

IIAAWNY

INDEPENDENT
INSURANCE AGENTS ASSOCIATION OF
WESTERN NEW YORK, INC.
FOUNDED IN 1841



I-WAYS

Information for
January 2012

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Affiliated with:
INDEPENDENT INSURANCE
AGENTS AND BROKERS OF
NEW YORK, INC.

INDEPENDENT INSURANCE
AGENTS AND BROKERS OF
AMERICA

Officers:

Paul Chisholm, President
Mark Garvelli, Vice President
Wendy Clemens, CIC, CISR, Treasurer

Board of Directors:

Louis Atti, Chairperson of the Board
Barry Harper
Tom Ditzel
Christine Garvelli
Leo Kuziemkowski
Steven McCarville
Carl Maranto, Jr.

Barbara Duke, Executive Secretary



ANNUAL AFFILIATES MIXER

THURSDAY JANUARY 19, 2012

**NETWORK WITH OLD FRIENDS AND NEW, AND HELP
US THANK OUR AFFILIATE MEMBERS FOR THEIR
CONTINUED REALTIONSHIP WITH OUR MEMBERS!**

*Wine Tasting
and Hors d'oeuvres Event*

4:00PM – 6:00PM

PETTIBONES Grill

Coca-Cola Field, One James D. Griffin Plaza, Buffalo NY 14203
(Bring your business card for door prize drawings)

\$35/PERSON

(AFFILIATE MEMBERS RECEIVE ONE COMPLIMENTARY ATTENDEE PER
PAID AFFILAITE MEMBER DUES)

RSVP DEADLINE: 1/12/2012

ALL RSVP'S MUST BE DONE ONLINE

[Click here to RSVP](#)

UPCOMING EVENTS

1/30 -1/31/12 Capitol Event in Albany

PRESIDENTS MESSAGE

Greetings,

What a great time with all my friends in the business at The Mansion on Delaware. If you were there, you know we could not have picked a better fireman than Captain John Leising to honor. He was so grateful and enjoyable to be with. It just put the topping on the day. We collected over \$1400 for the Food Bank of Western New York. Your association matched up to \$1000, making a total of over \$2400 donated. You can see all of the photos on your association's website: www.wnyagent.com.

Next event is the Annual Affiliates Mixer - Network with old friends and new, and help us thank our affiliate members for their continued relationships with our members. These members are an extension of service to our insureds. They provide the hands on, immediate care that our insureds expect from the people associated with us. It is their professionalism that reminds your insureds in another way why they prefer to deal with independent agents. Not only for the diversity of choice, but the professionals we recommend to resolve their unfortunate situation and make them whole. I know you do not need another reason to attend BUT, we have added a wine tasting to this event!

AFFILIATES – Contact Barb Duke or Leo Kuziemkowski (contact info on the website) for a table to display your pamphlets, brochures, flyers, etc. Every affiliate member is entitled to one FREE table at this event. We will have lots of agency members there to network with at this meeting. (I did mention the wine tasting, right?)

***Reservations accepted on-line only** at www.wnyagent.com. Just go to the “upcoming events” tab and follow the Jan 19th links. \$35 per person (Affiliate Members receive one Complimentary attendee per paid affiliate member dues). RSVP Deadline: 1/12/2012*

Finally, L-day will be January 30th & 31st. At this time we expect to be taking the train. We had such a good time last year; you do not want to miss out on the fun this year. Affiliates and agency members are welcome to come. Contact Steven McCarville (contact info on the website) regarding arrangements.

Hope to see you at both events!!

Paul

Paul Chisolm

President IIAAWNY

**ANNUAL
CAPITAL EVENT IN ALBANY
1/30/12-1/31/12**



**\$2,231.00
Donated to the
"Food Bank of WNY"**



**Thank you for your generous
donations!!!!
You are the best ~**

**\$500 Donation to
Captain Leising**



All Aboard

for the IABNY Capital Event January 30 and 31st, 2012, in beautiful downtown Albany! We are still welcoming more members to join us for what appears to be one of the most worthwhile and exciting L-Days in a long time. This year's program provides many opportunities to interact directly with our State Representatives to advocate for the issues we know are so important to our industry and the residents of New York State. The Schedule of Events includes panel discussions on the 2012 Industry Outlook, Solutions to Taking Back Market Share, and Legislative Briefings. Monday evening will feature a cocktail reception and dinner with surprise entertainment, so we know we will be having fun along the way. Please join us on the train to Albany as we enjoy some camaraderie and give something back to our industry. NeXtGen members have their \$99 registration fee waived by IABNY and IIAAWNY pays for hotel and train expenses for all AGENCY members and train expenses for Affiliate members. Please book your hotel and register for the Capital Event on the IABNY website. The deadline for hotel reservations has been extended to 1/11/12! If you would like to sign up, please contact Steve McCarville. If you have already signed up, please confirm with Steve @ smccarville@litwincastle.com so he can make the train reservations.



Schedule of Events



Monday, January 30 Crowne Plaza

8:00 a.m. - 1:30 p.m.

IIABNY's Quarterly Board of Directors Meeting

11:30 a.m. - 1:00 p.m.

Next Gen Committee Meeting

1:30 p.m. - 3:15 p.m.

Next Gen Free CE Offering

2:00 pm - 4:00 pm

Company Meet & Greet

2:30 p.m. - 3:45 p.m.

NY First Meeting

4:00 p.m. - 5:15 p.m.

Taking Back Market Share: Project CAP (Consumer Agent Portal)
A discussion of the new industry solution to increase digital marketing & online sales

5:15 p.m. - 7:00 p.m.

Cocktail Reception • Open Bar

7:00 p.m.

Dinner • Open Bar • Entertainment



Tuesday, January 31 Empire State Plaza

7:30 a.m.

