

IIA WNY

# I-WAYS

## MAGAZINE

February  
2015

INDEPENDENT INSURANCE AGENTS ASSOCIATION OF WESTERN NEW YORK, INC.

keeping you  
up to  
speed



Independent Insurance Agent

[wnyagent.com](http://wnyagent.com)

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**GENERAL ENQUIRIES**

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# A Message from the **PRESIDENTS COUNCIL**



Greetings,

We are rapidly approaching the time of year when we need support from our members to provide us with director candidates for the IIAAWNY Board. IIAAWNY has a long history of being the most prestigious and active panel in the entire state. This is a tradition that we want to continue! In order to preserve this high level of achievement, I NEED YOUR HELP! Please provide IIAAWNY with one or two individuals that you think could make a strong contribution. I promise they will find the experience to be both challenging and very rewarding. I know I have for over the past 8 years! Please send your candidates for directors to Wendy Clemens at [wendy@deckeragency.com](mailto:wendy@deckeragency.com). Put your own name in the hat if you are up to the task!

Thanks to all of you that attended the "Overcoming Call Reluctance" seminar on January 14th. This was one of the largest educational turnouts IIAAWNY has had in recent times. Thank you for the support! Hopefully you found Gary Hoy's topic and insight on sales calls to be useful. Our next planned event is the Affiliate Mixer at the Saturn Club on February 26th. Please register today and come out and enjoy a night with friends and colleagues.

All of our committees are making great strides this year! The programs headed by Debbie Junkin and Tamara Storch have been spectacular. Membership Enhancement has reached new highs with Barb Duke, Christine Garvelli and Doreen DeCarlo. I can't say enough great things about the driving simulator and the venues we have held demonstrations. Legislative will be kicking off very soon with the help of Paul Chisholm, David Gelia, Matt Saxe and Wendy Clemens. Invest is on target for another successful term thanks to the dedication of Karen Catalano and Kathleen Rapasadi. Public Relations has secured funding from Safeco, Hanover, Kemper and Trusted Choice to continue TV commercials with Fox29 and MyTv Buffalo for 2015. Special thanks to Janet Valentine, Mike Carroll and Doreen DeCarlo for making this happen! Look for new ads to begin airing in February. And thanks to Tom Ditzel for keeping the website up to date.

Remember, we need your involvement! If you have not attended a function in recent times, please do so. Now is the time to rediscover what you have been missing! You can make a difference.

See you at the Saturn Club!

Mark Garvelli  
President IIAAWNY  
Vice President, Walsh Duffield Companies, Inc.

# Out & About

From local events planned for you - our members - to presenting awards in our community, your local team is working hard for you.



## Annual Affiliate Mixer

February 26<sup>th</sup> @ 5:30 PM

The Saturn Club  
977 Delaware Avenue  
Buffalo

Let's take a break from winter and get together for some social fun at one of Buffalo's most exquisite clubs - The Saturn Club! Join us for wonderful food and drinks. Challenge your colleagues to a game of bowling (shoes provided) or take a turn at billiards. If you are "sports challenged," there are plenty of areas to relax and share conversation with our members while soaking in the grandeur of The Saturn Club.

### Affiliate Members:

Receive one free complimentary attendee per paid affiliate membership!

### Agent Members & Other Guests:

\$40.00 per person

Register online by February 18, 2015 at  
[www.wnyagent.com/upcoming-events](http://www.wnyagent.com/upcoming-events)

Registration will not be accepted at the door.



### Protect Your Industry

Thousand of agents from around the country will gather in April to help educate members of Congress on issues important to us and our clients. Think "L Day" goes to Washington!

Kathy Weinheimer and other IABNY leaders will be attending and are happy to help make appointments with your members of Congress. You can reach out to her at [kweinheimer@iabny.org](mailto:kweinheimer@iabny.org) or 800-962-7950 x239.

