

SCAA

September 2009

Vol. 37 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.”



Dean's Dish

by Dean West
SCAA President

Another summer has come and gone and we again prepare for the fall and the time when our

Monthly SCAA meetings begin. It seems this past summer was nicer than most and even had folks looking forward to, and welcoming, the few rainy days we had.

Please welcome with me our new and continuing officers: **Jim Peterson** as Vice President; **Lynn Perry** as Secretary; and **Deborah Jette** as Treasurer, all from Grange Insurance. We will again strive to increase membership and

look forward to our existing members helping out in this regard. A simple verbal invitation to a fellow adjuster could be all we need to grow SCAA to a larger and more diverse organization.

Our main mission is to promote education to the adjuster community. We like the monthly meetings to run smoothly, and the guest speakers to be interesting and educational. This is another area in which each member can contribute. We would welcome your recommendations for our monthly guest speakers. Repeating what was done last year, we will make every effort to award one CE credit at each meeting. This involves a little more planning during the set up; however these CE credits, as some of us are handling claims in other states, are needed to meet licensing requirements, as the requirements in the different states become more demanding.

Also, and as before, the other functions such as the Holiday Party, Spring Seminar and Vendor

(See Dean's Dish... continued on page 3)

Next Meeting of the SCAA

September 18, 2009

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

Program

Whitney L.C. Smith

of Wilson Smith Cochran & Dickerson

“Lecor Industries, Inc. v. Mutual of Enumclaw”

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 Deborah Jette at deborah.jette@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



ON THE DOCKET FOR 2009

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Date	Speaker/Topic
Sept 18	SCAA Meeting "Ledcor Industries, Inc. v. Mutual of Enumclaw" with Whitney L.C. Smith of Wilson Smith Cochran & Dickerson It's time to renew your dues! See back cover for the application or visit our website!
Oct 16	SCAA joint meeting with TCAA followed by a joint Bowling Tournament See centerfold for more info!
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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Dean's Dish... *(Continued from front page)*

Fair and the end of the year Golf and Tennis Tournaments will be just as spectacular as in the past. We hope to have more member involvement on the committees this year, too. Immediately following our September meeting, we will have the committee chairs meet with anyone who wants to volunteer — so stick around after the meeting. The committee chairs for the 2009-10 year are listed on the opposite page directly under the list of Officers. Feel free to contact each of them regarding their committee and how you can help out.

The charity selection for this new term, and for our organization, is the **Juvenile Diabetes Research Foundation**. I am personally familiar with this disease and know of the effects it has on all children, from the new born infant to the sudden diagnosis to what was once a normal healthy teenager. Thus, there will be fundraisers and speaking engagements from the charity organizers planned throughout the year.

And now....the real *Dish*. Each month, I will try to put together a recipe for the newsletter which I hope someone will give a try to and actually enjoy. This month:

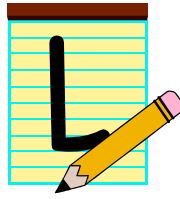
Beer Baked Beans

Ingredients:

- 1 Large Can of Baked Beans (I use Bush's Baked Beans)
- 1 Small Can Kidney Beans (optional)
- 6 Slices Bacon
- 1 Small Red Onion
- 1 Cup of BBQ Sauce (Sweet Baby Rays is my favorite)
- ¼ teaspoon of Ground Cayenne Pepper (optional)
- 1 Bottle of Beer

See you at the meeting September 18 and let me know how you liked the beans! ❖

Notes from the Secretary



Board Met to Discuss Events for the Upcoming Year

— by Lynn Perry, SCAA Secretary

I am really excited about the upcoming year and serving as the Secretary of the SCAA. We have a great board with active members and a terrific year planned for the membership.

On July 30, 2009, the SCAA board met and discussed the events for the upcoming year. We were also privileged to be joined by members of the Tacoma Claims Adjusters Association (TCAA) — **Roger Howson** and **Erin Montgomery** — to discuss the possibility of holding joint membership meetings to avoid overlap and duplication of speakers. Their proposal was overwhelmingly supported by your SCAA board, and it was agreed that we would hold a couple test meetings this year. See page 15 for information on the first joint meeting and bowling tournament.