Registration

7:45 a.m. - 8:30 a.m.

Legislative Briefing with Michael Barrett
Location: Convention Center

8:30 a.m. - 9:30 a.m.

Breakfast with Legislators
Location: Convention Center

10:00 a.m.

Individual Meetings in Legislators' Offices
As scheduled by local associations and individual agents



2011 HOLIDAY PARTY



Project InVest Update

With the support of the recently-formed Buffalo NeXt Gen Chapter, Project InVest's future in WNY looks bright. For those who may not be familiar with the program, **Project InVest is a national program designed to educate high school business students in the career possibilities afforded by the insurance industry.** There is a specific curriculum (complete with newly-updated textbooks) that is taught by insurance professionals who volunteer their time for this worthy cause. Though careers in insurance or insurance-related fields comprise a very large percentage of jobs in this country, they have never really been promoted the way they could have been. Making today's youth aware that very rewarding careers exist in insurance fields, is vital to the future of this industry. The program even provides a limited number of scholarships (available at both national and local levels) for students who complete the course and decide to compete for them. By targeting promising high school business majors, the insurance industry stands a greater chance of getting its fair share of the young talent necessary for perpetuation.

A Buffalo-area InVest Committee has been formed. It is chaired by IIAAWNY Director Barry Harper and includes fellow IIAAWNY Director Carl Maranto Jr. (NeXt Gen Chair), Karen Catalano, and Tyler Perry (NeXt Gen Education Committee head). Karen Catalano has been a passionate promoter and instructor for InVest, and has been actively involved with some of the local high schools' Finance Academies for quite some time now.

Currently three local schools (W. Seneca East & West and Lakeshore) are slated to begin the InVest curriculum in the first quarter of 2012. As we continue to get more involvement and commitment from the local insurance sector, the number of schools involved will grow.

In order for Project InVest to reach its full potential, we *need* your help. We are looking for people who believe in giving back to this industry. You can help this worthy cause by either volunteering as an instructor, supporting via financial contributions, or by considering the hiring of summer interns from the local Finance Academies.

For more information on how you can help, please contact Barry Harper at 716-633-8401 or barry@promarkinsurance.com

Please don't leave this up to someone else, "take the bull by the horns" and get involved. The future of this industry needs your help now.

Barry Harper
InVest Chairman

LEGAL INSIDER

NEW YORK'S HIGHEST COURT ISSUES SIGNIFICANT DECISION INVOLVING AUTO ACCIDENT LITIGATION

On November 22, 2011, New York's highest court, the Court of Appeals, issued a decision concerning the standard for summary judgment in automobile accident cases. This decision, universally-lauded by the plaintiff's bar, will result in fewer auto accident cases being dismissed at the summary judgment stage and may result in an increase in trials on the issue of whether a plaintiff has sustained a "serious injury."

In order for a car accident victim to recover in a lawsuit for non-economic loss (i.e. pain and suffering and loss of enjoyment of life) he must demonstrate the presence of a tort-qualifying "serious injury." While some categories of a "serious injury" are capable of objective verification (i.e. a "fracture"; "loss of fetus"), certain other categories are quite vague and subject to varying interpretation, based upon the opinions of a particular physician or medical provider. Of these latter categories of "serious injury" under Insurance Law §5102(d), the most-often litigated are the following: (1) a "permanent consequential limitation of use of a body organ or member;" (2) a "significant limitation of use of a body function or system;" and (3) a "medically-determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all the material acts which constitutes such person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment."

*Application of the above-noted categories typically arise when an auto accident plaintiff alleges certain "soft-tissue" injuries to his neck or back, including disc herniations or disc bulges. Over the years, judicial treatment of such injuries has resulted in an often inconsistent patchwork of decisions on the issue of whether the "serious injury" question should go to a jury, or whether the case could be dismissed by Court on a defense motion for summary judgment. The legal landscape in this area is about to change, given the recent Court of Appeals decision in *Perl v. Maher, et al.*, 2011 N.Y. Slip Op. 8452 (2011).*

The Perl case involved three separate unrelated lawsuits brought by Joseph Perl, David Adler, and Sheila Travis, who were all allegedly injured in car accidents and filed lawsuits claiming they had sustained tort-qualifying "serious injuries." All three cases turned on the sufficiency of plaintiff's proof of injury. Over the last several years, many intermediate appellate court cases suggested that treating doctors' records must provide specific numerical measurements of loss of range of motion and restrictions at or near the time of the accident, suggesting, if not, the doctors were merely recording the patient's subjective complaints. In Perl and Adler, the treating physician performed a number of clinical tests but did not fully describe them in the record. In both cases, several years after the accident the plaintiffs' doctors used instruments to make specific range of motion measurements. The Court of Appeals reversed the appellate court's dismissal of the claims and held that a rule requiring contemporaneous numerical measurements was not needed. The Court of Appeals noted that such a requirement could have an adverse impact on an injured plaintiff's ability to recover and that a plaintiff should not be penalized for failing to immediately treat with a physician who knows how "to create the right kind of litigation record."

Accordingly, the Court of Appeals held that the lower courts were over-reaching in making factual determinations as to what constituted a "serious injury" and taking cases away from the jury where it belongs if "contemporaneous" loss of motion findings were not made.

As we have noted, the effect of Perl will be to reduce the number of auto accident cases dismissed at the summary judgment stage, likely resulting in an accompanying increase in trials on the "serious injury" threshold.

For answers to your legal questions, feel free to contact John R. Condren, Esq. at Rupp, Baase, Pfalzgraf, Cunningham & Coppola LLC, 1600 Liberty Building, Buffalo, New York 14202, 716-854-3400, condren@ruppbaase.com, www.ruppbaase.com