### Register by March 6 to Save 10%!

[www.independentagents.com/events](http://www.independentagents.com/events)

You should also make your hotel reservations ASAP as the hotel tends to sell out.

## WHAT'S HAPPENING

### Dates to Note

#### February 26

##### Affiliate Mixer

The Saturn Club  
Buffalo

#### March 12

Breakfast & Benefits  
followed by CE class  
"How & When to Use the  
Acord 855 NY Form"

Holiday Inn Buffalo Airport  
Cheektowaga

#### April 22-24

##### Big "I" Legislative Conference

Washington D.C.

#### April 29

##### "Top Line Presentation Skills"

Holiday Inn Buffalo Airport  
Cheektowaga

Jerry Chelus, President and CEO of Top Line Solutions, will be talking about presentation skills in a morning session, which will include breakfast.

*More details to follow in our upcoming newsletters as the date gets closer and the weather definitely gets warmer!*

# IIABNY MEMBERSHIP

*It Adds Up!*



Have you ever asked yourself...

*"I pay membership dues to the Independent Insurance Agents & Brokers of New York, but what do I get in return for being a member?"*

You may not even realize all that is available to you as a member until a need arises.

You have a licensing question, are having trouble finding a market, need last-minute CE credits, want marketing assistance... where do you turn?

**MAKE THE MOST**  
*of your*  
**MEMBERSHIP**



IIABNY's

**Jamie Deapo & Christine Neet**

invite you to join them for

**Breakfast & Benefits**

Thursday, March 12



8:15-8:30 - Registration | 8:30-9:00 - Breakfast | 9:00-10:00 - Benefits

Holiday Inn/Airport, Genesee Street, Cheektowaga

**They will share all the details and advantages of being an IIABNY member such as access to:**

- Excellent programs for training and retaining new & existing staff
- Markets and products designed to support your needs and help you grow
- Knowledge-based offerings (research, eBooks, webinars, classes & more)
- Marketing assistance & reimbursement programs focused on the value of independent agents

Breakfast Only: \$20 per member | Breakfast & CE: \$25 per member

If attending the CE class, please include your broker license number.

**Register by March 5 at**

**[www.wnyagent.com](http://www.wnyagent.com)**



**10:15 am - 11:15 am**

Tim Dodge presents:  
"How and When to Use the  
Acord 855 NY Form"  
(Certificate of Liability  
Insurance Addendum)

**1 CE Credit**  
NYCR-245918 (BR, PC, C3, PA)



## Meet Our Invest Chapter: Doreen DeCarlo

By Nicole Majewski

Our Project Invest chapter is college-bound with the help of a special new volunteer! Doreen DeCarlo, a marketing representative with Kemper Personal and Commercial Lines, is leading our expansion effort to bring Invest as part of an enhanced insurance program into Erie Community College. She is a wonderful addition to our chapter, as she is proof that a career in insurance is a life changing journey and can take you to unexpectedly great places.

Doreen believes that knowledge, great training and passion are the cornerstones for developing a promising future in insurance.

*"The beautiful thing about insurance is that it's an onion you continue to add layers to based on knowledge," she said. "It's not something you peel away, but you keep adding layers to it."*

She began her insurance career 14 years ago as a receptionist and file clerk in an independent insurance agency. One of the head members of the agency took the initiative to help her learn the job, and made it a point to sit down with Doreen everyday to talk about the strong points and challenges of the position, and how she could learn from that.

These little bits of knowledge kicked off her love and passion for insurance. From there, she worked up the ladder to servicing customers, confidently selling and later becoming a marketing representative for Kemper.

*"Getting into insurance was a game changer and life changer for me," Doreen said. "It completely changed my life and the trajectory for my family and what would happen long term for us."*

In volunteering with Invest and helping bring our program to ECC, Doreen aims to bring the same success story to adult students. The curriculum for the proposed course goes beyond the basic licensing knowledge, focusing on actual agency procedures to better prepare students and give them a smoother onboarding transition.