Also discussed at our board meeting were committee assignments and speaker selections for the year. We all are enthusiastic about the coming year and look forward to serving the SCAA membership. ❖

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 find it inside this newsletter.
RENEW TODAY!
www.seattleadjuster.org



Treasurer's Report

Submitted by **Deborah Jette, Treasurer**

Income: \$4,237.98

Expenses: \$4,963.90

Ending Balance as of 9/1/09: \$21,313.80



Claims Conversation

with **Roger Howson**, Claims Dispute Resolution, TCAA President, SCAA/
TCAA Education Coordinator

SCAA and TCAA are engaged in a Hostage Exchange Program this month, so it is my privilege to share a Claims Conversation with our Seattle claims brethren while your illustrious SCAA President, **Dean West**, remains bound, gagged, and blindfolded in a deserted warehouse on the outskirts of Orting. Okay, Orting and outskirts IS redundant.

In honor of the annual SCAA/TCAA Hostage Exchange Program the TCAA Board contacted your SCAA Treasurer, **Deborah Jette**, with our ransom demand to ensure Dean West's safe return. Negotiations were going quite well until it became apparent that Deborah expected that the sums of money being discussed were to be paid TO (not BY) SCAA in exchange for you folks taking Dean off our hands. We explained that the concept of a ransom demand is for YOU to pay US (you people are soooooo slow). Speaking on behalf of the entire SCAA Board and Membership, your treasurer told TCAA that we will have to keep Dean until we've raised sufficient cash to make it worth your while to take him back.

Not to be outwitted, our TCAA Treasurer, **Heather Stariha**, argued that if TCAA is stuck with Dean then SCAA is stuck with me. Deborah pointed out to Heather that the SCAA/TCAA Hostage Exchange Program actually began several years ago and that SCAA records show that I'm already an SCAA hostage because the TCAA Board STILL hasn't approved the \$15 ransom payment. This is kind of upsetting to me because I myself donated \$20 to the "Free Roger Howson" Fund. (Heather says they spent the \$20 on postage.)

The way things stand now, you may not see your SCAA President again until the October 16 joint SCAA/TCAA meeting down at ACME Bowl by Southcenter. The ceremonial release of TCAA hostage, Dean West, will be but a brief prelude to a spectacular "Death by Deposition" presentation featuring a live demonstration of an adjuster's actual execution... I mean deposition... by attorney **Dan Thenell** of Smith Freed and Eberhard.

Many of us have already endured the excruciating thrill of having our words twisted, our motives misrepresented, and our competence and intelligence maligned by experienced plaintiff lawyers, so it will be especially useful to watch from a safe distance as Dan Thenell eviscerates an innocent adjuster in the name of SCAA/TCAA continuing education. And, for those of us who haven't yet experienced this claims handling rite of passage, this presentation will provide a cautionary illustration of the do's, don'ts, and the "I can't believe you actually SAID that" of every adjuster's first deposition.

After the blood from Dan Thenell's adjuster volunteer/victim has been washed away the joint SCAA/TCAA Meeting will then morph into the SCAA/TCAA Bi-Annual Bowling Tournament which follows at 1:30pm. Why else would we convene this meeting at ACME Bowl?

We only ask that you sign up in advance for both (or either) the SCAA/TCAA Meeting and Bowling Tournament so that SCAA and TCAA have an accurate head count. Other than that, you don't even need your own bowling ball, bowling shoes (NO golf cleats!), or any semblance of athletic ability to compete. ACME Bowl has an adequate supply of bowling balls and every size bowling shoe, your score is calculated automatically, and no "sport" that allows the consumption of food, alcohol, and tobacco during play can be all that difficult.

You CAN'T embarrass yourself at bowling! At the SCAA Bowling Tournament two years ago our own SCAA Santa Claus, **Tom Bishop**, went up to roll the first ball of the first frame of the first game of the entire tournament, and, with everyone watching, he tripped face first to land with a loud 250+ pound thud halfway down the lane. That moment of abject (and very public) humiliation failed to deter Tom from completing all three games with his prototypical pride and sense of humor fully intact; although, he DID threaten to beat me senseless with a bowling pin when I wouldn't stop laughing.

