



### At a Glance

PSAA Website

[www.pugetsoundadjusters.org](http://www.pugetsoundadjusters.org)

Next Regular Meeting: January 18  
 Lunch Time: 11:30am  
 Location: Billy Baroo's  
*See inside for more details*

Coming Up  
 Annual Symposium &  
 Vendor Trade Fair  
 March 15

### President's Choice Charity



#### See Inside...

- January Meeting Info .....pg 2
- Claims Conversation.....pg 4
- Laboratory Test Blood Alcohol .....pg 5
- Case Study .....pg 6
- Holiday Party Pics..... pg 7 & 8

#### ~ Our Mission ~

*"A professional organization dedicated to the ongoing education of the claims community. Providing an arena for member interaction and the sharing of resources."*

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## Jingle Bell, Jingle Bell, Jingle Bell Bash!

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By PSAA President **Tanya Padur**, Sams & Associates

"Did you get your picture taken?"

"Lizzy needs a new pair of shoes!"

"I need another mashed potato martini!"

Those are just a few of the things you might have overheard on Friday, December 7, 2012 at the PSAA Jingle Bell Bash! I hope the 160+ members and guests that attended had as much fun as I did watching the party flow through the evening! Some of the pictures are already up on the Puget Sound Adjusters Facebook page and by the time we go to print with this newsletter, the professional photos will be up, too. If you had your picture taken and do not see it, please email me and I will be sure to send you yours!

Thank you one more time to my party committee for all their hard work: **Lizzy Adkins** of Sams & Associates; **Tara Creswell** of Elite Restoration; **Marie Landon** of Max Care; **Wendy Edmond** of Propel; and last but not least **Michelle Lowe** of Servicemaster of Tacoma.

A huge THANK YOU to our vendors for their sponsorship and wonderful gifts for the raffle and auction! It was fabulous to see everyone all dressed up and to get to meet so many of the spouses and sweethearts who also joined in the fun!

We are already half way through the PSAA year and have several great guest speakers, a bowling event, and a holiday party behind us. Still to come is the Spring Symposium on March 15, which I can already see is going to be fabulous based on the speakers VP **Skip Sanborn** and Secretary **Tom Williams** are working on with Education Chair, **Roger Howson**. And of course, the highlight of the year... GOLF! Remember, we will have two tournaments, one in June and one in July. Between now and then please do join us for the regular meetings and bring some folks that have not attended before!

We are going to be looking for a new board member to join us! Elections are in May! Please consider throwing your name in the hat. I know many of you have heard me joke about how Past-President **Deborah Jette** roped me into being on the board, but I must say, I really am glad she did. I look forward to the meetings and I am lucky to work with our wonderful board members. If nothing else, it looks great on your resume!

*(See Closing 2012... continued on page 3)*



**2012-13  
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## PSAA Luncheon

Date: January 18, 2013

Time: 11:30am to 1:00pm

Location: Billy Baroo's Bar & Grill  
(at Foster Golf Links)  
13500 Interurban Ave W  
Tukwila, WA  
206/588-2763 www.billybaroos.com



Menu: Smokehouse BBQ with Pulled Pork, Brisket, Hot Links, Baked Beans, Cole Slaw, Pasta Salad, Mixed Green Salad, Cookies

Cost: Members \$20 Vendors \$25

Presentation: Roger is trying to remember who he lined up, hopefully he will — before the January issue comes out! ☺

**Please RSVP**

- [www.PugetSoundAdjusters.org](http://www.PugetSoundAdjusters.org)
- [www.facebook.com/pugetsoundadjusters](http://www.facebook.com/pugetsoundadjusters)
- [www.twitter.com/psadjusters](http://www.twitter.com/psadjusters)

### PSAA 2012-13 Liaisons

**Holiday Party:**

Tanya Padur, Chair

**Bowling:**

Joel Booth & Roger Howson, Co-Chairs

**Symposium:**

Roger Howson & Skip Sanborn, Registration Co-Chairs

Tanya Padur, Vendor Fair Chair

Shannon Kerr & Gale Deliso, Vendor Fair Co-Chairs

**Golf North/Seattle:**

Tanya Padur & Skip Sanborn, Co-Chairs

**Golf South/Tacoma:**

Lizzy Adkins & Terry Cook, Co-Chairs

### 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 paypal receipt. We appreciate your cooperation and assistance.

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## Puget Sound Adjusters Association

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## Closing 2012... *(Continued from front page)*

As 2012 comes to a close, I would like to thank you for supporting PSAA and more importantly for going out there every day (as adjusters, contractors, mitigation specialists, engineers, etc.) and doing a difficult job. We may not be curing cancer here, but remember, we are helping people through difficult events in their life. The fire may be minor but to them it is a huge deal and it is, after all, their home. We know the injury will heal but the insured, passenger or claimant is still hurting. I know we hear a lot of complaints and criticism and the thank you's are not as plentiful as they should be, but we still carry on with smiles. I am proud to be a part of the claims community in the greater Seattle Tacoma area and am proud to be associated with all of you.

