

I-WAYS MAGAZINE

BIG I WNY | FEBRUARY 2019

Promoting the value of **independent insurance agents** in Western New York



BIG I WESTERN NEW YORK | BIGIWNV.COM

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Contact our Board at:
www.wnyagent.com/officers-
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Kathleen Rapasadi
President Big I WNY

It has been quite a Winter in Western New York!! The people of Buffalo are pretty tough. You could say "We have snow in our blood." Spring, Summer, Winter or Fall – we are all Buffalo Proud!!

We have a few events coming up – On Saturday, March 2nd from 9 AM to 3:30 PM we are holding a Defensive Driving Course at M & T Insurance. The location is 285 Delaware Ave, Buffalo NY 14202. The cost is \$30 per person. Kemper Insurance is providing lunch. This is a great way to lower your Auto insurance cost. Please sign up on our website. We look forward to seeing you there!

On March 5th members of the Big I WNY Board are heading to the annual L Day (Legislative Day) in Albany, NY. We join Independent Insurance Agents and Brokers across New York State meeting with our lawmakers to share issues that impact our insurance industry. Big I WNY attends this event to have our voices heard for all Independent Insurance Agents and Brokers in New York State!

Project Invest is gearing up for our Winter Classes. We are looking for people to teach in the Business Classes for Depew and Hamburg Schools in February and March. We have a program you can teach from and have some fun with the students. We discuss Personal Insurance, Businessowners, Marketing and Selling, Life and Health and Agency Operations. The students are very engaged and always look forward to hearing our presentations. Please email Theresa Crisp who handles Project Invest for the Big I WNY.
Tcrisp@walshins.com

We are pleased to announce our 18th Annual Roger M. Gurney Golf Outing on Monday, June 17th, 2019. We have changed the date and location this year. We will be holding the Golf Outing at Harvest Hill Golf Course in Orchard Park. The cost is \$165 per person or \$160 Early bird! We are very excited this year to offer a lower cost than past years. Robert Glenn, our Treasurer, is the Golf Chair. Should you wish to be a sponsor or golfer, please contact Rob Glenn at Rglenn@Lawleyinsurance.com

We look forward to seeing everyone at our Golf Event in June!

Big I WNY is always looking for new members to join our organization! If you know of anyone who would like to join, please have them reach out to me.

We are always looking for sponsors for our Next Gen events – you can offer ideas or help out. Ashley Engl – Vice President works with Next Gen. If you have ideas or would like to attend an event, please reach out to Ashley at Aengl@lawleyinsurance.com



UPCOMING
EVENTS

DEFENSIVE DRIVING COURSE

Join us for this one-day course to learn valuable information and lower your car insurance payments! Seating is limited.

Date: Saturday, March 2, 2019

Time: 9 am – 3:30 pm

Place: M & T Insurance, 285 Delaware Ave, Buffalo, NY 14202

Cost: \$30

Lunch provided by Kemper

KEMPER Personal
Insurance

REGISTER HERE

Call for Volunteer Instructors!

Hello! **Project Invest** is looking for instructors for upcoming classes. Classes are 40 minutes long and the topics are meant to introduce High School seniors to the insurance industry. Please see the schedule below and contact Theresa Crisp (tcrisp@walshins.com) for more information or to volunteer!



Depew High School:

February 25th – 12:10p to 12:50p – Personal Insurance (including auto)
February 26th – 12:10p to 12:50p – Businessowners
February 27th – 12:10p to 12:50p – Marketing & Selling
February 28th – 12:10p to 12:50p – Life & Health
March 1st – 12:10p to 12:50p – Agency Operations & Careers

Hamburg High School:

March 11th – 11:24a to 12:05p – Personal Insurance (including auto)
March 12th – 11:24a to 12:05p – Businessowners
March 13th – 11:24a to 12:05p – Marketing & Selling
March 14th – 11:24a to 12:05p – Life & Health
March 15th – 11:24a to 12:05p – Agency Operations & Careers



Larry Fama, former Executive Secretary of IIAAWNY, passed away on February 7, 2019. Larry was an independent agent, executive secretary of the Big I for 12 years, played and coached in the insurance softball league, was named Insurance Person of the Year by ICOB and worked as an outside field representative for one of the glass shops.

