

IIA WNY

I-WAYS

MAGAZINE

October
2014

INDEPENDENT INSURANCE AGENTS ASSOCIATION OF WESTERN NEW YORK, INC.

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up to
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A Message from the **PRESIDENTS COUNCIL**



Greetings,

I would like to take this time to thank the IIAAWNY Board of Directors for making the commitment to serve for the 2014-2015 year. Please join me in welcoming our newest additions: Doreen DeCarlo, Kemper Personal & Commercial Lines; Michael Carroll, Hanover Insurance; Kathleen Rapasadi, Brown & Brown of NY, Inc.; Barb Duke, Amedeo J. Duke Agency Inc.; and Jeanne Hellert, executive secretary. Special thanks to Paul Chisholm and David Gelia for agreeing to help IIAAWNY for another term! I would also like to thank Steve McCarville, Robert Sleaf, Jr. and Michael Mazzara for their past services.

Our committees have been established and we are ready to start the new IIAAWNY term. So far, we have the following board members and volunteers helping to make this year another successful one:

1. Programs – Debbie Junkin and Tamara Storch
2. Membership Enhancement – Barb Duke, Christine Garvelli, Jessyca Riehle, Bridget Houck, and Doreen DeCarlo
3. Legislative – Paul Chisholm, Dave Gelia, Mark Garvelli, Christine Garvelli, Matt Saxe and Wendy Clemens
4. InVest – Karen Catalano and Kathleen Rapasadi
5. Public Relations – Mark Garvelli, Doreen DeCarlo and Michael Carroll
6. NextGen – Paul Chisholm
7. Golf Outing – Matt Saxe, Leo Kuziemkowski, Mike Carroll, Dave Gelia and Wendy Clemens
8. Nominating – Wendy Clemens

Thanks to all of you that attended the "More Than Just a Lunch" seminar on September 16th. Hopefully you found Kathy Venezia's topics and insight on wellness to be useful. Our next planned event is the Legislative Breakfast on October 16th at the Protocol Restaurant. Please register today and use this time to meet with our legislators to voice your concerns regarding issues critical to our industry.

To close, I would like to echo the vision of David Gelia and our other board members. 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 Legislative Breakfast!

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

INDEPENDENT INSURANCE AGENTS ASSOCIATION OF WESTERN NEW YORK

LEGISLATIVE BREAKFAST

October 16, 2014

Protocol Restaurant | 6766 Transit Road, Williamsville



Registration - 8:15 | Breakfast - 8:30-9:00 | Speaker - 9:00-10:00
\$25 pre-paid | \$30 at the door

Come and meet your elected representatives from our local area to discuss the issues critical to our industry. Elections are just around the corner and it's important that we voice our concerns regarding how difficult it is for businesses in New York to adhere to the insurance regulations and the insurance premium required to meet these regulations.



Jill Muratori, IIABNY Legislative Representative, will speak about the insurance issues from both a legislative and regulatory perspective.



NEW THIS YEAR!

Everyone who attends the Legislative Breakfast will be entered into a drawing for two free tickets to our Annual Holiday Luncheon at The Mansion on Delaware coming up on December 5th!

Sign up today to show our representatives we matter! If you cannot attend, please send representation from your office.

Register now at <http://bit.ly/Zg7y5M>

IIAAWNY

Next Gen Buffalo's "Spooktacular Soiree" October 24, 2014

Join Next Gen Buffalo at one of Western New York's newest microbreweries for an evening of networking & Halloween fun! There will be a 50/50 split & basket raffle with proceeds benefiting local breast cancer research & support.

Date: Friday, October 24
Time: 6:00 p.m. - 8:00 p.m.
Place: Resurgence Brewery
1250 Niagara St, Buffalo, NY 14213
Cost: \$20 per person. Members, their guests and prospective members are welcome (includes 2-hour open bar)

Lloyd's Taco Truck will be onsite during the event (cash /a la carte)! For more information (including tickets & sponsor opportunities), contact: Paul Staring, Liberty Mutual Insurance (paul.staring@libertymutual.com) or Jessica Henel, Lawley Insurance (JHenel@LawleyInsurance.com).

Out & About

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

Save the Date!



**December 5, 2014
The Mansion on Delaware**

YES, Sea bass is on the menu! We know this is a favorite for most of you.

If you cannot attend yourself, please extend the invitation to your staff. Valet parking is available!

An email with a link to register will be sent out.

