



DAILY NEWS

MONDAY, OCTOBER 24, 2016

Reaching the Pinnacle

On behalf of the board of directors, the conference co-chairs, and the staff of the National Association of Subrogation Professionals, I want to welcome you to Colorado Springs and our 18th annual conference, "The Summit of Subrogation: Climbing to New Heights." NASP's conference committee has created an unmatched subrogation curriculum that will both engage and challenge your recovery skills.

You will find more than 60 educational sessions filled with information that can assist you in facing an ever-changing subrogation world. Start your morning out at our general session, where we mix NASP business with the sounds and lyrics of "The Water Coolers." During this first day of our conference, take in as many classes as possible. Whatever sessions you choose, you will gain valuable knowledge to take back to your office and share.

This conference doesn't happen without the support of our exhibitors. I hope you will take the opportunity to spend time visiting the 120 booths in our exhibit hall!

You never know when that one discussion with a vendor or conversation over lunch may help you settle a subrogation file or create a business partnership.

This morning, Nicole Kustermann will take over as our new NASP president. I am excited to watch Nicole guide this next chapter for NASP, and I am confident that the organization will benefit from her great passion, enthusiasm, and leadership.

As I transition out of the president's role, I am extremely proud of what our board has accomplished over the last two years. NASP has never been more focused on its mission and strategic plan, concentrating on those benefits that our members value most. We have grown to over 3,000 members with our largest contingency of insurance company professionals. Sponsor packages have allowed more than 10 large insurance carriers to increase the

Pinnacle, continued on page 18 ►



Chris McPadden
NASP President



There was no sleeping in for 29 NASP attendees who ran in yesterday's Subro Defenders' 5K run/walk. Top male finishers included Jason Sullivan (1st), Ryan McIntosh (2nd), and Daran Kiefer (3rd), while top female finishers included Katie Slack (1st), Kim Rathbone (2nd), and Shannon Warren (3rd). For more photos of yesterday's full day of activities, go to page 16.

KEYNOTE PREVIEW

Laughter in the Air

By Eric Gilkey

Continuing its annual tradition of entertaining conference attendees during its opening keynote before getting down to business, NASP is bringing to the stage this morning a comedy troupe that also rocks some serious singing chops.

"The Water Coolers" specialize in mining workplace scenarios for laughs with award-winning songs and sketch comedy. Its team of professional comedy writers work with real-world professionals to

ensure jokes and sketches land with pinpoint accuracy, and the performing cast consists of New York City professionals with resumes that include top comedy clubs like Igby's, the Improv, the Comic Strip, and the Icehouse, as well Broadway shows that include "Wicked," "Rock of Ages," "Jersey Boys," "Chicago," and "Hair."

So gather around "The Water Coolers" this morning at 8am for a bit of pleasure before business because after that, a full day of education awaits as the day's first concurrent sessions begin shortly after. ★