She said educating on insurance careers at the community college level is very beneficial to both students and the industry as a whole in obtaining long-term employees. She also is very enthusiastic about Project Invest's ability to show all of the opportunities in the independent agency channel like a road map.

*"[For adult students], it is great for them because they are trying to find jobs and careers in the shortest time to manage their families," Doreen said. "[For the industry], community college students are more settled and likely to stay local."*

She is also an active and founding member of the Buffalo chapter of Dress for Success. We warmly welcome Doreen to our chapter and look forward to continuing with our exciting college partnership!



INVEST®





2015 IIAAWNY  
*Roger Gurney Golf Outing*

**JUNE 29**  
**2015**

Orchard Park Country Club  
54777 South Buffalo Street  
Orchard Park, NY 14127

*Schedule of Events*

11:00 am – 12:30 pm	Lunch Buffet on the Patio
11:00 am – 12:30 pm	Driving Range Open
12:30 pm	Shotgun
5:30 pm – 6:30 pm	Cocktails / Hors d'oeuvres
6:30 pm	Dinner

*Sponsorship and registration information to follow.*

For more information, please contact

**Matthew Saxe**

716-651-4263

msaxe@mtb.com



## Court Decision:

# BREACH IN WARRANTY CAN RESULT IN DENIAL OF CLAIM

For answers to your legal questions, feel free to contact

Marco Cercone, Esq.  
cercone@ruppbaase.com

or

Sean Costello, Esq.  
costello@ruppbaase.com

at

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In *Triple Diamond Café, Inc. v. Those Certain Underwriters at Lloyd's London*, Docket No. 2013-05935, 2015 NY Slip Op 00527 (2d Dep't 2015), a New York appellate court found that an insurer properly disclaimed coverage for a fire loss when the insured breached a policy condition that constituted a warranty, a term with a special meaning in New York insurance law. The insured business was a bar and restaurant that suffered a burglary and then was destroyed by fire. The declarations page for the subject insurance policy contained the following language: "Warranted ... central station fire and burglar alarms will be [f]ully operational throughout the period of the policy." However, the alarm system was not activated at the time of the loss.

The insurer disclaimed coverage on the basis that the insured's breach of the warranty barred coverage. The insured sued, arguing that the above quoted provisions did not constitute a warranty and that the term "fully operational" either did not require the alarm actually to be activated or, in the alternative, was ambiguous and should be construed in its favor.

The Court found that the policy language regarding the operational alarm constituted a warranty as defined by Insurance Law § 3406. This statute provides that a warranty is "any provision of an insurance contract which has the effect of requiring, as a condition precedent of the taking effect of such contract or as a condition precedent to the insurer's liability thereunder, the existence of a fact which tends to diminish, or the non-existence of a fact which tends to increase, the risk of the occurrence of any loss ...". The statute further provides that "[a] breach of warranty shall not avoid an insurance contract or defeat recovery thereunder unless such breach materially increases the risk of loss," so the breach of the warranty must have a direct relationship to the resulting loss. Warranties must be stated expressly in the contract.

In *Triple Diamond*, the insured expressly warranted that it would have a fully-operational burglar and fire alarm. It did not have such an alarm in operation when the burglary and fire occurred, and the Court agreed with the insurer that this fact materially increased the risk of loss. Because the insured breached the warranty and that breach of warranty materially increased the risk of loss, the insured failed to comply with a condition precedent to insurance coverage.

The Court also rejected the insured's claim that the phrase "fully operational" was ambiguous. The Court held that "the statement that an insured have a fully operational security system logically requires that the system be actually utilized by the insured to prevent or mitigate the risk the insurer takes by writing the policy" and that "the only reasonable meaning to be assigned to the term 'fully operational' requires that the alarm system be activated and in use."

### Practice Tip:

Be certain that insureds understand their obligations with respect to any warranties the policies they procure.