From the Padur House to all of you and your families, Scott and I wish you a very Merry Christmas, Happy Chanukah, Happy Kwanza, Happy Festivus and a very Happy New Year surrounded by those you love. 🐦

## THE NIGHT BEFORE CHRISTMAS

T'was the night before Christmas, and all through the Sound, no fires were flaring, no floods were around. Adjusters were resting on that silent night, all the while dreaming no claims were in sight. On top of their counters were carefully placed, the laptops and cell phones they turned off with haste. But alas, at my house, the silence had fled, by the work of eight reindeer and a man dressed in red. The trampling step of each reindeer hoof, poked many a hole in my once shingled roof. The snow that had fallen just hours before, now soaked the carpet and buckled the floor. Then down through my chimney fell Jolly Saint Nick, crashing the mantle and smashing the brick. The boot, black and shiny, he wore on each foot, stomped through the room spreading ashes and soot. The gift bag he flung up over his shoulder, was decking the halls like a tumbling boulder. As I gasped in surprise Santa then turned to see, the lit candle he knocked into the dry Christmas tree. In a rush, he continued to add to my ire, as he left presents thus fueling the fire. With the breaking of glass and the shredding of drape, Santa broke through my window to make his escape. Out in the driveway he called for his sled, but the reindeer came down on my parked car instead. The hood was all dented, the windshield all shattered, but Santa's departure was now all that mattered. Amidst the commotion and scattered debris, I, too, went outside to watch Santa flee. And I then heard him shout toward the trouble he stirred, "Merry Christmas to all, and I hope you're insured!"

— By Ryan Meekma, FRSTeam



### Thank you to our Jingle Bell Bash Sponsors & Gift Providers

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 Servpro of Edmonds/Lynwood Restaurant GCards  
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 SIR Construction GCards for Emory's & Schwartz Brothers  
 Sterling DKI Swag Bags

#### **DON'T FORGET TO RSVP!**

Please let us know you will be attending our next meeting by submitting an RSVP! See page 2 for how/where to do it!





## Claims Conversation

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

Can someone please explain to me why everyone has advice on how to get OFF Jury Duty rather than how to get seated IN the Jury Box?

Brandi's husband Matt got himself excused as a prospective juror on a domestic abuse case when asked

"How do you feel about 'spousal discipline'?" he answered, "After 20 years of marriage I'll take any advice on 'spousal discipline' you can give me." Matt finds nothing humorous about domestic abuse, but he says he refuses to respectfully answer any blatantly stupid question... especially when it's a twisted attempt to defend a wife-beating weasel in need of some "spousal discipline" of his own.

My mother served on the Jury in the "Tylenol tampering" murder trial, and she watched several prospective Jurors excused because they were TOO anxious to sit in judgment on a capital case — one because she strongly and obviously opposed the death penalty and another because he "need(ed) to help bring the murderer to justice". Another prospective Juror was escorted from the courtroom by the Bailiff when she became a little too insistent about her "Constitutional RIGHT" to sit on this Jury.

Several years ago during an OCAA Symposium Mock Trial the participating Judge told a story about a Juror who was dismissed when she suddenly recognized one of the attorneys trying the case as one of her regular customers. The Judge asked why she didn't mention this during Voir Dire, and she said it took her a while to figure out who he was because she'd never seen him without the cowboy hat he always wears into her strip club. The Judge mused aloud that the attorney probably didn't immediately recognize the prospective Juror because she was fully clothed.

This same Judge also told a story about another attorney complaining to him during a trial, "Your Honor, Juror #7 has fallen asleep!" To which the Judge replied, "Counselor, YOU put the Juror to sleep and it's up to YOU to wake him up."

I am never thrilled to receive a Summons for Jury Duty, but I take my civic responsibilities seriously. I am also mindful that insurance claims are (too) often resolved in court, and many other insurance claims are resolved by the THREAT of court. Therefore, I feel an even greater responsibility to take a bullet for the team by showing up whenever I am called upon to serve on a Jury.