This entire October 16 event is completely idiot-proof, so the ONLY idiocy would be if you missed out! If your SCAA President, Dean West, were available he would want me to also remind you that the **September 18 SCAA Meeting** is well worth your attendance. And Deborah Jette says that if you want to donate to the "Free Dean West" Fund you

should log onto her website at www.areasofexcellence.com.

Thanks so much to the SCAA Board for inviting me to contribute a Claims Conversation to this inaugural 2009-2010 SCAA Newsletter. And thanks to everyone of you who have read this far, and please pass on the following message to those who didn't read all the way through to the end... "@#% **#%!!!"

I look forward to seeing every one of you at BOTH the September 18 and October 16 SCAA Meetings, and you're always welcome to drop in on our TCAA Meetings at LaQuinta Inn down by the Tacoma Dome on the second Friday of (almost) every month. ❖



Case Study
SMITH FREED & EBERHARD P.C.
Your Litigation Partner

Amendments to Consumer Protection Act May Open Door to More Lawsuits

— by Jeffrey D. Eberhard

Claims Pointer: Newly adopted amendments to the Consumer Protection Act (CPA): (1) Increases the maximum award of treble damages available to a plaintiff to \$25,000 and (2) Allow plaintiffs to establish *a public interest* by showing that the defendant either violated a "CPA-related" statute or exposed persons other than the plaintiff to injury.

In 1961, the Washington legislature enacted the CPA in an effort to prohibit unfair or deceptive practices in trade or commerce. To establish a CPA claim the plaintiff had to show:

- (1) an unfair or deceptive act or practice;
- (2) that occurs in trade or commerce;
- (3) *a public interest*;
- (4) injury to the plaintiff in the plaintiff's business or property; and
- (5) a causal link between the unfair or deceptive act and the injury suffered.

A prevailing plaintiff was entitled to recover actual damages, the costs of the suit and reasonable attor-

ney fees. The courts could also increase the total award of damages by awarding treble damages up to three times the actual damages. Prior to the amendments mentioned below, the CPA limited treble (i.e., triple) damages in superior court to \$10,000. Treble damages in district court were limited by the court's jurisdiction.

On May 6, 2009, the governor signed Senate Bill 5531, amending the Consumer Protection Act. The amendment applies to all practices, that occur on or after July 26, 2009, that result in the filing of a CPA claim. The amendments set a new limit for treble damages for both superior and district courts. The amendments also lower the plaintiff's burden of proof by increasing the plaintiff's options for proving *a public interest*.

The legislature determined that the \$10,000 limit on treble damages at the superior court level did not provide sufficient incentive to deter violations of the CPA. (Additionally, the district court's treble damage limit was unclear because the statute based the limit on the court's jurisdictional limit (\$75,000), instead of an explicit dollar amount). As amended, the CPA now provides a clear limit of \$25,000 on treble damages for superior and district courts.

Plaintiffs who pursued CPA actions prior to the amendments also faced an arguably higher burden of proof. In proving *a public interest*, the plaintiff was required to show a potential for repetition, based on a complex case-law based test. While keeping this option available to plaintiffs, the CPA now allows a plaintiff to establish that the defendant's conduct affects the public interest by showing that the defendant:

- (1) violated a statute that incorporates the CPA;

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



CPCU All-Industry Day
October 26, 2009

Seattle Westin Hotel
Featuring seminars, networking, &
comedian Kelly Terranova

Check your chapters website for more information

Registration forms will be mailed in September

Medical Notes



Healing Times & Treatment of Soft Tissue Injuries

Article provided by Health Cost Management

Literature Review by **Mary McLean**

Approved by **Donald Schroeder, MD, Orthopedic Surgeon**

The stages of healing for soft tissue injuries, typical time frames and recommended treatments are summarized in the table below:

Soft Tissue Injury Rehabilitation Summary Table

Phase	Duration	Characterized by	Treatments
#1: Acute Inflam- mation	Up to 72 hours after injury	Initial reaction of the body. Swelling, pain, redness, warmth. Signs are sometimes not readily visible.	R.I.C.E. in response to swelling and pain, cryotherapy, specific modalities, and a controlled program of CMP (continuous passive motion) and manipulations.
#2: Repair	48 hours to 6 weeks	Production and laying down of new collagen. Determines functional capabilities of the repaired tissue.	Mobilization, manipulations, modalities, strengthening program within patient's limits of pain.
#3: Remo- deling	3 weeks to 12 months +	Reorientation of collagen in the direction of tensile strength. Determines functional capabilities of the repaired tissue.	Mobilization, manipulations, modalities, strengthening program within patient's limits of pain. Emphasis on home exercise program.