Dates to Note

October 16

Legislative Breakfast

Protocol Restaurant
Williamsville

October 24

Next Gen Buffalo's "Spooktacular Soiree"

Resurgence Brewery
Buffalo

December 5

Annual Holiday Luncheon

The Mansion on Delaware

Stay tuned for more functions coming up!

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

More Than Just a Lunch

IIAAWNY members received a lesson in wellness from Kathy Venezia, Bella Wellness, at the Complete Health & Wellness Center when they attended More Than Just a Lunch, our monthly event on September 16. Everyone enjoyed a healthy, organic salad and homemade granola plus took home their own mason jar salad creations!

Here is what our attendees said about More Than Just a Lunch:

"Fun & enlightening"

"Creative event"

"A very excellent experience...made me realize that I need to eat healthier."

"Great meeting! Very informative!"



Kathy Venezia (center) shows Jo Ann Decker and Jessyca Riehle how to massage kale



Kathy Venezia and her assistant provide a lesson in organic greens with IIAAWNY members Jo Ann Decker, Janine Newton and Wendy Clemens



John Marciano and Eric Keller learn how to prepare a healthy lunch



Mason jar salads to go...delicious!

Project Invest Announces 2014 Scholarship Winners

By Nicole Majewski

Project Invest and Independent Insurance Agents of Western New York Inc (IIAAWNY) are proud to announce the 2014 IIAAWNY scholarship winners.

This year's scholarship winners include Jessica Gelster of Lake Shore High School in Angola N.Y, James Terzian and Suzanna Ladas of West Seneca West Senior High School and Ryan Herr of Hamburg High School. Courtney and Rachel Poirier (also of West Seneca West) won the scholarship on the national level. All winners are members of their school's Academy of Finance.

Jessica Gelster received a \$1,000 scholarship and will be attending Erie Community College South Campus this fall to dual major in fire protection technology and emergency management. She is studying to become a fire investigator, and hopes to work for an insurance company or town. Invest classes helped her realize the large demand for fire investigators, as she saw how common they are in insurance companies. Jessica is also a very active member of the Evans Center Volunteer Fire Department.

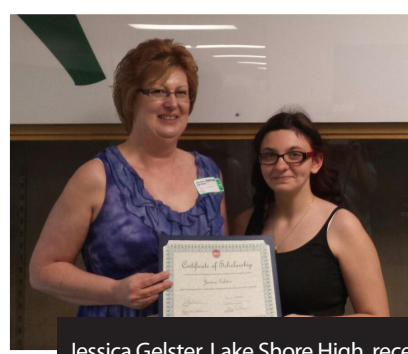
James Terzian received a \$500 scholarship. Invest classes and a love for math helped James discover a potential career in actuarial science. He is grateful to the classes for giving him this in-depth look at insurance. James will be attending the University at Buffalo this fall.

Suzanna Ladas and Ryan Herr each won \$250 scholarships. Suzanna will be attending Duquesne University for pre-pharmacy and was able to apply her Invest knowledge at her internship and beyond at Aurichio Insurance Agency in West Seneca. Ryan will be studying Business Finance at the University of Buffalo in the fall, and applied Invest's lessons to investment and money management. During his time at Hamburg High, he was a valued member of the school's Meridia Community Credit Union branch for three consecutive years.

Courtney and Rachel Poirier won on the national level, and each received a \$500 scholarship. Courtney plans to attend SUNY Fredonia this fall and is looking at a potential career in business. She is appreciative to Invest for teaching her about the many kinds of insurance she will encounter in life. Rachel will also be attending SUNY Fredonia. She was accepted into the business program, and enjoyed learning about the variety of insurance careers through Invest.

Project Invest wishes the brightest futures to all of our winners!

INVEST[®]



Jessica Gelster, Lake Shore High, receives \$1,000 scholarship from Karen Catalano, The Cesar Group



Hamburg student, Ryan Herr, receives his scholarship from Jeff Leyonmark, Wolf Agency and member of the Hamburg Advisory Board.



West Seneca West winners

Membership Enhancement Committee

We are about ready to use the texting while driving simulator at our first event at Cleveland Hill High Schools Homecoming Carnival on Oct 3rd. We would like to remind ALL our agent and affiliate members that the unit is available to you for events at your offices or any community activities that you may be involved with. Our committee, consisting of myself, Christine Garvelli, Walsh Duffield, Bridget Houck, D L Houck Agency, Jessyca Riehle, Servpro Buffalo/Tonawanda and Doreen DeCarlo, Kemper Insurance are hard at work planning events to help promote the independent agent in the community. We are currently looking into other venues to showcase the simulator and we are planning to have another child seat safety check with the Erie County Sheriff's Dept .