I hear from friends and colleagues all the reasons I shouldn't be on a Jury: as a business owner I can't afford to be away from work; being an insurance claims professional will get me booted by one side or the other; after 35 years in the claims business I've worked at one time or another with most of the attorneys, their law firms, and/or their client insurance companies; I am a voracious reader, so there are very few significant news stories that escape my notice; and because of my inclusion in so many different communities such as insurance, academics, career development, business, athletics, etc. it is inevitable that I will know ONE of the participants in the litigation. It is also interesting (perhaps troubling) that I know so many felons AND law enforcement professionals... go figure.

In spite of ALL those reasons I shouldn't be able to serve on a Jury, I am proud to have been impaneled three times previously. Each Jury was different and unique in our own way and no one WANTED to be there (okay, maybe a few of the Jurors were having the time of their life), but once impaneled every Jury I had the privilege of sitting on embraced the full extent of our duties and responsibilities to hear the case with an open mind, deliberate according to the specific instructions issued by the Judge, and rule within the strictest interpretation of the law.

In fact, most of the Jury backroom drama you hear about so often is a consequence of that same commitment to the Jury's duties and responsibilities. The problem is that twelve different people will each evaluate things through their own prism of life experiences, cultural values, community interaction, and education and training, so the Jury has twelve different perspectives for evaluating material facts, witness credibility, elements of intent, motive, and prior knowledge, and whether to abide by the letter of the law or the spirit in which it was intended. Jury deliberation is a messy process, but more often than not it works exactly the way it was intended.

This time I answered my Jury Summons without having to serve on a Jury. I thought I would be excused because I was under Subpoena (by both sides) in a Trial that would be going on at the same time as the one

for which I was being considered as a Juror. The Judge told me that Trials never go on as scheduled and she said she could always ask that Judge to have my testimony heard later, but if it became a problem one of the Alternates would step in for me. After Jurors were excused "for cause" I counted the number of "preemptory challenges" remaining and then I realized that the Judge knew all along that I wouldn't be seated on the Jury. I suspect that the Judge refused to excuse me as a way of sending a message to anyone else thinking of a lame excuse for avoiding service.

Short story long (I tend to do that), to the best of my ability I will ALWAYS answer my Jury Summons because I worry about any case in which I'm involved being decided by people who don't know anything, don't care about anyone else, and don't share my values and world view. In other words, if I don't show up for Jury Duty why should anyone else? ❖

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## Laboratory Test Blood Alcohol

— By **Tami Rockholt, RN, BSN**, Director of Business Development for IINFORM Software Corporation  
*Reprinted with permission of the author.*

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The amount of alcohol in one's system can be measured by taking a sample of blood for analysis by a laboratory. The laboratory test can be referred to in a number of ways: as blood alcohol, ethanol, ethyl alcohol, or as ETOH. The amount of alcohol present in the bloodstream is measured in milligrams of alcohol per deciliter of blood, and is identified as "mg /

dL." (A deciliter is one tenth of a liter, or 100 milliliters, a little less than one half of a cup).

The legal driving limit in most states is 100mg / dL, noted as "0.1 percent;" some states have lowered the limit to 80mg / dL, or 0.08 percent.

The following blood alcohol levels will produce the symptoms noted:

- 50mg / dL (0.05) – sedation or tranquility
- 50 – 150mg / dL (0.05 – 0.15) – a lack of coordination
- 150 – 200mg / dL (0.15 – 0.2) – intoxication
- 300 – 400mg / dL (0.3 – 0.4) – unconsciousness
- Greater than 400mg / dL (0.4) – may be fatal

Alcohol is one of the most predictable chemical reactions for the body. It burns off at an almost perfectly precise rate of .016 BAC (blood alcohol concentration) per hour, about equal to one standard drink each hour (depending on the person's weight). This rate is true regardless of the size of the body. A 5'2 female burns off alcohol at the same rate as a 6'1 obese male.

The differences, however, are in the rate with which the BAC rises. One drink in a small female of low weight constitutes a much larger percent of her BAC. It may take a male five drinks or more in an hour to reach a BAC of 0.08, while it may take a small female only two or three drinks.

Also, it tends to take longer for individuals with a lot of fat to absorb the alcohol. In other words, if two people have different fat levels but are of equal weight, drink the exact same amount of alcohol, the one with less fat will absorb the alcohol faster, causing them to feel it quicker. The one with more fat will absorb it slower, all the while the alcohol they are absorbing is still metabolizing at the same rate, so they will not experience as much of a sensation.

Regardless of size or gender, the 0.016 metabolic rate is a constant. Refer to the chart to understand the length of time it will take for the body to get rid of all of the alcohol in the system.

