business Income loss calculation. This column concerns **Projecting Expenses**, another crucial component of a Business Income loss calculation.

Based primarily on historical information, the process of projecting expenses involves identifying both fixed and variable expenses. Projected expenses are subtracted from projected sales to determine the likely net income or loss of the business, had the loss event not occurred. Expenses that actually continue during the loss period are then added back to projected lost net income to compute the Business Income loss.

The main records used to project expenses include Federal Income Tax Returns and Monthly Income Statements. If these documents are not available there are other records that can be helpful, such as Monthly Profit and Loss Statements, Trial Balances, General Ledgers and Budgets/Business Plans. Typically, we request these records for the two years preceding the loss event. It is important to analyze an adequate pre-loss history of expenses; in my experience a two-year period is usually sufficient. However, there are certain circumstances where two years of history is not enough. Without an adequate history it can be difficult to ascertain if the pre-loss period analyzed provides a reasonable basis on which to project expenses.

Once the appropriate documents are received a spreadsheet should be prepared that summarizes the pre-loss history of each expense. Based on my experience and discussions with the insured, I identify fixed and variable expenses. Variable costs are directly related to revenue and fluctuate proportionally with sales volume. A good example of a vari-

able expense is cost of goods sold. Fixed expenses, on the other hand, remain constant from month to month. A good example of a fixed expense is rent, which generally remains the same each month, regardless of the sales volume.

After determining the nature of each expense I project fixed expenses using historical monthly averages and variable expenses based on a percentage of sales. I then subtract projected expenses from projected sales, to derive projected net income (or loss). To projected net income (or loss) I add back continuing normal operating expenses to compute the Business Income loss. ❖

— *Next Month's Topic: Continuing Normal Operating Expenses*

About RGL - Forensic Accountants and Consultants

Russell Matheson CPA, CFE, is a Director in RGL's Seattle office. He has more than 20 years of 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.

RGL – Forensic Accountants & Consultants is an international firm with offices around the world. In the arena of Insurance Support, one of our core services is reviewing insurance claims and establishing a reliable basis on which to decide how much is owed, given the coverage interpretations provided to us by the insurance carriers or their representatives. RGL works exclusively for insurance companies, often in close partnership with loss adjusters, to ensure that a claim's factual and financial bases are sound.

~ Career Opportunity ~

Country Insurance is seeking to fill a key position in the North Puget Sound area. The position is for multi-line claims handling from an Everett based office. We are willing to train in either homeowner's property or bodily injury handling. At least 3 years of claims handling experience would be a plus. Requires strong communication and organization skills, familiarity with PC applications, and a customer service orientation. COUNTRY provides competitive pay and benefits, and a company vehicle for this position. Please send resume and cover letter to jobswest@countryfinancial.com, or fax to 503/375-2797.

[Posted 8/30/07]

For more information on this opportunity and others, visit our website at www.seattleadjuster.org.



Medical Notes

What is TMJ?

Article provided by Health Cost Management

— by **Thomas W. Albert, MD, DMD**

What is TMJ? The anatomical definition is the Temporomandibular Joint, which is a defined anatomic structure with multiple parts where the top of the mandible (lower jaw) moves against the temporal bone of the skull. The mandible and temporal bone are separated by a cartilage or “disc” within the joint, as shown above right.

Common usage of the term TMJ is to describe a symptom complex of fascial pain and dysfunction.

The first 25 mm of the jaw opening swings just like a door hinge. After that, the mandible moves forward as well as rotates. Measuring motion may help define a specific injury with the joint itself. TMJ clicking is due to abnormal or irregular movement of the disc. Locking of the jaw occurs when the disk is out of position and blocks translation.

A common conception is that any of the following indicates that a patient may have “TMJ”: some type of facial pain, clicking and popping of the jaw, headaches, biting problems, tinnitus or earaches. The TMJ concept beyond objective anatomy is not well defined and has multiple definitions. Many textbooks have been published with very different descriptions of TMJ. In actual practice, almost any facial pain or dysfunction may be called “TMJ”. However, only those with truly objective findings upon examination should have a diagnosis of “TMJ”. Objective findings are verifiable indications of injury or disease that are reproducible, measurable and observable.

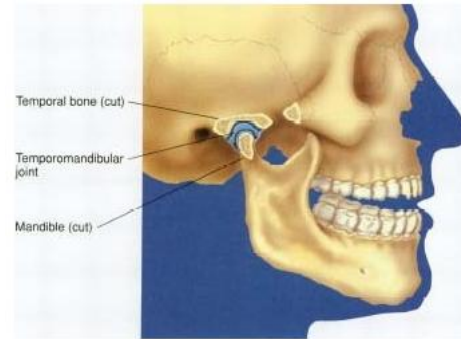
A physical examination for the purpose of diagnosing TMJ includes the following:

Facial – symmetry / asymmetry

Location of symptoms

Palpation of structures – bony landmarks, muscles

Range of motion – straight opening, protrusion, lateral



Noises – palpitation, auscultation (listening), what part of movement

Occlusion

Condition and state of repair of teeth

Wear patterns of teeth – evidence of grinding or clenching

Neurologic examination (cranial nerves)

Condition of mucosa (mouth tissue) - looking for tumors

The following diagnostic studies are also important for the purpose of diagnosis:

Arthrograms – dye injected into the joint spaces – dynamic view

MRI – open and closed views

Plain radiographs

The position of the discs as shown in the diagnostic studies is important to the diagnosis. Normal position in the open and closed views indicates normal function of the joint. Displacement of the discs may provide objective evidence of a TMJ diagnosis. Degenerative changes of the joint may also be visible in the studies.