I have very fond memories of Larry. At the beginning of my lobbying career I traveled regularly to Western NY for various legislative events and Larry was the person who coordinated many of them. He was a wonderful committed person who was always supportive of this young lobbyist in his own kind and upbeat way.

As a matter of fact at one of the legislative events Larry presented me with a nice glass mug with a buffalo etched on it. I still have it and frequently use it for my morning coffee. A nice reminder.

Cheers to a wonderful person who had a great life.

Regards,
Michael V. Barrett
President, Barrett Associates

SAVE THE DATE!



WHAT:

Big I WNY Roger Gurney
Memorial Golf Outing

WHERE:

Harvest Hill Golf Center
3052 Transit Rd
Orchard Park, NY

WHEN:

June 17, 2019

REGISTER HERE

BIG I WNY

ROGER GURNEY MEMORIAL GOLF OUTING

SPONSORSHIP REQUEST FORM

June 17th, 2019
12:00 PM Shotgun
Harvest Hill Golf Course

NOTE: All requests must be received by May 31st to be able to get your name in our brochure.

Act Fast! Sponsorships are assigned on a first come, first served basis.

☐ Diamond Sponsor: \$2,000

- 4 Golfers (Golfing & Dinner)
- Full Page Program Ad
- Recognition at Dinner
- 2 Tickets to Big I WNY Holiday Party in December
- An ad in the Big I WNY newsletter
- Tee Sponsor
- Driving Range or Golf Cart Sponsor (*please circle one*)

☐ Platinum Sponsor: \$1,000

- 2 Golfers (Golfing & Dinner)
- Half Page Program Ad
- Recognition at Dinner or Reception or Score Card Sponsor
- 2 Tickets to Big I WNY Holiday Party in December
- An ad in the Big I WNY newsletter
- Tee Sponsor

☐ Gold Sponsor: \$500

- 1/4 Page Program Ad
- Recognition at Dinner
- An ad in the Big I WNY newsletter
- Tee Sponsor
- Par 3 Challenge OR Lunch/Program/Beverage Station Sponsor (*please circle one*)

☐ Silver Sponsor: \$250

- Name listing on Silver Sponsor Page
- Recognition at Dinner
- Tee Sponsor

☐ Bronze Sponsor: \$100

- Name listed in Program
- Tee Sponsor

☐ Stars: Prizes Needed for Golf Contests & Drawings

- Name listed in Program
Item(s) _____

NOTE: Diamond, Platinum and Gold sponsors are allowed to display signage or a banner in appropriate areas. Please send your text and logo for the program to Big I WNY.

Company Name: _____

Contact Name: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

Email: _____

Return completed form along with check payable to: Big I WNY @ PO Box 983, Orchard Park, NY 14127

For more information please contact: Jeanne Hellert, Executive Secretary @ 716-207-3886 or iaawny@gmail.com

A blue megaphone with a red ring at the base, pointing towards the right. A white banner is attached to the mouth of the megaphone, containing the text 'INDEPENDENT AGENTS ADVOCACY DAY'.

INDEPENDENT AGENTS ADVOCACY DAY

Amplifying the voice of the **independent insurance agent**.

March 5, 2019 | Albany, NY

**Mark your calendars and get ready
to make your voice heard in Albany!**

Join independent agents and brokers from across New York as we meet in the state capitol and speak with lawmakers about the issues affecting your business and your ability to succeed in New York's business climate.

We need YOU! This impactful day is your opportunity to make issues facing the industry front and center with key state decision makers. We've streamlined this event to get the most bang for your buck - you'll make the most of your time in Albany and quickly get back to your business.

There is no cost to attend other than your time to make an impact! Check with your local association for group travel options.

RSVP Now!

A look back at our educational seminar: 5 Phases of Appointment Generation presented by Gary Hoy, Appointment University



Gary Hoy from Appointment University shares his expertise with our members and guests at the January 15 educational seminar held at the Millennium Buffalo.



