

IIA WNY

I-WAYS

MAGAZINE

January
2015

INDEPENDENT INSURANCE AGENTS ASSOCIATION OF WESTERN NEW YORK, INC.

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On behalf of your entire Board at IIAAWNY, we hope that all of our Members and Affiliates enjoyed a fantastic Holiday Season with their loved ones and have a fantastic New Year in 2015!

Looking back for a moment on our busy December, I would just like to mention that if you were unable to partake in our December 5th Holiday Party at The Mansion, you missed an absolutely FANTASTIC event!

Great beverage, food and camaraderie amongst all who attended were enjoyed.

We also were very proud to honor our City of Buffalo Firefighter award winner, Michael Paveljack, with a \$500 gift for his bravery, as well as announce that with the money we raised at the Holiday Party along with a matching dollar amount from your Association, we were able to present the Food Bank of Western New York with a gift of \$2,500!

Looking forward to the New Year, please keep your Eyes and Ears open for some fantastic events we have planned for you to attend. Our next meeting which will be held on January 14th should be one that will be very helpful to all members and staff regarding assisting in overcoming "Call Reluctance". Please plan on attending and bring a co-worker or friend.

Please also continue to check your e-mail for future events we have planned. Major kudos go out to Debbie Junkin and Tamara Storch for planning these diverse and fun events.

Finally, as we all know, our area was inundated with one of the most incredible snow events any of us have ever seen. As always, our Member Agents and Company Partners have gone over and above to assist our numerous insureds who have been affected by this event.

I wish to remind all of you that we should be EXTREMELY PROUD of our industry at all times, but ESPECIALLY when events such as this take place. We have all answered the Bell and worked overtime to assist those insureds who have been damaged by this event.

It is what makes us different and what makes us the best insurance distribution system available to the consumer. Never be shy to brag about what we do and provide for the public, especially at times like this.

Be proud, IIAAWNY!!
See you on January 14th.

David Gelia
Vice-President

Out & About

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



Want to increase your sales in 2015?
Join Gary Hoy from Appointment University as he presents:

"Overcoming Call Reluctance"

Wednesday, January 14, 2015
Holiday Inn Buffalo Airport
4600 Genesee Street, Cheektowaga

During his presentation Gary will explore the reasons why we are reluctant to make the call. Gary instructs countrywide, but he lives locally and has a keen understanding of the WNY region.

8:15am - 8:30am - Registration
8:30am - 9:00am - Breakfast
9:00am - 10:30am - Presentation

Cost: \$25.00 per person

Register at <http://www.wnyagent.com/upcoming-events>

Dates to Note

January 14

Overcoming Call Reluctance

Holiday Inn Buffalo Airport
Cheektowaga

February

Affiliate Mixer

March 12

Membership Benefits

Jamie Deapo & Christine Neet from IIABNY will discuss the benefits offered to all our members immediately followed by a CE class. Course details being finalized.

April

"Perfecting Your Presentation Skills"

Stay tuned for more functions coming up!

We have CE classes in the mix as well as another affiliate mixer.

Annual Holiday Luncheon at The Mansion on Delaware - December 5, 2014

Save the Date! IIAAWNY Annual Holiday Luncheon
at the Mansion on Delaware Friday, December 4, 2015!

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Thank you to our Holiday Luncheon Sponsors!



Jamie Deapo, IIAAWNY and
Doreen DeCarlo, Kemper Personal & Commercial Lines

Kurt Bingeman, Russell Bond & Co
with
Paul Chisholm, Insurance Associates



The Houck Family:
Bridget, Debbie and Don from
the Donald L. Houck Agency, Inc.



Connor Brogan, Carubba Collision with his mom,
Marcia Brogan, Niagara National



Rick Gurney, RG Graphics
with Barb Duke, Duke Agency



Tony Kubera, Russell Bond & Co with
Fred Holender, Lawley Insurance



Lisa Lounsbury, IIAAWNY with
Matt Saxe, M&T Insurance Agency

WANTED! IIAAWNY Board Members

We are looking for members to join our board. We are interested in any suggestions you might have to enhance the association experience for all members.

If you have been thinking about getting involved, now is the time to jump in!

This is a hands-on board and all ideas are welcome.

If you have an interest, any questions or want to nominate a friend or associate, please contact me.

Wendy Clemens – Chairman of the Board

Office: 883-1455

Cell: 913-1847



DO GOOD



pictured from left:
Melissa Holmes from WGRZ Channel 2
accepts our donation check on behalf
of the Food Bank of WNY from
Dave Gelia, Mike Carroll and Kathleen Rapasadi

IIAAWNY Supports the WNY Food Bank Food 2 Families Drive

At 5:30 a.m. on December 5, IIAAWNY Board members: Mike Carroll, Hanover Insurance; Dave Gelia, United Insurance Agency; and Kathleen Rapasadi, Brown & Brown of NY were proud to present a check for \$2,500 to the Western New York Food Bank which aired on Channel 2 during their annual Food 2 Families drive. Melissa Holmes did a nice interview with Dave Gelia who articulated our commitment to the community wonderfully. Melissa recognized how the Independent Insurance Agents Association of WNY step up year after year in support of this great cause. Thank you to all who donated to the Food Bank at our annual holiday luncheon!



IIAAWNY Promotes Career Opportunities to Students at ECC

On December 11, Doreen DeCarlo of Kemper Personal & Commercial Lines, took the texting while driving simulator on the road and headed to ECC City campus to help promote the Independent Insurance Agents Association of WNY and career opportunities available in our industry. Of the 20 students that participated, five requested a follow up from the career counselor to further discuss the licensing course being offered in February, 2015. The simulator was a big draw, the students loved it! Karen Catalano from the Cesar Group and Nicole Majewski (Next Gen) from the Cassetta Agency created a power point presentation and post cards listing the careers available which were handed out to the students.