Subjective findings are much less conclusive and may be derived from many other causes besides TMJ. They include headaches, earaches and stress – real but hard to define.

Initial treatment for TMJ consists of a soft, non-chew diet, NSAIDS and relaxation techniques. Following that, more focused modalities such as a bite guard / night guard may be useful. Physical therapy focused on muscles of mastication (chewing) and neck may help in many cases. The therapy must be based on clear goals with timely reassessment and be of limited duration and emphasize home maintenance.

nance. Successful physical therapy for TMJ requires a therapist who is experienced specifically in this area.

Surgery is reserved for well-defined problems where there are clinical and imaging findings of internal derangements. It should be applied when the patient is unresponsive to reasonable non-surgical modalities. Surgery is rarely adequate by itself and should be applied only after weighing the potential benefits against the risks.

Most individuals will respond within three to six months with simple non-surgical modalities and should be medically stationary by that time. If the non-surgical modalities are not effective and surgery is applied, most patients should be medically stationary within four to six months after surgery.



“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!”

September 21 — 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: www.seattleadjuster.org



~ Career Opportunity ~

Work from home – 30 hours a week – with an average pending of only 40 files! Partners Claim Services, a leading independent adjusting and national third party administration firm has a unique opportunity for the right person. Our continuing unsolicited growth is a testimony to our positive and creative atmosphere and our ability to consistently deliver outstanding service to our ever growing list of clients. We are looking for a field adjuster for our Independent Adjusting Division with at least 3+ years of experience. The ideal candidate will be multi-line. But if your experience is limited to general casualty and you have a desire to learn property and be multi-line, this could be your best career move ever. Call Jim Davis at 253.851.2948 for an informal discussion and visit our web site at www.partnerscs.com.

[Posted 8/07/07]

For more information on this opportunity and others, visit our website at www.seattleadjuster.org.

Making the Most of Technical Experts

— by MDE Inc.

Claims with technical aspects require technical experts to conduct the investigation and present the findings. Selecting and utilizing the technical expert is an important component of settling a claim.

Technical experts are invaluable for:

- Fire origin and cause
- Accident investigation and reconstruction
- Property claim analysis
- Personal injury claim analysis

The adjuster should bring the technical expert into the claim investigation as early as possible. It is best if the technical expert can personally view the site, review evidence, and collect samples to formulate their opinions. Technical experts may not be as effective if evidence is not collected or was destroyed or if their opinion must be formulated on the basis of inspections or samples collected by others. This can limit your technical expert to conclusions based on potentially incorrect or inadequate investigations that may have insufficient documentation.

By looking objectively at the claim allegations, the expert will develop hypotheses for the cause of the claim condition and then test their hypothesis. This hypothesis testing may include both non-destructive and destructive analysis of the evidence. Testing may be conducted at the site using relevant materials, such as measuring the slip resistance of a flooring material, to complex laboratory examinations such as scanning electron microscopy of an electrical component from a failed appliance. So, as can be seen, formulating an opinion with the proper scientific basis takes time, experience and the right tools to bring it all together in a cohesive manner for the benefit of the client.

Once it is decided to involve a technical expert, it is important to research and interview prospective technical experts to select the expert and firm that can objectively investigate the claim. Select techni-

cal experts who:

- Are knowledgeable, credible (have appropriate degrees, licenses or certifications) and experienced in the field where you need expertise,
- Have demonstrated ability to clearly communicate their expertise through publications, speeches, instruction, or expert witness testimony,
- Have the time and resources to investigate the problem/condition for which you need the expertise,
- Base opinions on sound science,
- Are well organized in their investigation, documentation, and manner of speech,
- Have the necessary laboratory capabilities to complete a thorough investigation of your claim, and
- Are associated with other experts that, in total, have a broad range of expertise. As claims are evaluated, often the investigation branches into other areas with additional expertise would benefit. ❖

~ Career Opportunity ~

Travelers, one of the largest Property and Casualty insurers in the US, is expanding - yet again! Seeking Technical Specialist, General Liability Claims handler. Investigate, evaluate, reserve, negotiate and settle assigned claims in accordance with Best Practices. To apply, visit our website at www.travelers.com and follow these links > Careers > Search Current Openings > Advanced Search > enter Job # ID 780931

[Posted 9/8/07]



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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