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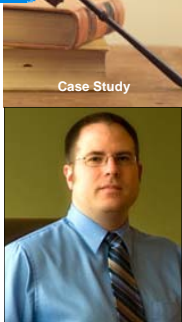
Next Regular Meeting: September 18, 2015

Time: 11:30am Location: Billy Baroo's

For more details see page 2



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Cyclist Can't Get Over Recreational Immunity Speed Bump

— By Kyle Riley

From the Desk of Kyle Riley: Is the owner of land provided for public recreational use immune from liability when a cyclist falls and is injured after riding over a raised portion of a pathway that he thought was flat? Read on to see how the Washington Supreme Court examined the case.

Claims Pointer: In Washington, landowners who open their land to the public are immune from liability relating to the recreational use of the land unless a particular exception applies. One exception to immunity is when the injuries are caused by a "known dangerous artificial latent condition for which no warning signs were posted." In this case, the Washington Supreme Court ruled that a landowner does not need actual knowledge for a condition to be "dangerous," and that a condition is "latent" (hidden or not obvious) if the "ordinary recreational user" standing near the condition could not observe it.

Jewels v. City of Bellingham, No. 90313-1, 2015 WL 3643478, June 11, 2015, Supreme Court of WA

(See Case Study... continued on page 3)



ATTENTION ADJUSTERS!!!

It's that time of year again when we ask PSAA members to renew their membership in the association by paying their annual dues — which are due by September 1st. **Renew before November 1st to save \$5!**

PSAA Speaker for September 18

Tom Underbrink, Mutual of Enumclaw's Director of Litigation, will be filling in to mesmerize us all about how different insurance companies have different claims handling philosophies (warm and fuzzy, hard ass, centralized authority, adjuster autonomy, litigious, "work it out", by the numbers, etc.) based on their different corporate cultures (from multi-national mega corporations down to small regional mutual companies). He's also a lawyer, so he can do the legal update.

Join us for lunch and our first meeting of the 2015-16 year at Billy Baroo's. See page 2 for how to RSVP. ❖



Career Opportunities

To post a job opening send an email to: info@pugetsoundadjusters.org
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Claims Conversation

with Roger Howson — See page 15



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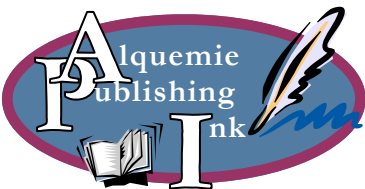
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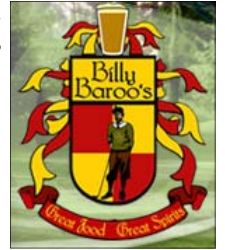
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PSAA Next Luncheon Mtg



Next Meeting: September 18, 2015
Time: 11:30am to 1:00pm
Location: Billy Baroo's Bar & Grill
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13500 Interurban Ave W
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Cost: Members \$20 Vendors \$25
Presentations: **Claim Handling Philosophies with Tom Underbrink**, Mutual of Enumclaw's Director of Litigation

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Additional Meeting Information

Please keep in mind that we'd like to start and end promptly during our monthly meetings. Here is the timeline for each meeting:

- 11:30 a.m. Registration
- 11:45 a.m. Buffet
- 12:00 p.m. Meeting Called to Order
- 1:00 p.m. End of Meeting

Please arrive on time and have your cash or check (payable to PSAA) ready, or provide your online payment receipt. We appreciate your cooperation and assistance.



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Case Study... *(Continued from front page)*

Steven Jewels was riding his bicycle on a pathway in Cornwall Park, which is maintained by the City of Bellingham ("the City"). As he was riding, Jewels rode over a speed bump that caused a jolt to his bike. As he approached the next bump, he decided to go around it on what he thought was "bare, flat pavement." Both asphalt speed bumps were painted with bright yellow paint, they were approximately three inches high, and they spanned the entire width of the road. At either end of each speed bump there was a slightly less raised portion of the path about two inches high that diverted water off of the pathway. These "water diverters" were not painted. When Jewels rode over the water diverter, the unexpected shock threw him from the bike, causing him injury. A day after Jewels' injury, the City issued a work order to paint the water diverters like the speed bumps.