In addition to alarm systems, insurance policies may include warranties by insureds for things such as having a particular number of armed guards at a location, that kitchen hoods and ducts will be cleaned on a set schedule, that the insured will not circumvent specific safety systems, that premises will not be used for specific activities (such as mixing explosives), or that trucks will be kept locked while in transit.

If an insured finds itself in breach of a warranty, it may not have coverage in the event of a loss.

# **CERTIFICATES OF INSURANCE LEGISLATION**



## **You Helped Make This Happen!**

IIABNY is celebrating a major win for all members issuing certificates of insurance after legislation it helped develop was signed into law by Gov. Andrew Cuomo on January 29, 2015. The new law will become effective on July 28, 2015 and will stop businesses and government agencies from pressuring insurance producers into issuing certificates of insurance that include language of any kind, including warranties of coverage, not found in the underlying policy.

You, our members, played a huge part in this successful effort! Thank you to all of you who attended previous L Days in Albany to lobby on this issue, met with lawmakers in your districts, sent letters and emails, made phone calls and relentlessly worked to raise legislators' awareness of this issue. Your strong support was invaluable.

IIABNY worked with the governor's office, state Department of Financial Services and State Legislature over the past several weeks/months to come to an agreement on amendments to the law raised by concerned parties. The governor signed this bill contingent on the legislature passing these amendments. The amendment has already been introduced in the Assembly on February 4 and we expect similar action by the Senate. Once the amendment is passed by the legislature and signed by the Governor, the new law will take effect July 28, 2015, which is 180 days from the date the governor signed the law.

The new law will resolve the problem by:

- Prohibiting anyone from requiring a certificate to include terms, conditions or language of any kind, including warranties or guarantees, when these are not found in the policy.
- Clarifying that certificates cannot change coverage provided by the policy and cannot confer new rights.
- Prohibiting anyone from requiring a producer to issue a liability certificate unless it is: 1) a form issued by the insurer, 2) a standard certificate issued by an industry standard-setting organization that has been approved by DFS, or 3) any other form which has been approved for use by the DFS.
- Authorizing the DFS to levy fines up to \$2,000 for those in the private sector that violate the law.

## **NARAB II : What It Means for Insurance Producers**



**Tim Dodge**  
tdodge@iiabny.org

When Congress and the president extended the Terrorism Risk Insurance Act in January 2015, they also enacted the National Association of Registered Agents and Brokers Reform Act. This law will make multistate licensing far easier for insurance producers all over the country.

IIABNY has created a slideshow that provides a quick overview of what NARAB is and what it means, along with a one-page downloadable NARAB summary document. Both are permanently available on IIABNY's website at

**[www.iiabny.org/licensing](http://www.iiabny.org/licensing)**

Feel free to reach out to me if you have any additional questions on TRIA or NARAB.



# IIABNY Education Calendar Spring 2015



P: 800.962.7950  
F: 888.432.0510  
W: [www.iiabny.org](http://www.iiabny.org)



- Feb 25 ACSR 9 - Commercial Lines Related Coverages**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-236380+NYCX-236380
- Mar 6 ERISA: What You Don't Know Can Hurt You**  
5 CE Credits (PC, BR, C1, LA, LB) NYCR-246512
- Mar 11 Personal Lines An Insurance Kaleidoscope**  
7 CE Credits (PC, BR, C3, PA) NYCR-246607
- Mar 18 Crime Insurance**  
Filed for CE
- Mar 18 Ethics: A Guide for Insurance Agents & Brokers**  
Filed for CE
- Mar 25 ACSR 2 - Personal Auto Insurance**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-237121 + NYCX-237121
- Apr 22 AAI 82A Commercial Liability Insurance**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-236948 + NYCX-236948
- Apr 29 AAI 87 Agency Leadership and Strategic Allignment**  
7+1 CE Credits (All Licenses) NYCR-246605 + NYCX-246605
- May 6 Business Auto vs Truckers Coverage vs Garage Form**  
4 CE Credits (BR, PC, C3, PA) NYCR-246592
- May 6 Workers Comp More Than the Basics**  
3 CE Credits (PC, BR, C3, PA) NYCR-246561
- May 28 NYAIP Certification Program**  
5 CE Credits (PC, BR, C3, PA) NYCR-244978
- June 4 Self-Funded Health Plans How It Impacts Your Client**  
5 CE Credits (PC, BR, LA, LB, C1) NYCR-246671



