

I-WAYS MAGAZINE

BIG I WNY | MAY 2020

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



PRESIDENT'S MESSAGE

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Happy Spring! This year we have welcomed quite a few new directors to our board, and with that we have had an influx of fresh new perspective and ideas. I'm proud to share all of the great work that our board and members have been able to accomplish in 2020.

In January we kicked the year off with a very engaging presentation by Larry Sarzyniak of WIVB. The presentation was focused on how agencies and companies can increase awareness for their business and build a personal brand through Social Media Platforms such as Facebook, LinkedIn, and Instagram. Now, more than ever, we are all relying on social media as a way to create and maintain connections with our current and prospective clients.

On January 21st, NeXtGen invited our members to gather at Belt Line Brewery and Kitchen for a Happy Hour in support of the Beds4Buffalo Project. As an incentive for members to bring a donation, every person that contributed also received a free beer! NeXtGen continued to collect donations throughout the months of January and February, and then delivered several sheets, pillows, kids pajamas, slippers, and stuffed animals to The Service Collaborative of WNY. They were very appreciative for our donations and continued commitment to their project.

On March 2nd and 3rd Rob Glenn, Doug Benz, and I traveled to Albany to participate in the annual Big I NY Independent Agents Advocacy Day. We had the opportunity to meet with Senators Ortt and Ranzenhofer on Monday. Then on Tuesday, we met with Senator Gallivan, Assemblymen Ryan and DiPietro, and Senator Tim Kennedy's office regarding important issues facing our industry. During our meetings, we strongly encouraged lawmakers to reject a budget item that would expand the DFS's authority and dramatically increase fines and penalties for licensed insurance agents and brokers. We also supported legislation that would remove the 30-day notice to Withdraw from the State Insurance Fund and encouraged legislators to Reform the Auto Photo Inspection Requirement in NY State. I am proud to report that our meetings went very well, and we will continue advocating for legislative reform that will benefit our industry.

Typically during the months of April and May our Golf Committee is finalizing preparations and seeking sponsorships for our Annual Roger Gurney Memorial Golf Outing. Unfortunately, our board has made the difficult decision to cancel this year's event. With all of the uncertainty regarding social events in the next few months, we did not feel it was in our best interest to hold the outing this year. We invite you all to save the date for our 2021 Golf Outing on June 7, 2021!

As always please feel free to reach out to our Board of Directors or Officers with any questions or ideas for Big I WNY programming. During this time of social distancing, we are continuing to meet virtually each month and the board is working hard to continue to provide resources and support to our members.

Please stay safe, and stay healthy!



Ashley Engl, ACSR, GBDS
President, Big I WNY
Lawley Insurance

Independent Agents Advocacy Day

March 3, 2020 | Albany, NY



Three of our officers, Ashley Engl, Rob Glenn, and Doug Benz, traveled to Albany on March 2nd and 3rd to participate in the Big I NY Independent Agents Advocacy Day. We had the opportunity to meet with Senators Ortt and Ranzenhofer on Monday. Then we met with Senator Gallivan, Assemblymen Ryan and DiPietro, and Senator Tim Kennedy's office regarding important issues facing our industry on Tuesday. Our board is proud to be the voice of Independent Insurance Agents in Albany!

Here are some of the important topics we discussed:

1. Encouraging the lawmakers to reject an item in the budget proposal that would expand the DFS's authority and dramatically increase fines and penalties for agents and brokers.
2. Recommending that the payroll threshold associated with the Workplace Safety and Loss Prevention Program be raised from \$800,000 to \$1.2 million to keep up with the same rate as inflation.
3. Requested support for a bill that would make the auto photo inspection requirement optional at the discretion of the insurance carriers.
4. Sharing our feedback related to opposing legislation that would prohibit insurers from excluding lead paint exposure coverage from rental liability coverage.
5. Support for the removal of the 30-day notice requirement for a policyholder to withdraw from the NY State Insurance Fund if they have secured insurance with another carrier.





Project Invest Update: Spring 2020

LEFT: Jeff Leyonmark of Wolf Agency volunteers his time in a Hamburg High School classroom

As warmer weather approaches and schools look to spring break, it is a busy time of the year for our local Project InVest program. I want to send a huge thank you to everyone who took the time to volunteer in the classrooms and help students understand the various topics of insurance and encourage them to explore the many different career paths available within the insurance industry. It's the volunteers who truly make this program what it is and without all of your personal stories and desire to speak with these students, the program would not be where it is today. Thank you again!

Since Project InVest may be something you've never heard of, I'd like to give you a quick breakdown of our program. The program starts with the teaching sessions in the classrooms. Volunteers spend some time speaking to the students on various types of segments within the insurance industry. We discuss anything from Insurance Basics to Life, Accident & Health and we even get into Businessowner's, Automobile & Homeowner's insurance policies. This leads into our scholarship application process. Each year we ask the students to complete an application and explain to us what it is they learned from the program and if it gave them the desire to pursue a career within the insurance industry. We then award numerous scholarships to the students, these range anywhere from \$250-\$1,000. We also give the students the opportunity to attend Buffalo I-Day and experience that day, just as if they were already a part of our industry. Thank you to the Insurance Club of Buffalo, Erie & Niagara and Travelers Insurance for providing this opportunity to the students!