When Jewels filed a negligence suit against the City, the City filed a motion for summary judgment arguing that it had immunity under Washington's recreational land use statute. In response, Jewels argued that the water diverter was a "known dangerous artificial latent condition." RCW 4.24.210(4) (a). The trial court granted summary judgment to the City, stating that the water diverter was "clearly obvious and clearly visible... [s]o it is not a latent condition." The trial court also ruled that the City did not know the water diverter was dangerous, and therefore, was immune from suit. The Court of Appeals affirmed.

The Washington Supreme Court upheld the summary judgment ruling, but only on the basis that the condition, the water diverter, was not latent. The Court concluded that the trial court and Court of Appeals were mistaken that RCW 4.24.210(4)(a) requires the plaintiff to prove that the party claiming recreational use immunity (in this case, the City) had actual knowledge that a condition was dangerous. The Court clarified that the words "known," "dangerous," "artificial," and "latent" only modify "condition," not each other. Therefore, a condition need only be dangerous to meet that part of the exception.

As to whether the water diverter was latent, the Court held that a condition is not latent as a matter of law "if an ordinary recreational user standing near the injury-causing condition could see it by observation, without the need to uncover or manipulate the surrounding area." The Court explained that the latency of a condition is based on the average recreational user, not the personal ex-

perience of the user or the viewpoint of a particular activity. The Court affirmed the trial court's grant of summary judgment to the City. ❖

— View the full opinion at: <http://www.courts.wa.gov/opinions/pdf/903191.pdf>

— If you would like to be notified of new cases, please send an email to: caseupdate@smithfreed.com.

This article is to inform our clients and others about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information without seeking professional counsel.



Thank you to the staff at Smith Freed & Eberhard for their monthly submissions to our newsletter! We look forward to another year of interesting case studies!



Crop-insurance claims jump after weather curbs planting

By Marvin G. Perez, Bloomberg News

Reprinted from www.stltoday.com. (c) 2015 stltoday.com.

Insurance claims filed by U.S. farmers for crops they couldn't plant have jumped 48 percent this year, government data show, the latest indication of how adverse weather is curbing production of corn and other crops.

Total claims so far in 2015 related to 6.45 million acres, the U.S. Department of Agriculture's Farm Service Agency said Monday in a report.

Corn farmers filed claims on 2.301 million acres, compared with 1.608 million acres a year earlier. Soybean-farming claims more than doubled to 2.17 million acres. Corn and soybean futures prices rose in early Chicago trading.

"This reduction in acres takes production down," Michael McDougall, senior vice president at Societe Generale in New York, said in an email. "This caused the early morning firming in prices."

Harvests in the United States, the world's largest grower and exporter, are heading for a decline af-

(See News... continued on page 5)



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News... (Continued from page 3)

ter two successive record years. The growing season began with higher-than-normal moisture in parts of the Midwest, followed by unusually dry weather in other areas.

While there's agreement that output will be lower in 2015, estimates differ over the extent of the decline. Last week the USDA unexpectedly raised its corn and soybean output estimates from a month earlier, citing higher yields than those seen previously.

Corn for December delivery was 0.1 percent lower at \$3.75 a bushel at 9:18 a.m. on the Chicago Board of Trade after earlier rising as much as 1.1 percent. Soybeans for November delivery rose 0.3 percent to \$9.19 1/4 a bushel at 9:17 a.m. in Chicago, erasing earlier losses.

The record payout to farmers who didn't sow crops took place 2012, according to USDA data. Growers are required to file a report on all cropland eligible for benefits. ❖

3 key things that the insurance industry needs to know about aluminum vehicles
By Patricia L. Harman

Reprinted from www.propertycasualty360.com

New fuel efficiency standards in the U.S. are a driving force in requiring auto manufacturers to improve the miles per gallon for cars and light-duty trucks rolling off of the assembly lines in the next few years. By 2016, vehicles are required to reach 35.5 mpg and by 2025 that number should reach 54.5 mpg. Regulations for medium- and heavy-duty trucks will also require improved fuel efficiency and a reduction in carbon pollution for model years 2021-2027.

