

IIA WNY

# I-WAYS

## MAGAZINE

August  
2016

INDEPENDENT INSURANCE AGENTS ASSOCIATION OF WESTERN NEW YORK, INC.

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# A Message from the **PRESIDENT**



It's hard to believe that my term as president is about over! The year passed very quickly.

I'm leaving with a tremendous sense of accomplishment, thanks to the great efforts of all board members of IIAAWNY. So many things went well this year. From record setting classes with our INVEST program to our legislative efforts, to the rebirth of NeXtGen, to our Trusted Choice ad campaign on WIVB, to the successful Roger Gurney Golf Outing - your board has done an extraordinary job. Thank you board members for all of your efforts to advance our organization.

This year IIAAWNY is celebrating our 175th anniversary. We are going to have the installation of officers and directors at our 175 Gala on September 29, 2016 at the Saturn Club. Bob Rusbult, President and CEO of Independent Insurance Agents & Brokers of America will be our keynote speaker.

Matt Saxe will be installed as President. I know he will do an outstanding job leading our association. It truly has been my honor to serve as your president.

Vic Rutecki  
President IIAAWNY

**Vic Rutecki**  
President IIAAWNY



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# IIAAWNY Celebrates 175 years!

September 29, 2016 at the Saturn Club

Mark your calendars for this important milestone in IIAAWNY's history – 175 years of service to the Western New York community! We will celebrate in style at the Saturn Club, remembering our history with an eye to the future. We will be installing our new Board of Directors this evening as well.

So, plan to join us on Thursday, September 29 as we welcome leaders from IIABNY along with our keynote speaker, Bob Rusbuldt, president and CEO of Independent Insurance Agents & Brokers of America.

Sponsorship opportunities are available. Please contact Matt Saxe, M & T Insurance Agency, for details.

Online Registration will be opening soon – watch our website for more information!

## IIAAWNY Legislative Breakfast

October 19, 2016 at the Hilton Garden Inn Buffalo Airport

IIAAWNY would love for you to join us at our annual Legislative Breakfast. 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. Sign up today to show our representatives that we matter! Jill Muratori, IIABNY Legislative Representative, and Kathy Weinheimer, Senior Vice President of Industry Relations at IIABNY, will be in attendance.

**\$25 pre-paid registration**

**Schedule of Events:**

Registration 8:15am

Breakfast 8:30am

Speaker 9-10am



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

Register at <http://www.wnyagent.com/events/iaaawny-legislative-breakfast>, we hope to see you there! If you are unable to attend yourself, please extend this invitation to your staff.

**Registration deadline is 10/7/16.**



## 15th annual Roger M. Gurney Memorial Golf Outing

This year's 15th annual Roger M. Gurney Memorial Golf Outing was a big success for our InVest Program. We would like to thank all our sponsors for their generosity, the volunteers for your help, all the golfers that participated, and Crag Burn Golf Club for helping us put it all together. Without you we would not be able to continue this wonderful program.

To summarize our successful day at Crag Burn Golf Club:

- 106 golfers participated
- 31 sponsors/supporters
- Numerous volunteers
- Countless prizes
- Wonderful lunch and dinner selections
- Our winners for the day were:

Team winners: Jim Chavanne, Dennis Donner, John Daughton, & William Gallagher

Closest to the pin hole #5, women: Maria Stucke

Closest to the pin hole #7, men: Ryan Smith

Closest to the pin hole #12, men: Tom Fox

Longest drive, women, presented by Russell Bond: Maria Stucke

Longest drive, men, presented by Russell Bond: Roger Onettio

I would like to thank the golf committee who helped me put it all together. Without you we would not have been so successful: Vic Rutecki, Rutecki Agency; Rick Gurney (especially for the beautiful brochures), RG Graphis; Frank Gallo, Glass America; Leo Kuziemkowski, Lawley; Matt Saxe, M & T Insurance Agency; Paul Chisholm, Insurance Associates Marketplace Agency, and David Gelia, United Insurance Agency.

Please mark your calendar for next year as we will be back again at Crag Burn Golf Club for our outing on June 26, 2017. Looking forward to seeing everyone there again and more new faces!