All of this leads up to our Annual BIG I WNY Roger M. Gurney Memorial Golf Outing. The proceeds of this golf outing, named in his memory, raise valuable scholarship dollars for deserving high school graduates of BIG I WNY's Project Invest program.

We look forward to growing this program in 2020. We are looking to add more schools, set up opportunities for students to participate in shadow days and we are always looking for new volunteers to talk with the students! Thank again for your support!

-Rob Glenn
Big I WNY Project InVest Chairman

Beds for Buffalo



Our NeXtGen committee was proud to continue supporting The Service Collaborative of WNY's Beds 4 Buffalo project by collecting donations throughout the months of January and February.

On February 26th, NeXtGen Executive Board Members Ashley Engl (Lawley Insurance), Joseph Shorr (RT Specialty), and Justin Shuttleworth (WH Greene & Associates) delivered several boxes of bed furnishings to The Foundry. The Service Collaborative of WNY was very appreciative for all of the donations. Thank you to all who supported this project!

To our members that have volunteered with this project, we also thank you for your time and involvement. The Service Collaborative will be painting, assembling and distributing 200 beds to children in need throughout WNY this spring. We look forward to volunteering with Beds for Buffalo again this summer, so if you are interested please stay tuned for more information on how to get involved.



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FEDERAL COURT ADDRESSES SUBROGATION ACTION INVOLVING CLAIMS OF FAULTY WORKMANSHIP BY INSURED

A New York federal district court recently examined a subrogation dispute between two insurers after a fire. See *New York Cent. Mut. Fire Ins. Co. a/s/o Kilgore v. Electrolux Home Prod., Inc.*, 2020 WL 1151460 (W.D.N.Y. 2020). In *Kilgore*, the insured owned a residential property and insured it with a homeowners' policy. On March 11, 2015, the insured's girlfriend began to do laundry, and after starting the dryer, she heard a loud pop and immediately saw a fire ignite inside the dryer. The property subsequently sustained extensive fire damage.

The insured submitted an insurance claim for the fire damage to his insurer, and the insurer accepted coverage. It then stepped in its insureds' shoes and commenced a subrogation action, suing the dryer manufacturer alleging a defect. Specifically, the insurer alleged that a gas valve failed and allowed gas to escape when the dryer turned on. The dryer manufacturer denied that the gas valve failed, instead arguing that the insured improperly converted the dryer from gas to propane fuel after purchasing it.

Based on the dryer manufacturer's defense, the insured effectively was put into a position of defending the insured and his workmanship. The insurer retained an expert who opined that the insured's workmanship was not faulty. In fact, the insured had significant experience in the propane industry and in performing dryer conversions.

Ultimately, the dryer manufacturer moved to dismiss the lawsuit. The New York federal district court reviewed the case and found that there was sufficient evidence to rebut the claim that the insured engaged in faulty workmanship or otherwise caused the fire

based on his own actions. The court denied the dryer manufacturer's motion for summary judgment and set the case down for trial.

Practice Pointer: The *Kilgore* case should serve as a reminder to insurance brokers that an insurance claim does not always end with an insurance company accepting coverage and making payment. Rather, sometimes the insurer stands in the shoes of its insured and sues a responsible party in a subrogation action to recoup the dollars paid to its insured that was caused by a tortfeasor. In that case, the insured remains involved, especially where a party claims negligence by the insured. *Kilgore* demonstrates that these disputes can go on for over five years, but the insurance company will continue to defend the insured throughout that process. Further, as an added bonus to the insured, the insurer usually seeks to recover the insured's deductible and pay it back to the insured after prevailing in the lawsuit. From an insurance agent's perspective it is best to elicit the insured's cooperation with any investigation into a claim, as well as into potential subrogation efforts, as any spoliation of the loss scene by the insured could have adverse insurance consequences to the insured.

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



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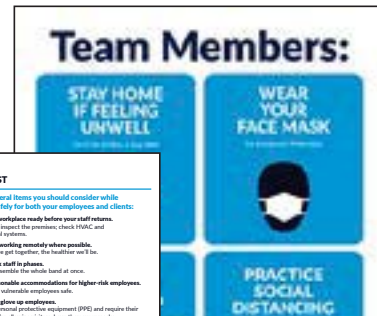
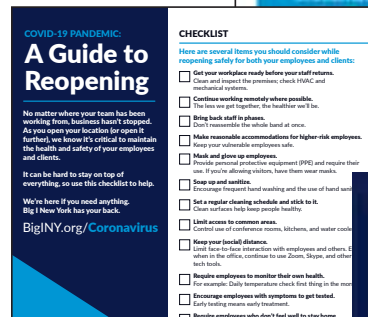
We know the best things in life come from striving for better - which is why we're proud to support Big I WNY and all they do to help support independent agents.



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