How will manufacturers achieve these more fuel efficient numbers? A number of ways including the use of hybrid engines, greater use of start and stop technology, more efficient air conditioning compressors

(Continued on page 7)



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"Eclectic Part II: Common Law Indemnity No More?"



"Cyclist Can't Get Over Recreational Immunity Speed Bump"



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News... (Continued from page 5)

and more electric power steering according to Susanna Gotsch of CCC Information Services.

One major way to shed some significant weight and increase mpg will be the use of more aluminum in cars.

Manufacturers like Ferrari, Audi, BMW, Honda, Lotus, Mercedes, Aston Martin and Range Rover are creating completely aluminum cars or using it for body panels and hoods. Others are using aluminum parts for fenders, trunks and liftgates.


The Aluminum Association says that manufacturers like the lighter weight material for its strength and environmental advantages. While steel is still the most used material in vehicles, aluminum comes in at a strong second, with almost 90% of it able to be recycled at the end of a vehicle's life.

As manufacturers make the shift to more aluminum vehicles, this will also change how and where vehicles involved in an accident will be repaired. According to Dan Young, senior vice president of insurance relations for CARSTAR, there are anywhere from 34,000 to 36,000 collision repair shops in the U.S. "Those shops are fixing cars for an industry that is worth \$30 billion and they are all vying for this work."

Not every shop is equipped or has technicians trained to work on aluminum vehicles. "There is a great deal of cost that a shop has to be willing to invest to get into this aspect of the business," adds Young. "They have to get certified to work on wholly aluminum vehicles, have separate tools and work areas, and that can cost several hundred thousand dollars." Because of cross-contamination issues, aluminum cars cannot be worked on in the same area as steel cars because the aluminum particles will wear down the steel.

Young says that there are different training requirements depending on the manufacturer. Audi, Jaguar, Land Rover and BMW require technicians be trained to work on their aluminum vehicles. Those currently trained to work on steel vehicles will have to be retrained to work on aluminum as well. I-CAR, the Inter-Industry Conference on Auto Collision Repair, has developed training courses recognized by many manufacturers and is working with insurers to educate appraisers, adjusters and technicians on what is involved in repairing these new vehicles.

(See News... continued on page 9)



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News... (Continued from page 7)

Training Time

"Training for working with aluminum in collision repair differs from training for working with steel in that you're often using different tools and different techniques because of the properties of each material," explains Jason Bartanen, director of industry technical relations for I-CAR. "It's not that aluminum is more difficult to work with; it's more a matter of getting trained on how to use the different tools that are specific to each material and the proper material-specific attachment techniques."

However, Bartanen says that the training technicians have already received for working on steel cars definitely translates into repairing aluminum vehicles. "You have the three-dimensional measuring, many of the basic hammers and dollies that they're going to be using a lot on aluminum, corrosion protection, etc. I often hear from people, 'Well, aluminum doesn't need corrosion protection.' It absolutely needs corrosion protection. So a lot of the foundational pieces translate to aluminum."

The welding machines from steel to aluminum are completely different, as are the techniques utilized for the repairs. "Right now, the majority of steel vehicles aren't repaired with rivet guns, so they're learning a new tool, a new piece of equipment. In the future, we'll probably be using rivet guns for steel cars, but right now the majority of steel repairs are not made with rivet guns; they're repaired with spot welders and MIG welding, so there are some tool differences there," explains Bartanen. "Even from a damage-analysis standpoint, some of the rules for what is repairable for a steel vehicle don't apply to aluminum."

I-CAR uses a "kink versus bend rule," which says if the part is kinked, it should be replaced; if it is bent, straightening may be an option. "So there are some differences from a damage-analysis standpoint," adds Bartanen. "Micro cracking occurs in aluminum panels, and you can't see it with the naked eye, so you need dye penetrant to identify it. Now, dye penetrant isn't something that we use as often on steel vehicles, but it might come in handy on aluminum vehicles. So there are some subtle differences from a damage-analysis standpoint, as well."