Everyone learned a lot from Gary Hoy! We hope to bring him back again next year.



Big I WNY directors Ashley Engl of Lawley and Doug Benz of New Buffalo Insurance Agency



Big I WNY president, Kathleen Rapasadi of Evans Bank discusses the presentation with Josh Merewether, Evans Bank and Rob Glenn, Lawley.

Former Vice President of Magic Kingdom

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Dan Cockerell

**How To Deliver
A World Class**

**Customer Experience
And The Role of Technology**

*Learn From Dan's 27 Year Career With Disney
Key Takeaways Are:*

How leadership can create a high performance internal culture that engages employees

The focus and processes Disney uses to always start with the customer experience when making operational / investment decisions

How Disney delivers an excellent experience in everything we do

When we fall short, understanding the recovery plan to make the customer whole, and insuring their intent to return

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INSURER'S INABILITY TO PRODUCE A COPY OF THE ORIGINAL POLICY CONTRACT IS FATAL TO ITS CLAIM FOR A DECLARATORY JUDGMENT

The Appellate Division, Second Department, recently reviewed whether an insurance carrier that was unable to provide a copy of the original policy contract could submit as evidence a substitute policy created from information contained in an underwriting file. See *Pennsylvania Lumbermens Mut. Ins. Co. v. B & F Land Dev. Corp.*, No. 2016-08692, 2019 WL 208967 (N.Y. App. Div. Jan. 16, 2019).

In *Pennsylvania Lumbermens*, the decedent was working on a property owned by Defendant B&F Land Development Corp. ("B&F") on November 9, 2007 when he fell through a skylight and died. At that time, B&F carried a commercial general liability insurance policy through Plaintiff Pennsylvania Lumbermens Mutual Insurance Company ("PLM").

The executor of the decedent's estate, filed a wrongful death law suit against B&F in March 2009. PLM was notified of the decedent's death on April 15, 2009 and denied coverage for the claim on June 22, 2009. The claim was denied on the following grounds: the loss occurred at a location not listed on the policy, the loss occurred out of B&F's ongoing operations conducted by it or on its behalf and thus was excluded from coverage under the policy terms, and the loss was not reported to PLM as soon as practicable as required by the policy.

In August 2009, PLM brought an action against both defendants seeking a declaratory judgment that it was not obligated to defend or indemnify B&F in the underlying wrongful death suit. A default judgment was granted against B&F, and PLM and Maier went to trial in May 2016. At trial, PLM submitted as evidence a policy contract which had been created by its vice president of claims based on information from the underwriting file. The submitted contract did not specify a location for which the policy applied, and it included an endorsement description that differed from the contract PLM had produced in discovery. During his testimony, PLM's vice president was unable to identify which version of the endorsement applied in the policy issued to B&F. In spite of these

issues, the trial court granted PLM's application for declaratory judgment on July 28, 2016.

On appeal, the Appellate Division held that the trial court had erred in admitting into evidence the policy contract drafted by PLM's vice president under the best evidence rule. "The best evidence rule requires the production of an original writing where its contents are in dispute and are sought to be proven." *Id.* (internal citations omitted). Although an exception to this rule allows for "secondary evidence of the contents of an unproduced original" if the original is unavailable (*Schozer v. William Penn Life Ins. Co. of N.Y.*, 84 N.Y.2d 639, 643, 620 N.Y.S.2d 797) (1994), the Court noted that PLM had failed to offer any explanation as to why the original policy contract was unavailable. Further, PLM failed to establish that the contract submitted at trial was a "reliable and accurate portrayal of the original." (*Schozer* at 645.) Thus, the case was remitted for a new trial.

Practice Pointer: The holding in *Pennsylvania Lumbermens* underscores the importance of insurance carriers, and their agents, maintaining proper records, including copies of policy contracts, insurance applications, and other underwriting documents used at the time an insurance contract is formed. If an insurer or one of its representatives cannot produce a copy of the original policy contract or insurance application, it may be unable to succeed in defending against claims that are otherwise not eligible for coverage. Strictly enforcing document retention policies, or putting procedures in place to preserve complete and adequate copies of insurance applications and other applicable documents obtained from an insured at the time of contract formation are crucial to shielding insurance agents from liability in these situations.