Tamara Storch, ACSR, AINS

**2015 IIAAWNY**  
**Roger Gurney**  
**Golf Outing**

SEE PHOTOS ON NEXT PAGE ►



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1. Dinner on the patio at Crag Burn Golf Club
2. Volunteers Brigid Lalley and Ashley Engl, Lawley
3. Dick Budlong, NYCM with Brian Herring
4. Volunteers and the Lincoln MKC from Towne on the 17th Hole
5. Entertainment sponsored by Frank Gallo, Glass America
6. John Barton with Eric Keller, H. R. Keller Co., Inc.
7. Matt Piegay and Sean Kelchin, Lawley
8. Vic Rutecki, Rutecki Agency and Tamara Storch, golf chair, right, presents the Young Agent of the Year Award to Ashley Engl, center, from Lawley

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# ***BASIC INSURANCE MATH:***



ALLEGANY INSURANCE GROUP is pleased to announce that it has been awarded an A. M. Best Financial Strength Rating of “A” (Excellent) in 2016. This is the 25th year in a row that Allegany Co-op Insurance Company has achieved this recognition, and the first year that the combined ALLEGANY INSURANCE GROUP (which also includes Conemaugh Valley Mutual Insurance Company, Johnstown PA) has been rated.

In celebration, and in recognition of our enhanced group identity, we unveil our “new” logo which represents our unity while still reflecting the stability, integrity and strength that has been at the core of each member company since the beginning.

We are able to enjoy this rating only through the support and hard work of our partner Independent Agents. We value your knowledge, experience and perspective in these quickly changing times, and promise to do our very best to maintain financial strength while offering a wide variety of comprehensive, competitively priced products for your clients.

Thank you!

**Randall Peters, CPA**  
*President*

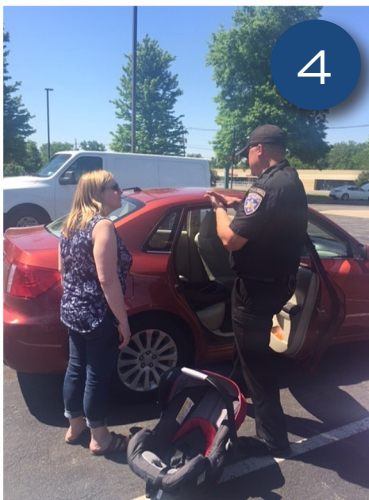
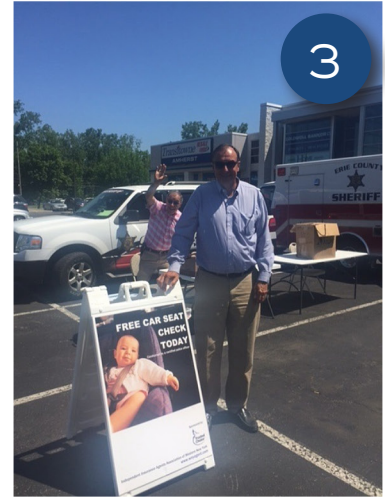
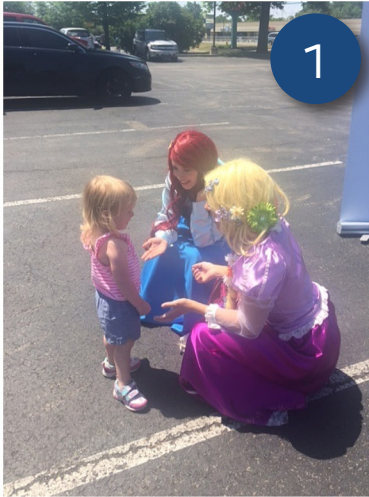
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*Executive Vice-president*



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# Third Annual Car Seat Safety Inspection Check



1. Princesses from Princess Parties WNY entertained our youngsters while their car seats were checked
2. Erie County Sheriff's Department conducts a Car Seat Safety Check at CARSTAR COLLISION on Niagara Falls Blvd
3. Vic Rutecki, Rutecki Agency
4. Erie County Sheriff's Department conducts a Car Seat Safety Check at CARSTAR
5. Volunteers: John Marciano, retired from John J Marciano Agency with Christine Garvelli, Walsh Duffield Companies