Working with steel is not a prerequisite for learning to work on aluminum cars and the amount of time required to train technicians really depends on the individual and his (or her) aptitude for picking up

(See News... continued on page 11)

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News... *(Continued from page 9)*

the repair techniques. "Sometimes, the experienced technician may have some bad habits that they need to unlearn, while an inexperienced technician who is completely new to collision repair may absorb a bit better. Conversely, of course, a new technician may have trouble grasping some of the concepts, whereas an experienced technician may have some familiarity that helps them," says Bartanen.

I-CAR training options vary in length and intensity depending on the technician's experience level and employment goals. There is a three-credit-hour program on aluminum panel removal and installation, classroom-based night classes held at local schools or training facilities, intense certification courses for manufacturers like Jaguar and Land Rover, as well as introductory courses for those who have never worked on a car before to help them learn industry terminology, tools and estimating.

Manufacturers also have their own in-house training programs for technicians. "Audi offers up to a 10-day program for its aluminum network, which is very hands-on intensive," says Bartanen. "Students go through an internationally recognized ISO welding certification test. It's much more hands-on, a lot more time, and because of this, more costly."

Different Tools Required

Training isn't the only differentiator for working on aluminum vehicles. Among the tools that differ significantly from steel to aluminum cars are the rivets. "Definitely rivets, whether it's a self-piercing rivet, a blind rivet or a solid rivet, are something that we're not using to repair most steel vehicles today," explains Bartanen. "Conversely, we're not using spot welders on aluminum vehicles, but we're using them on steel today. The MIG welding equipment that we use – although you can use a MIG welding piece of equipment – you have to convert the machine unless it offers multiple guns with it. You're using a different shielding gas for steel versus aluminum. You're using different electrode wire for steel versus aluminum. Even the different techniques – you can either push or pull for steel welding – while for aluminum you have to push, or you'll get contamination in the weld. So there are some subtle differences in technique as well."

Repair process of the future

In addition to requiring new training, tools and equipment, and segregating the repair areas for aluminum and steel cars, there will be some new

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News... (Continued from page 11)

challenges for repair shops and insurers to consider.


“When you look at the investment that shops will have to make to get into this business, it will impact the repair cost,” says Young. “Fifty percent of the U.S. market has a vehicle that is 12 years old. Everyone will be focused on the average cost of repairs as they creep up. As technology in vehicles gets more sophisticated, breaking a computer now means damaging the command center. Aluminum cars require different tools and skill sets, which will mean more expenses.”

“Going forward, we’re not going to be working on a steel-only vehicle or an aluminum-only vehicle – we’re going to be working on a vehicle that has a combination of steel, aluminum, carbon fiber, magnesium, and probably some other materials that we’re not even familiar with yet, so when we reach that level of hybridization, we’re not going to be able to segregate them,” warns Bartanen.

“The Cadillac CT6, for example, has both aluminum and steel on the side of the vehicle. You can’t use conventional welding techniques because you can’t weld steel to aluminum – not in an aftermarket process anyway. So we’re going to be repairing those types of vehicles with rivet and rivet-bonding techniques that we’re going to be learning as we start to repair more aluminum cars.”


Bartanen believes that it will be critical for repair facilities to provide a learning culture for technicians to encourage them to learn new techniques in order to adapt to the changes they will be seeing in future vehicles. “There’s going to be a learning curve there, and those who have embraced a learning culture, believing training and knowledge-sharing are valuable and contribute to improved business performance sooner rather than later are going to be more prepared—not only to repair aluminum vehicles tomorrow, but also to repair hybrid vehicles that have aluminum and steel on them.”

