

IIAAWNY

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



I-WAYS

Information for
December 2011

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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



IIAAWNY Holiday Party

December 9, 2011

The Mansion on Delaware

12pm to 4pm



Upcoming Events:

1/19/12 Affiliate Mixer/Wine Tasting Pettibone's

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

PRESIDENTS MESSAGE

Happy Holidays to everyone!!

As I write this message three days before Thanksgiving I am very thankful that my son joined my agency, that my daughter has returned to Buffalo (she is hosting the family Thanksgiving dinner at her new house in Williamsville), the birth of our first grandchild (Evelyn) and for my beautiful bride of 39 years. Each and every one of you is thankful for a multitude of blessings this Thanksgiving, remember to demonstrate it.

And in the spirit of giving please be generous with your donations at our holiday party being held at The Mansion on Delaware. The Food Bank of WNY needs loads of dollars to feed the hungry in the area. Twenty more reservations and we are sold out. So go to our website and make a reservation today!!

Speaking of visiting our website, have you noticed that the opening page features the billboard advertising for our association, sponsored by Safeco? The Board and our members are very thankful for their continued support to raise awareness of the independent agencies. A personal thank you from each of us to Safeco is the least we can do. I was informed at the last board meeting that the guy in the funny hat looks just like me. Go to the website, then come to the party and tell me your opinion! (Personally, I think I look good in that hat!)

Our November meeting was another success, as half the attendees were NextGen. People from the state association were there to explain the statewide NextGen program and to congratulate our chapter for holding the single largest NextGen event in the state. Let's not sit on our laurels, look at your agency and encourage your under 40's to get involved. This is the premier networking group in the business. Watch our website for more announcements.

Affiliates, don't forget to encourage your NextGen people to join that group! They will be networking with the next generation (their peers) of agency owners, producers, and CSR's. Also, contact either Lou Kuziemkowski or Barb Duke (email and phone numbers on the website) for a reservation at our Affiliates' meeting in January. You will have a table, signage and recognition as the members mingle with you while sampling various wines! Don't miss out on YOUR event.

In closing, please be grateful and generous to those who sustain your businesses everyday, your employees. May God bless and protect each and every one of you. Merry Christmas and Happy Holidays!

Paul

Paul Chisolm

President IIAAWNY



November Meeting

We will, once again, be collecting cash & checks for the "Food Bank of WNY" at the holiday party. The board has agreed to match up to \$1000 of the donations we receive.

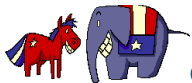
President, Paul Chisholm and Chairman of the Board, Lou Atti, CPCU, will be presenting the money on WGRZ's Food 2 Families LIVE @ 10:00 a.m. Saturday 12/10/11.

Anyone that donates to the Food bank will be eligible for one of our door prizes, so **DON'T FORGET YOUR BUSINESS CARD** for a chance to win!

THANK YOU in advance, for your continued generosity to those less fortunate! It is the **TRUE MEANING** of the holidays!



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



Come one, come all, and mark your calendars for the **2012 Capital Event to be held Monday January 30 and Tuesday January 31**. This year's **Monday events** feature a free CE Offering for Next Gen members, a discussion on how to take back market share, a Company Meet and Greet and of course an exciting evening with a cocktail reception, dinner and entertainment. **Tuesday morning** begins with a legislative briefing from Michael Barrett, **Breakfast at the Convention Center WITH Legislators** and the important face to face, individual meeting with Legislators and their staffs. L Day continues to provide us with a fantastic opportunity to lobby on behalf of our Industry, while having a **great time with friends from around the state**. We will be taking the train again this year, and probably continue the tradition of taking over the Club Car to ensure a quick and enjoyable ride to Albany. We already have 15 participants signed up and hope for many more. This year IIABNY is holding a **\$500 contest to see which Local Association has the highest attendance and largest percentage increase from last year; We want to win!** The only cost to AGENT members is the registration (\$99). **IIAAWNY covers the transportation and hotel cost**. Great news for Next Gen members, there will be **NO COST** for you to attend L Day! IIABNY is waiving the registration fee for you. Registration forms are included in the newsletter.
For more information, please contact me @ smccarville@litwincastle.com.

Steve McCarville, Legislative Chair.