- Feb 24 ACSR 9 - Commercial Lines Related Coverages**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-236380+NYCX-236380
- Mar 5 ERISA: What You Don't Know Can Hurt You**  
5 CE Credits (PC, BR, C1, LA, LB) NYCR-246512
- Mar 10 Personal Lines An Insurance Kaleidoscope**  
7 CE Credits (PC, BR, C3, PA) NYCR-246607
- Mar 24 ACSR 2 - Personal Auto Insurance**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-237121 + NYCX-237121
- Apr 1 Crime Insurance**  
Filed for CE
- Apr 1 Ethics: A Guide for Insurance Agents & Brokers**  
Filed for CE



- Feb 26 ACSR 9 - Commercial Lines Related Coverages**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-236380+NYCX-236380
- Mar 12 Personal Lines An Insurance Kaleidoscope**  
7 CE Credits (PC, BR, C3, PA) NYCR-246607
- Mar 17 Crime Insurance**  
Filed for CE
- Mar 17 Ethics: A Guide for Insurance Agents & Brokers**  
Filed for CE
- Mar 26 ACSR 2 - Personal Auto Insurance**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-237121 + NYCX-237121
- Mar 27 NYAIP Certification Program**  
5 CE Credits (PC, BR, C3, PA) NYCR-244978
- Apr 14 ERISA: What You Don't Know Can Hurt You**  
5 CE Credits (PC, BR, C1, LA, LB) NYCR-246512
- Apr 23 AAI 82A Commercial Liability Insurance**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-236948 + NYCX-236948
- Apr 30 AAI 87 Agency Leadership and Strategic Allignment**  
7+1 CE Credits (All Licenses) NYCR-246605 + NYCX-246605
- May 7 Business Auto vs Truckers Coverage vs Garage Form**  
4 CE Credits (BR, PC, C3, PA) NYCR-246592
- May 7 Workers Comp More Than the Basics**  
3 CE Credits (PC, BR, C3, PA) NYCR-246561
- May 13 IIABNY 2015 Annual E&O Loss Control Seminar LIVE**  
Filed for CE
- May 28 Self-Funded Health Plans How It Impacts Your Client**  
5 CE Credits (PC, BR, LA, LB, C1) NYCR-246671

## 2015 IIABNY E&O LOSS CONTROL SEMINAR

Meeting the Challenge of Change

**VIDEO SEMINARS - JUNE 10, 2015**

Full class descriptions, webinar options & registration at  
[www.iiabny.org/edcalendar](http://www.iiabny.org/edcalendar)

- Apr 21 AAI 82A Commercial Liability Insurance**  
7+1 CE Credits (PC, BR, C3, PA) NYCR-236948 + NYCX-236948
- Apr 28 AAI 87 Agency Leadership and Strategic Allignment**  
7+1 CE Credits (All Licenses) NYCR-246605 + NYCX-246605
- May 5 Business Auto vs Truckers Coverage vs Garage Form**  
4 CE Credits (BR, PC, C3, PA) NYCR-246592
- May 5 Workers Comp More Than the Basics**  
3 CE Credits (PC, BR, C3, PA) NYCR-246561
- May 12 IIABNY 2015 Annual E&O Loss Control Seminar LIVE**  
Filed for CE
- May 27 NYAIP Certification Program**  
5 CE Credits (PC, BR, C3, PA) NYCR-244978
- June 3 Self-Funded Health Plans How It Impacts Your Client**  
5 CE Credits (PC, BR, LA, LB, C1) NYCR-246671