I-CAR’s Platinum ProLevel designation can provide insurance professionals with the information they need to stay current with changes in the automotive repair industry, particularly vehicles like the aluminum-intensive 2015 Ford F-150. USAA is one of the insurers who has committed to training 100% of its auto physical damage appraisers (APDAs) to achieve the Platinum ProLevel 1 and to date, 96% have achieved the designation. ❖




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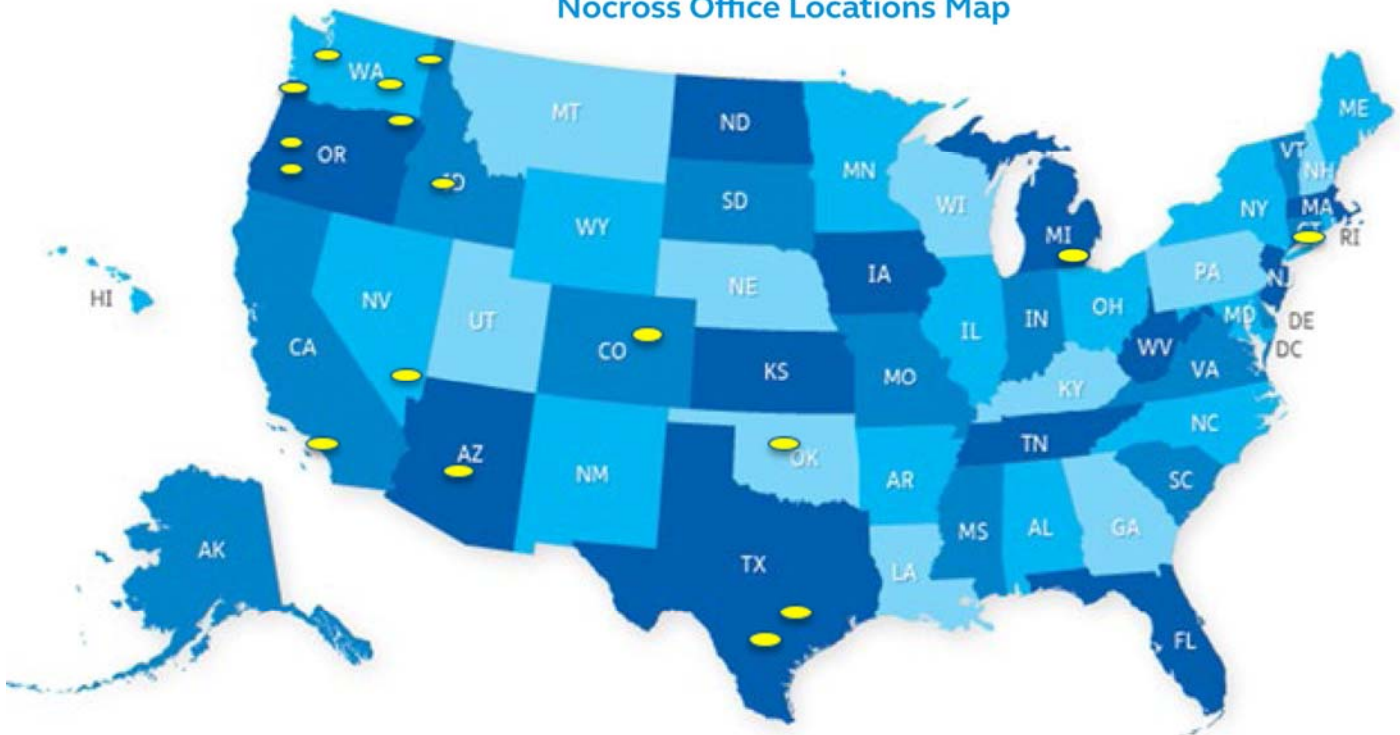
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Claims Conversation

with **Roger Howson**, Claims Dispute Resolution, PSAA Newsletter Editor & Education Chair, TCAA Past President

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Angels are Blue
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Before Seafair is through

Winter was mild
This summer is hot
I'd just plagiarize
If I wouldn't get caught

I'm busy at work
Too much to be done
If I weren't writing this
I'd be out having fun

Lizzy says we publish
Twelve months every year
I'd blow this one off
But it's Barb that I fear

So I put in the effort
Give up all my time
I've got nothing to say
At least it should rhyme

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9 Things to do when what you're doing isn't working

By Dan Waldschmidt

Reprinted from www.propertycasualty360.com



Sometimes you're doing everything right and still not getting the results you expect.