Schedule of Events



Monday, January 30 Crowne Plaza



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

IABNY'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



IIABNY's Capital Event

Hotel Reservation

Crowne Plaza

State & Lodge Streets, Albany, NY | 1-877-462-4441

Arrival: 01/30/12 | Departure: 01/31/12
 Check-in: 4:00 p.m. | Check-out: 11:00 a.m.
 Rate: \$143, plus tax per night | Hotel Parking: Additional \$5.00

FAX THIS FORM DIRECTLY TO THE HOTEL - 518-462-8192

There are a limited number of rooms reserved. Room reservations are on a first come, first serve basis.
 Absolute deadline for reservations is 3:00 p.m. on December 30, 2011.

Full Name			Company		
Street/Mailing Address					
Telephone No.		Fax		E-mail address (for confirmation)	
Number of People in Room			Roommate name (if sharing)		

All Major Credit Cards Accepted

Cardholder Name		Type of Card	
Credit Card Number		Expiration Date	

Please check your preferred accommodations (preferences are subject to availability)

- | | |
|----------------------------------|--|
| <input type="checkbox"/> King | <input type="checkbox"/> Two Double Beds |
| <input type="checkbox"/> Smoking | <input type="checkbox"/> Non-smoking |

If you wish to cancel, please do so by 6pm the day of arrival to avoid cancellation penalties. In accordance with the Americans with Disability Act, we invite you to notify us if you require any special assistance.

Reservations are subject to availability. Any reservations received after December 30, 2011 will be handled on a space-availability basis only. All rates are quoted in U.S. dollars and do not include state and local taxes.



LEGAL INSIDER

Flooding in Binghamton Not Covered, Even If One Cause of Flood Water Was Clogged Culvert

On November 18, 2011 the Appellate Division, Fourth Department issued two decisions in *K.J.D.E. Corp. v. Hartford Fire Ins. Co.*, found at Docket No. 1190 CA 11-01055, 2011 NY Slip Op 8419 and Docket No. 1190 CA 11-01105, 2011 NY Slip Op 8420, respectively. Those appeals arose out of a claim of the insured, K.J.D.E. Corporation, for water damage that occurred following a storm that left seven inches of rain in the Binghamton area.

K.J.D.E. Corporation had sought to recover for water damage resulting from the 2006 storm under its policy of insurance with the defendant insurer. After receiving the plaintiff's claim, the insurer investigated and concluded that the damage was the result of flooding had been caused by a creek that overflowed as the result of heavy rains and because of road culverts that were blocked by a buildup of debris. The insurer disclaimed coverage for the damage to the property based on the policy's flood exclusion.

The plaintiff disputed the insurer's coverage determination and sued the insurer for breach of the insurance contract and declaratory judgment. The insurer moved for summary judgment seeking the dismissal of the plaintiff's causes of action for breach of contract and for a declaration that the loss was covered by the contract of insurance. The plaintiff cross-moved for partial summary judgment, and the trial court granted judgment in the plaintiff's favor. On appeal, the Fourth Department reversed the lower court's decision finding that the insurer had met its burden of proving that the plaintiff's loss was caused by flooding and was not covered under the contract of insurance.

In opposition to the insurer's appeal, the plaintiff argued that the flood exclusion should not apply to its loss because the source of the water that caused the flooding was a clogged culvert, and the policy's flood exclusion was ambiguous. In deciding the appeal, the court examined the policy's relevant definition of "flood," which was "[s]urface water . . . or overflow of any natural or man [-] made body of water from its boundaries" According to the court, the policy's flood exclusion was not ambiguous, and the plaintiff's contention that the source of the water that caused the flooding was a clogged culvert did not constitute an issue of fact that should have precluded summary judgment for the insurer. Therefore, the plaintiff's claim was dismissed.

Practice Pointer: Although *K.J.D.E.* dealt with the aftermath of a storm that occurred in 2006, there is a very good chance that it will apply to some losses that occurred in 2011 – in Binghamton and elsewhere in New York – as 2011 saw many flooding events caused by the aftermath of Hurricane Irene. The practice pointer to take away from *K.J.D.E.* is that even if a flood exclusion does not specifically mention every factor that may contribute to flooding – such as blocked culverts – the flood exclusion may not be found to be ambiguous and coverage may not be extended to losses caused by flooding.

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