A special thank you to Bridget Houck from the Donald L. Houck Agency Inc. who volunteered her time during the event. More information to follow on the new partnership with ECC!



A *Primer* on NEW YORK'S LABOR LAW

When an accident occurs on a construction site, the injured worker will often sue the owner of the property and the general contractor of the project to recover for their alleged injuries. When an injured construction worker sues the owner and general contractor in a personal injury action, they rely on Labor Law §§ 240(1), 241(6), and 200.

For answers to your legal questions, feel free to contact

Kevin Kruppa, Esq.
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or Jeffrey Baase, Esq.
baase@ruppbaase.com

**at Rupp, Baase, Pfalzgraf,
Cunningham & Coppola LLC**
1600 Liberty Building

Labor Law § 240(1), the so-called Scaffold Law, protects workers on construction sites from accidents that happen as the result of a fall from a height or being struck by a falling object. Owners and general contractors will be found to be absolutely liable if the statute was violated. Absolute liability means that owners or contractors can be held liable regardless of whether they supervised or controlled the work. Absolute liability under Labor Law § 240(1) is contingent on a violation of the statute and that violation being a proximate cause of the accident. Once a statutory violation has been established as a proximate cause of the accident, a plaintiff's comparative negligence cannot defeat their Labor Law § 240(1) claim. Despite this, Labor Law § 240(1) cases can be defended successfully. Litigation under this section has given rise to the mistaken belief that a fall from a scaffold or ladder, in and of itself, results in an award of damages to the injured party. The two main defenses to a Labor Law § 240(1) claim are that the plaintiff was the sole proximate cause of the alleged accident or that the plaintiff refused to use the safety devices available to him.

Labor Law § 241(6) requires owners and contractors to provide reasonable and adequate protection and safety for workers and to comply with the specific safety rules and regulations of New York's Industrial Code (12 NYCRR Part 23). A plaintiff does not need to show that the defendants exercised supervision or control over the worksite to recover under Labor Law § 241(6). To recover, the plaintiff must allege an Industrial Code regulation that has been held to be sufficiently specific to support that cause of action and not just a general safety standard. The alleged violation of the Industrial Code sections relied on by the plaintiff must be a proximate cause of the alleged accident. Where a specific Industrial Code regulation was violated, but that violation did not cause or contribute to the happening of the accident, the plaintiff will not be able to recover. A plaintiff's comparative negligence is a defense to a Labor Law § 241(6) cause of action.

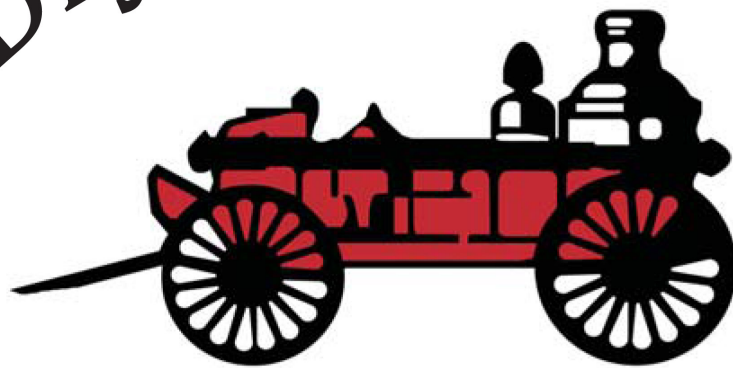
Labor Law § 200 charges owners and general contractors with the duty to protect the health and safety of the individuals working on construction projects and codifies the common-law duty of an owner or contractor to furnish workers with a safe place to work. Before liability can be imposed under Section 200, it must be established that the defendant was responsible for creating the hazard or that it directed and controlled the work giving rise to the injury. Where a plaintiff is injured because of a dangerous condition on the premises, an owner may be held liable if it had control over the work site, created the dangerous condition that caused the accident, or had actual or constructive notice of the dangerous condition. An owner or general contractor generally will not be liable in cases where the injury is the result of the manner or method of work utilized by the employer.

Labor Law cases almost always entail fights on two separate fronts. First, there is the defense of the plaintiff's direct case. The second front is the possible transfer of the risk or loss to another entity. Contracts or subcontracts usually exist between the owner or general contractor and the plaintiff's employer, most often a subcontractor on the construction project. These agreements contain indemnification provisions requiring the subcontractor to defend and indemnify the owner and general contractor. Indemnification provisions in construction contracts that indemnify a party for its own negligence are void under New York law. The best and broadest indemnification language is to "the fullest extent of the law" and requires indemnification for injuries "arising from the work." These agreements with the plaintiff's employer also usually contain provisions requiring that the owner or general contractor be named as an additional insured on the employer's insurance policies. In connection with a personal injury action, one should look to see if their client or insured is entitled to additional insurance under a commercial general liability policy and excess or umbrella policy. An additional insured is entitled to the same protection as the named insured.

Practice Pointer: Despite a popular misconception, Labor Law cases can be successfully defended in New York. One must first understand how the Labor Law applies and what defenses are potentially available. Second, one must look for ways to transfer the loss by way of contractual indemnification or a claim of additional insurance under the employer's liability insurance policy. Owners and contractors should be on the lookout for indemnification and additional insurance provisions in contracts for the underlying construction project so the possibility of transferring the risk or loss can be explored as soon as possible in the case.

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For Tiers 1 & 2 contact:

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(703)706-5412

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For Tier 3 contact:

Kiescha Cherry

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