You're doing the work, you're sticking to the plan, you're improving, preparing, being brutally honest about expected outcomes, but all your hard work doesn't seem to be working.

You're not building up momentum. You're not making enough money.

You don't even seem to be able to notice small improvements—something to give you the hope that your long-term plan is going to pay off.

You're tempted to give up

The facts seem to indicate that your plan is failing. And logic tells you that you need to change direction.

Do something else. Pivot. Jump ship. Find another path forward.

The reality about achieving success is that most of what you have to do in order to achieve success doesn't feel successful along the way. Your life has to get a whole lot harder before it starts to get any easier.

So, how do you manage your emotions and strengthen your will in those long stretches where you're working to get to where you want to be?

How do you stay focused and inspired when you don't have the results you want to make you feel inspired to do more?

1. Take care of your body, mind, your friends, and your finances.
2. Spend time each day thinking about why you want to achieve success in the first place.
3. Be brutally honest about your effort and the results you've earned so far.
4. Ask for help from people who will give you wildly uncomfortable advice.
5. Avoid negative people, mindless entertainment,

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and anything distracting.

6. Focus on doing at least one thing each day that matters.
7. Go out of your way to help someone else solve their problem with your money or time.
8. Start journaling, meditating, or spending quiet time to clear your mind.
9. Reframe your situation as a battlefield and your mission as life-or-death.

It takes radical behavior to achieve different results; little changes won't work, and small strokes won't move you closer to your goals. If you're stuck—and you want things to change—you have to do what you would otherwise consider to be outrageous. Don't bother changing if things are working for you already.

But if you're tired of losing get serious about doing the hard things.

Be willing to change. ❖

Personal Interest

Health Wise

The following is an article from Prevention Magazine www.prevention.com © 2015 Rodale Inc. All rights reserved.

12 Simple Ways to Prevent Your Usual Afternoon Slump

By The Editors of Prevention




Lunch is over, your last sip of coffee was hours ago, and now your eyelids are starting to droop. Before you reach for a soda or head for the vending machines, wake up! There are better ways to

prevent an afternoon slump than a sugary treat you'll regret later. While most of us can't pause for a nap (and if you can, we're jealous!), here are a few little tips anyone can do to keep from feeling like a zombie until dinnertime.

Don't OD on caffeine.

Instead of ordering a triple venti and guzzling the whole thing on the way to work, rely on mini-servings of caffeine throughout the day. "When you quickly drink a large coffee, the caffeine peaks in your bloodstream much sooner than if you spread it

*(See **Health Wise...** continued on page 19)*



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Health Wise... *(Continued from page 17)*

out over time," says Harris R. Lieberman, PhD, a research psychologist with the US Army Research Institute of Environmental Medicine. And yes, the same goes for soda. "There is about as much caffeine in one can of Diet Coke as there is in a shot of espresso," says David J. Clayton, MD, author of *The Healthy Guide to Unhealthy Living*. (Here's how to beat your diet soda addiction in just one week.)

Take a lunchtime walk.

Sunshine helps you wake up in the morning; likewise, a dose of natural light later in the day can blunt an energy dip. Step outside for a short walk around noon, before you start feeling sluggish—the combination of sunlight and heart-pumping exercise can't be beat. If you can't get outdoors, sitting next to a window and looking out is the next best thing.

Avoid fat, sugar, and grease.

Your brain uses glucose as fuel, so when your blood sugar takes a nosedive, your mental abilities plummet as well. Steer clear of refined carbs that send sugar levels haywire, as well as fatty foods, which will only weigh you down. Instead, make sure each meal contains a balance of whole grains, monounsaturated fats, and fruits and vegetables. At snack-time, instead of cookies or chips, opt for a banana with a tablespoon of peanut butter for a dose of the energy-boosting minerals potassium and magnesium.

Plop a plant in your office.