Please let any of our committee members know if you are interested in helping out or if you have any ideas you would like to share with us.

Barbara Duke
Amedeo J Duke Agency



Appellate Court Rebuffs Insured's Attempt to Characterize Attorneys as Claim Adjusters and to Compel Insurer's Production of Attorney-Client Communications

For answers to your legal questions, feel free to contact

Marco Cercone, Esq. or

James Graber, Esq.

at Rupp, Baase, Pfalzgraf

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Recently, the Appellate Division, Fourth Department reviewed whether an insurer must disclose its pre-lawsuit communications with its attorneys in *Nicastro v. New York Central Mutual Fire Insurance Company*, 117 A.D.3d 1545, 985 N.Y.S.2d 806 (4th Dep't 2014). In *Nicastro*, the plaintiff owned two rental properties located on the same street in Buffalo, New York. In July 2010, both properties sustained fire damage. Insurance claims were submitted to plaintiff's insurer, and it investigated the claims and determined that there was coverage for plaintiff's loss. However, after issuing significant amounts in payment of the claims to plaintiff, it became clear that plaintiff valued his claims far in excess of the amounts paid by the insurer, and counsel was retained to protect the insurer's rights under the policies of insurance. Counsel was retained to provide legal services to the insurer, to advise the insurer of its legal responsibilities, and to conduct plaintiff's examination under oath.

Following the completion of the insurer's investigation, the parties still disagreed as to the value of plaintiff's loss, and plaintiff commenced a lawsuit. In his discovery demands, plaintiff sought, among other things, the written communications between the insurer and its attorneys. Plaintiff argued that the insurer's attorneys were serving in the capacity of a claim adjuster, and that the requested documents should be produced notwithstanding the insurer's claim the documents were protected by attorney-client privilege and work-product doctrine.

After the insurer refused to produce the requested communications with its attorneys, plaintiff brought a motion to compel disclosure. Initially, the trial court ordered the insurer to disclose the requested documents. That decision, however, was reversed by the Appellate Division, Fourth Department on appeal. In reviewing the facts of *Nicastro*, the Fourth Department specifically noted that the insurer "did not retain counsel to perform the work of an adjuster or otherwise handle claims." *Nicastro*, 117 A.D.3d at 1547.

Instead, the Fourth Department concluded that "counsel was retained to provide legal services to [the insurer] with respect to plaintiff's claim and, as a result, the court erred when it ordered disclosure of documents of or relating to communications between [the insurer] and its attorney and documents that constitute attorney work product." *Id.*

Practice Pointer: Insurance professionals often seek the opinion of counsel during insurance-coverage disputes. Most often, counsel is retained to provide the insurer with guidance and legal advice based on the prevailing state and federal law. In light of the Fourth Department's holding in *Nicastro*, insurers can rest assured that these attorney-client communications will continue to remain confidential and are not subject to disclosure should the claim ultimately be litigated. Indeed, insurance professionals have the fundamental right to engage in confidential communications with an attorney, and courts will not infringe on this right so long as the communications were made in order to render legal advice or services.

If insurance professionals wish to keep their communications with their attorneys confidential, they should refrain from having attorneys perform adjusting activities and instead have them focus on the legal aspects of the claim.



New York's Carrier of Choice



Thank you to our Independent Agent partners for making New York the largest of the 40 states where Kemper writes business! We're committed to continuing to give you reasons to grow with us.

If you haven't been writing with Kemper, here are a few reasons why you should:

- **Financial strength and stability.** Kemper has provided insurance for more than a century. We rank among the top personal lines property/casualty insurers in the U.S. and are rated A- (Excellent) by A.M. Best
- **Attractive coverages.** Our Auto and Home products offer unparalleled protection with features not often found in other carriers' products, like our Package Plus' Blanket Property Limit, which significantly expands dwelling coverage
- **Superior claims service.** Our responsiveness and claims handling in key areas surpass industry averages
- **Dedicated to your success.** We are proud to passionately serve Independent Agencies, our sole distribution channel. It's our priority to help you achieve long-term profitability and success

Want to know more?

Contact **Doreen DeCarlo** at ddecarlo@kemper.com or 716.796.4145.