Notice on this table that if the person has a BAC of 0.24, which is very drunk – he will likely be stumbling and at risk for blacking out, he will still have alcohol in the body the next day, and will still be legally drunk for 10 more hours.

Despite what many people believe, there is no way to speed up this process. Coffee may make a person more alert, but it will not get rid of the alcohol that is still in the body. ❖

Length of time it takes for body to get rid of alcohol	
Blood Alcohol Concentration	Hours Until BAC Reaches 0.0
0.016	1.0
0.05	3.7
0.08 (legal limit)	5.0
0.10	6.25
0.16 (2 x legal limit)	10.0
0.20	12.5
0.24 (3 x legal limit)	15.0



Case Study

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## **Insurers Have No Right to a Jury Trial in RCW 4.22.060 Reasonableness Hearings**

by **Kyle D. Riley**

4.22.060 hearings that set the presumptive measure of damages against an insurer for extracontractual claims, insurers have no right to a jury trial.

James Bird returned home from work and approached his house when a sudden burst of sewage erupted from the ground. The sewage went into his ears, eyes, nostrils, and mouth. Shocked and confused, Bird fell to the ground, cracked his elbow, and began vomiting. Shortly afterward, he developed migraines. An employee of Best Plumbing Group, LLC (Best) caused the sewage burst when he entered Bird's property without permission and cut a pressurized sewage pipe in three places. Best told Bird it would repair the line but failed to adequately fix it. Over the following eight months, sewage escaped from the pipe with every pump cycle. Bird alleged the sewage flow caused dangerous hillside instability on his property and extensive damage to his home because of toxic mold from sewage and moisture intrusion. Bird attributes a heart attack he suffered to the stress of physically removing sewage-saturated material from the property.

The city of Seattle ordered the mitigation stopped because of hillside stability concerns. The City ultimately approved a soldier-pile retaining wall with estimated costs of \$851,176.78. Bird had a homeowner's insurance policy with Allstate Insurance Company (Allstate) who paid Bird \$262,000 under his policy for home repairs and remediation. Bird filed a lawsuit against Best alleging negligence and trespass. Farmers Insurance Exchange (Farmers) was Best's liability insurer who provided defense counsel without a reservation of rights. Allstate filed a subrogation claim against Best for the \$262,000 it previously paid to Bird for the retaining wall. The Bird and Allstate lawsuits were consolidated. The trial court eventually granted partial summary judgment to Bird on liability and proximate cause, leaving the issue of damages for trial. Best and Bird engaged in settlement negotiations and reached a settlement for a stipulated judgment of \$3.75 million that would include an assignment of claims by Best against their insurance company (Farmers).

After Farmers received notice of the settlement, Bird moved for a determination that the settlement was reasonable under [RCW 4.22.060](#) (allowing for a hearing to determine the reasonableness of a settlement). Farmers' filed a motion to intervene, motion for a continuance, and motion for discovery which the court granted. However, the trial court denied Farmers' motion for a jury trial. After evaluating the damages claims, the trial court arrived at a total figure of \$3,989,914.83. Therefore, the trial court concluded the parties' \$3.75 million settlement was reasonable. There was no jury trial.

Farmers appealed the trial court's denial of the request for a jury trial and the reasonableness determination. The Washington Court of Appeals agreed with the trial court's determinations and denied its motion for reconsideration. Farmers petitioned for review by the Washington Supreme Court which was granted. The Supreme Court held that there was no right to a jury determination of reasonableness under [RCW 4.22.060](#) because that statute created an equitable proceeding where there is no right to a jury trial. Thus the insurer did not have a constitutional right to a jury determination of reasonableness either at the reasonableness hearing or any subsequent bad faith action. However, the court appeared to suggest that the presumptive effect of the reasonableness determination could be overcome with a showing of fraud or collusion. Therefore, Farmers was not entitled to a jury trial. In addition, the court determined that the trial court did not abuse its discretion in finding the covenant judgment reasonable. ❖

— Full case available at: [www.courts.wa.gov/opinions/?fa=opinions.disp&filename=861099MAJ](http://www.courts.wa.gov/opinions/?fa=opinions.disp&filename=861099MAJ)

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.

**Claims Pointer:** Insurers have no right to a jury trial in RCW 4.22.060 hearings to determine the reasonableness of a settlement, and that amount becomes the presumptive measure of damages in a future bad faith claim.

The right to a jury trial is one of the most revered rights afforded under the United States' constitution. However, in *Bird v. Best Plumbing Group, En Banc*, No. 86109-9, --- P3d ---- (October 25, 2012), the Supreme Court of Washington determined that during RCW



# PSAA Jingle Bell Bash