A little dose of green can help wake up your brain. Texas A&M researchers found that volunteers who kept a vase of vibrant flowers on their desks, along with green plants elsewhere in the office, generated more creative ideas than those in a vegetation-free setting.

Drink more water.

"Half of the people who come to me complaining of fatigue are actually dehydrated," says Woodson Merrell, MD, executive director of the Continuum Center for Health and Healing at Beth Israel Medical Center in New York City. Staying hydrated is one of the simplest ways to keep energized and focused. Aim to refill your glass every hour or two. Try one of these sassy water recipes that turns plain water into flavorful water, without the calories. ❖

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Traffic Deaths Jump 14%

Reprinted from www.cnn.com



Traffic fatalities are up 14% so far in 2015, according to new data from the nonprofit National Safety Council.

That puts the year on pace to be the deadliest for drivers since 2007.

There were more than 18,600 motor-vehicle deaths from January through June this year, compared to 16,400 deaths in the first six months of 2014.

The estimated cost of the deaths, injuries and property damage related to the crashes is \$152 billion, the NSC said in a press release. That's up 24% from the same period of 2014.

"The costs include wage and productivity losses, medical expenses, administrative expenses, employer costs, and property damage," the release says.

The NSC partly attributes the jump in fatalities to the fact that people are driving more because gas is cheaper. On average, gas prices are down 30% from 2014.

There are also more commuters on the road heading to work, since the U.S. economy has been steadily adding jobs throughout 2015.

NSC president Deborah Hersman also attributes the uptick in fatal crashes to the fact that drivers are more distracted behind the wheel thanks to their phones, despite the fact that most states ban texting while driving.

"Americans are addicted to these devices," Hersman said, and roadside surveys conducted by the NSC found more Americans are on their phones despite the bans. ❖



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- A.M. Best Recommended
- AAA Commercial Arbitrator



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PSAA Mission Statement

Puget Sound Adjusters Association is a professional organization dedicated to the ongoing education of the claims community — providing an arena for member interaction and the sharing of knowledge and resources.

- Share timely & professional information
- Camaraderie with colleagues & service providers
- Keep current regarding professional products & services
- Learn skills that enhance daily insurance service operations & delivery

PSAA Membership Application for 2015-2016



ANNUAL MEMBERSHIP APPLICATION

ANNUAL MEMBERSHIP DUES FOR THE YEAR STARTING **SEPTEMBER 1, 2015** TO **AUGUST 31, 2016**

DUES ARE \$25 FOR THOSE THAT QUALIFY (RATE GOES UP TO \$30 ON NOVEMBER 1, 2015)

Submit this application and pay with check or online with credit card. Mail to: PSAA, PO Box 87, Dexter, OR 97431

Please print or type information

Application is: (Check one) Renewal _____ New _____ Change _____ Referred by _____

- Applicant is:
- Active Member \$25**
Carrier Claims Personnel (claims adjusters, managers, supervisors, underwriters, subrogation, etc.), Risk Managers, Self-Insured & Insurance Pool personnel, Independent Adjusters, TPAs
 - Associate Member \$25**
Attorney, Agent/Broker
 - Vendor Partner** Advertise in Newsletter Contractor, IME, Car Rental, Restoration, Engineering, etc. See ad rate form for fees
 - Corporate Members (5 or more employees from one office) \$20 per person**
To qualify for this rate, persons must be eligible for Active or Associate membership and there must be at least 5 applicants located within the same office.
 - Honorary Member NO DUES** — PSAA, SCAA and TCAA Past Presidents

Paid by: Check PayPal Amount Enclosed: \$ _____

Applicant Name _____ Job Title _____
(For Corporate Members, please submit a list of five (5) or more names with this application)

Company _____ Type of Adjusting _____

Company Address _____ City _____ State _____ Zip _____

Home Address _____ City _____ State _____ Zip _____

Work Telephone _____

Email Address* _____

***The PSAA Monthly Newsletter and other Association Correspondence will be sent via email.**
(Must be capable of receiving a large PDF file, 5-8mb in size.)