Treatments for acute, minor, straightforward soft tissue injuries include:

- The R.I.C.E system (rest, ice, compression, elevation)
- CMT (chiropractic manipulative therapy; spinal manipulation, adjustment)
- STM (soft tissue manipulation such as massage, myofascial release, manual trigger point therapy, energy techniques, etc)
- Physical therapy or physiotherapy, including CPM (continuous passive motion)
- Anti-inflammatory and pain medications

R.I.C.E. is the most common and essential system for minor soft tissue injury treatment. R.I.C.E. can be used for minor injuries such as bruises, sprains, strains, and pulled muscles. The earlier the R.I.C.E. treatment is started after an injury, the better it

works. This method stems from the use of rest to prevent further injury, as well as the use of cryotherapy and injury site compression and elevation to reduce swelling. If moving the injured area causes pain, this is the body's way of saying stop. Many healthcare systems encourage light, consistent physical activity during recovery, but this is subject to controversy because it is easy to overexert the site of injury, leading to further tissue destruction. J.A. Buckwalter of the University of Iowa Orthopaedics Department states that after a brief period of rest, controlled use of an injured muscle will promote the optimal healing.

Reduced swelling helps with pain management so that fewer medications are needed, making the healing process simpler and reducing potential for further injury from desensitization of the site. Cryotherapy is defined as the therapeutic use of cold to reduce discomfort, limit progression of tissue edema, or break a cycle of muscle spasm. The results of a study performed by Dr. Mac Auley were released in 2001 by the International Journal of Sports Medicine. Melting

iced water applied through a wet towel for repeated periods of 10 minutes is most effective. The target temperature is reduction of 10-15 degrees C. Using repeated, rather than continuous, ice applications helps sustain reduced muscle temperature without compromising the skin and allows the superficial skin temperature to return to normal while deeper muscle temperature remains low. Reflex activity and motor function are impaired following ice treatment so patients may be more susceptible to injury for up to 30 minutes following treatment. It is concluded that ice is effective, but should be applied in repeated application of 10 minutes to be most effective, avoid side effects, and prevent possible further injury.

Compression should be applied lightly in the form of an elastic wrap so that it accommodates swelling. Anytime the wrap seems too tight or causes swelling below the wrap it should be loosened. As for

elevation, holding the injured part above the level of the heart is standard treatment to reduce swelling. The R.I.C.E. system is one of the most important treatments in the initial reaction phase, and it allows pain relief without medicating the patient. However, as its purpose is to reduce inflammation, its benefits are unclear after the acute inflammation phase. Use of cryotherapy into the second and third stages of rehabilitation is not proven to be harmful as long as the patient follows the recommendations for duration and intervals. Excessive or prolonged cooling of the site is damaging.

Other than R.I.C.E., the patient should avoid prolonged immobilization of the injury site. Controlled passive motion should be employed until a maximum range of motion is reached. At this point, active assistive motion should be employed. As the injury heals and the tissue adapts, the patient can be graduated to active resistive motion. Active resistive motion should be followed by a strengthening program of kinetic resistive exercise. This will insure a return to maximum strength for the patient. ❖

Case Study... *(Continued from page 5)*

- (2) violated a statute that contains a specific legislative declaration of public interest impact;
- (3) injured other persons;
- (4) *had* the capacity to injure other persons; or
- (5) *has* the capacity to injure other persons.

The Consumer Protection Act, as amended, could result in increased litigation. This is because the amendment arguably creates a lower standard of proof and also creates greater incentive to pursue CPA actions because of a new higher limit that courts can multiply the plaintiff's actual damages by. Taken together, the amendments may create an increase of CPA actions. ❖

— *Full Text of the new law can be found at:*
<http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session%20Law%202009/5531-S.SL.pdf>

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

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