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

Thank you to our 2019 Affiliate Sponsors!

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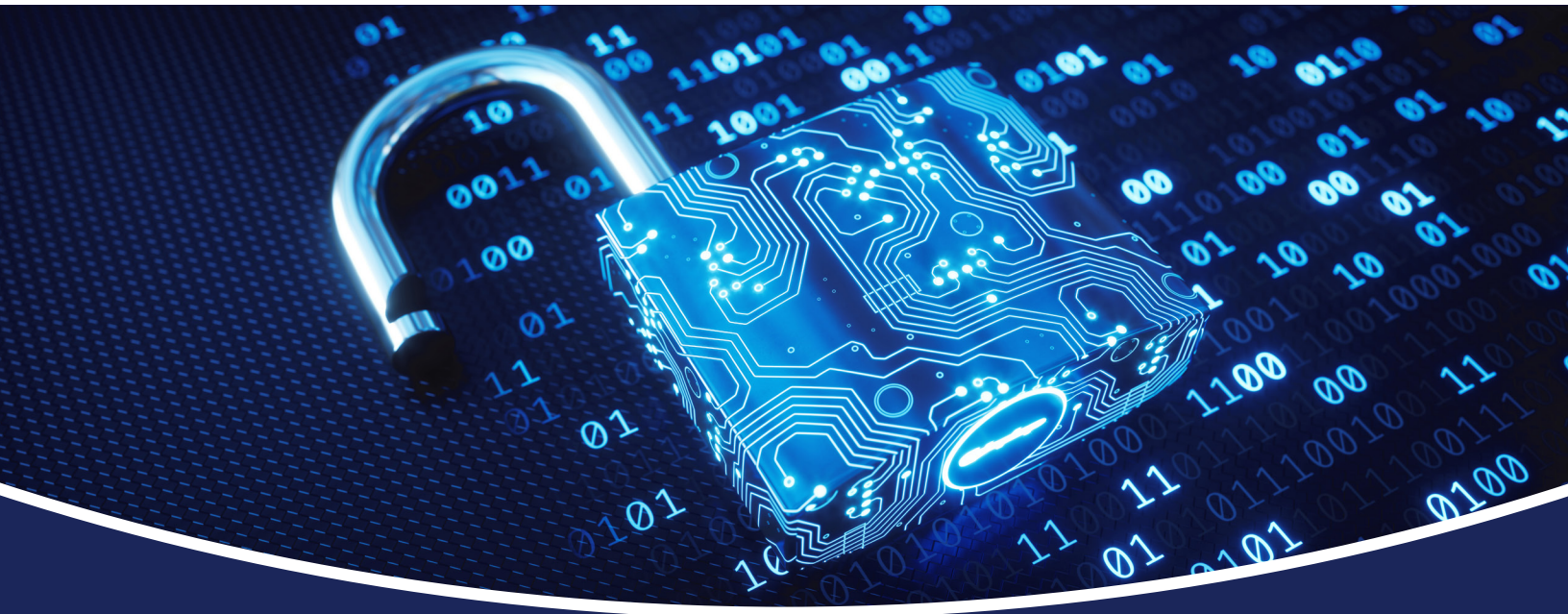
BRONZE



If you would like to be an annual sponsor, please contact our Big I WNY office at iiaawny@gmail.com



NEW YORK



NY CYBER REGULATION DEADLINES

MARCH 1, 2019

Third Party Service Provider Requirements

FEBRUARY 15, 2019 (Did you miss it?)

All exempt Agencies AND Individuals must refile an Initial Notice of Exemption
(Exemptions filed in 2017 and 2018 have expired)

Don't worry, we have your back.
Visit BiglNY.org/cyber for member-only benefits
including free policy templates and forms for compliance.

TOGETHER WE ARE BIG I NEW YORK.

GOBIG



Contact Scott Hobson
shobson@biginy.org
800.962.7950 ext. 212
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