On June 3rd, IIAAWNY held its third annual car seat safety inspection check, conducted by the Erie County Sheriff's Dept. It was, once again, a very successful event. It just takes a few minutes, but can save a life and/or prevent serious injuries to children by making sure their car seats are not expired, recalled, or an improper size for a child. Thank you to Ted Washburn for allowing us to hold the event at CARSTAR COLLISION on Niagara Falls Blvd. They had everything set up for us plus refreshments and coloring books for the children! Thank you also to Jessyca Riehle, PRINCESS PARTIES WNY, for providing Princesses to the event. They did an excellent job getting people to pull in for the inspection and kept the kids entertained! Thank you also to the

volunteers: Christine Garvelli, Walsh Duffield Companies, John Marciano, (retired from John J Marciano Agency) and Lisa Farnham, Adirondack Insurance. Lastly, thank you to the following for donating items to be given out: Dick Budlong, NYCM; Todd Mayer, Preferred Mutual; and Lisa Farnham, Adirondack Insurance.

If you are interested in helping out with this event, please contact Jeanne at [iiaawny@gmail.com](mailto:iiaawny@gmail.com).

Thank you,  
Barbara Duke  
Amedeo J Duke Agency

# THE DEVIL IS IN THE DETAILS:

## Communication is key

For answers to your legal questions, feel free to contact

Marco Cercone, Esq. or  
Anthony G. Marecki, Esq.

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Recently, a trial court dismissed a plaintiff's negligent misrepresentation and negligence causes of action alleged against a wholesale insurance broker in *DeFoe Corp. v. USI Ins. Servs., LLC*, 2016 N.Y. Misc. LEXIS 1490 (Sup. Ct. New York Co. Apr. 15, 2016). In *DeFoe*, the plaintiff was a contractor that performed rehabilitation and reconstruction projects in the New York City metropolitan area. In connection with *DeFoe's* bid on a construction project, it turned to its retail insurance broker, USI, to price and procure insurance for it.

USI, in turn, contacted Hartan Brokerage ("Hartan"), which is a wholesale insurance brokerage, in order to obtain an indication for *DeFoe's* project. As you know, an indication is a non binding estimate of potential premiums. Hartan provided USI with an indication for the project and USI provided the indication to *DeFoe*. USI, however, did not inform *DeFoe* that the indication was non-binding and subject to *DeFoe* providing additional information about the project. *DeFoe* was the successful bidder on the contract and instructed USI to obtain the insurance pursuant to the indication previously provided to it. USI attempted to do so, but the policies could not be placed at the prices previously indicated and, as a result, *DeFoe* was forced to obtain alternate coverage at a higher premium.

*DeFoe* sued USI and Hartan as a result of having to obtain insurance at a premium higher than what was indicated. USI, the retail broker, settled after the parties all moved for summary judgment. Hartan, the wholesale broker, on the other hand, did not settle and successfully had the complaint against it dismissed. In so doing, the court noted that an indication is a term of art constituting a non binding estimate of potential premiums, and a broker does not guarantee an

insurance company will issue a policy for the indicated price. An indication was distinguished from a quote, as the court noted that a quote is a specific premium for which an insurance company will issue a policy.

The court determined that Hartan was entitled to summary judgment because, as the wholesale broker, it never had any direct communications with *DeFoe*. Therefore, Hartan could not have misrepresented anything to *DeFoe* and Hartan did not owe *DeFoe* a duty because Hartan's client was USI, not *DeFoe*. Additionally, the court held that plaintiff could not establish that the indication provided by Hartan was false. The court stated that Hartan only provided an indication, not a quote, and that an indication, by its very nature, is nothing more than an estimate. Thus, plaintiff could not prove that the indication actually was incorrect at the time it was given. As a result, *DeFoe's* entire complaint against Hartan was dismissed.

**Practice Pointer:** The decision in *DeFoe* stresses that communication, preferably in writing, is key to the insurance-procurement process. Hartan did provide all of the qualifiers for its indication – that it was non-bindable and subject to additional information about the project – to USI. However, USI did not provide any of this qualifying information, or explain the difference between an indication and a quote, to *DeFoe*. This breakdown in communication lead to *DeFoe's* lawsuit. An insurance professional should advise a client, in writing, of any limitations or exceptional circumstances that apply to any indications or quotes as those communications could be helpful to the defense of an insurance broker or agent in any future litigation over the price and coverage provided by an insurance policy.



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