Fall 2014 IIABNY Education Calendar WEST-CENTRAL



- Aug 26 2014 EO Risk Management: Meeting the Challenge of Change** 8 CE Credits (All Licenses) NYCR-245982
- Sept 30 AAI 83 A - Principles of Agency Management**
7+1 CE Credits (All Licenses) NYCR-237466+NYCX-237466
- Oct 7 Condo & Renter Policies - Nothing to Worry About**
3 CE Credits (PC, BR, C3, PA) NYCR-246106
- Oct 7 Personal Auto Situations & Solutions**
3 CE Credits (PC, BR, C3, PA) NYCR-246107
- Oct 22 Using the SHOP Marketplace To Benefit Your Clients**
5 CE Credits (PC, BR, C1, LA, LB) NYCR-246017
- Oct 28 ACSR 1 - Homeowners Insurance**
7+1 CE Credits (PC, BR, C3, PA) NYCR-236788+NYCX-236788
- Nov 4 15 Credits in 1 Day - Self Study**
15 CE Credits (All Licenses) NYCS-238331
- Nov 4 Social Media- Ethics, Fraud and Intellectual Property Issues** 4 CE Credits (All Licenses) NYCR-246046
- Nov 12 AAI 83C Agency Management Tools and Processes**
7+1 CE Credits (All Licenses) NYCR-237149+NYCX-237149
- Dec 2 ACSR 6 - Commercial Property Insurance**
7+1 CE Credits (PC, BR, C3, PA) NYCR-236786+NYCX-236786
- Dec 10 Contracts, Additional Insureds & Cert. of Insurance - Oh My!** 7 CE Credits (PC, BR, C3, PA) NYCR-246045

Full class descriptions, webinar
options & online registration at

www.iiabny.org/edcalendar



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- Oct 1 AAI 83 A - Principles of Agency Management**
7+1 CE Credits (All Licenses) NYCR-237466+NYCX-237466
- Oct 8 Condo & Renter Policies - Nothing to Worry About**
3 CE Credits (PC, BR, C3, PA) NYCR-246106
- Oct 8 Personal Auto Situations & Solutions**
3 CE Credits (PC, BR, C3, PA) NYCR-246107
- Oct 23 Using the SHOP Marketplace To Benefit Your Clients**
5 Credits (PC, BR, C1, LA, LB) NYCR-246017
- Oct 29 ACSR 1 - Homeowners Insurance**
7+1 CE Credits (PC, BR, C3, PA) NYCR-236788+NYCX-236788
- Nov 5 15 Credits in 1 Day - Self Study**
15 Credits (All Licenses) NYCS-238331
- Nov 5 Social Media- Ethics, Fraud and Intellectual Property Issues** 4 Credits (All Licenses) NYCR-246046
- Nov 13 AAI 83C Agency Management Tools and Processes**
7+1 Credits (All Licenses) NYCR-237149+NYCX-237149
- Nov 20 2014 - EO Risk Management: Meeting the Challenge of Change** 8 Credits (All Licenses) NYCR-245982
- Dec 3 ACSR 6 - Commercial Property Insurance**
7+1 CE Credits (PC, BR, C3, PA) NYCR-236786+NYCX-236786
- Dec 11 Contracts, Additional Insureds & Cert. of Insurance - Oh My!** 7 CE Credits (PC, BR, C3, PA) NYCR-246045



- Aug 28 2014 - EO Risk Management: Meeting the Challenge of Change** 8 CE Credits (All Licenses) NYCR-245982
- Oct 2 AAI 83 A - Principles of Agency Management**
7+1 CE Credits (All Licenses) NYCR-237466+NYCX-237466
- Oct 7 Using the SHOP Marketplace To Benefit Your Clients**
5 CE Credits (PC, BR, C1, LA, LB) NYCR-246017
- Oct 9 Condo & Renter Policies - Nothing to Worry About**
3 CE Credits (PC, BR, C3, PA) NYCR-246106
- Oct 9 Personal Auto Situations & Solutions**
3 CE Credits (PC, BR, C3, PA) NYCR-246107
- Oct 16 15 Credits in 1 Day - Self Study**
15 CE Credits (All Licenses) NYCS-238331
- Oct 16 Social Media- Ethics, Fraud and Intellectual Property Issues** 4 CE Credits (All Licenses) NYCR-246046
- Oct 30 ACSR 1 - Homeowners Insurance**
7+1 CE Credits (PC, BR, C3, PA) NYCR-236788+NYCX-236788
- Nov 19 AAI 83C Agency Management Tools and Processes**
7+1 CE Credits (All Licenses) NYCR-237149+NYCX-237149
- Dec 4 ACSR 6 - Commercial Property Insurance**
7+1 CE Credits (PC, BR, C3, PA) NYCR-236786+NYCX-236786
- Dec 12 Contracts, Additional Insureds & Cert. of Insurance - Oh My!** 7 CE Credits (PC, BR, C3, PA) NYCR-246045