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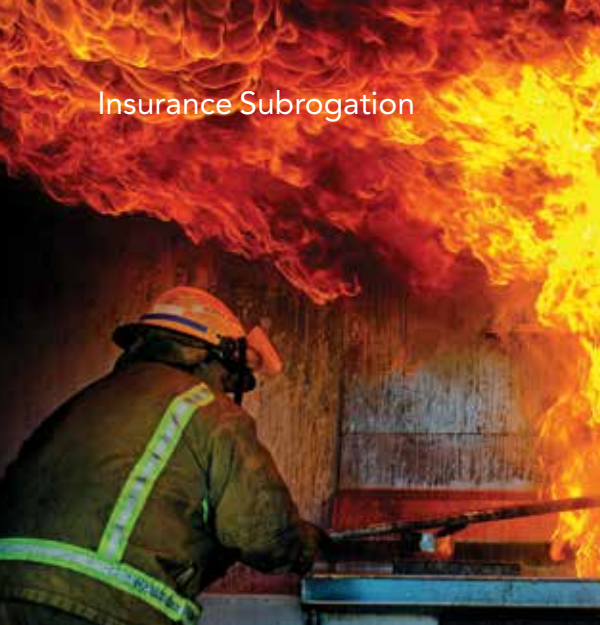
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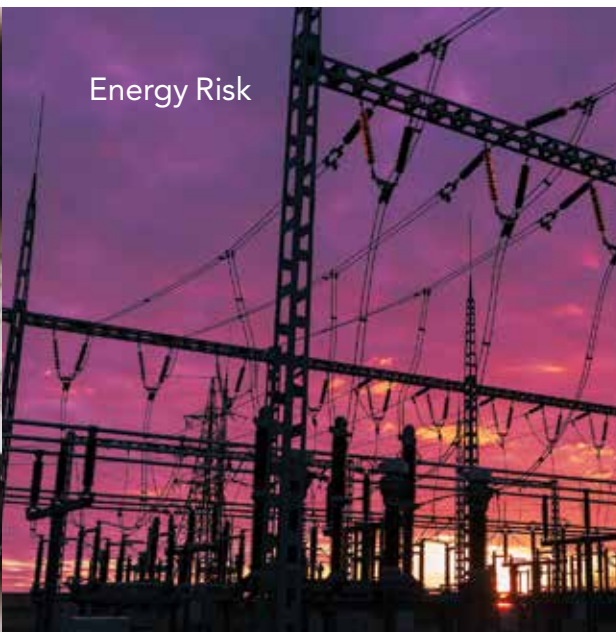
Arson/Fraud



Products Liability



Energy Risk



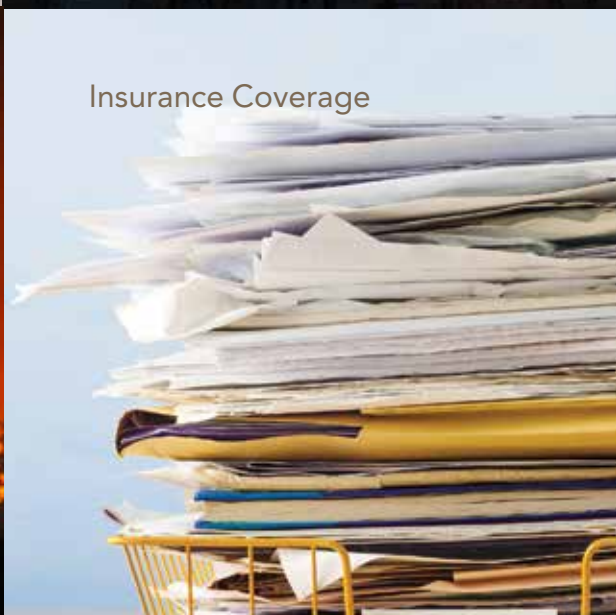
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MONDAY, OCTOBER 24

Schedule at a Glance

7:00am-7:00pm

Registration

7:00am-7:45am

Breakfast, Exhibit Hall

8:00am-10:00amOpening & Keynote Presentation:
The Water Coolers**10:00am-10:30am**

Refreshment Break, Exhibit Hall

10:30am-11:30am**CONCURRENT SESSIONS 1****AUTO**M.1.1 Driverless Cars and Damages:
Subrogation in a New Era
[Colorado D/E](#)**PROPERTY**M.1.2 Subrogation Investigation in a
Catastrophic Structural Collapse
[International North](#)**HEALTH**M.1.3 Current Updates in Medical Device and
Prescription Drug Multi-District Litigation
[Colorado Hall C](#)**MANAGEMENT**M.1.4 Technology Solutions that Will
Shape Tomorrow
[International South](#)**WORKERS' COMP**M.1.5 Building a Workers' Compensation
Subrogation Recovery from a
Construction Accident
[Broadmoor Hall F](#)**GENERAL**M.1.6 Know Limits: Beating the Statute of
Limitations, Statute of Repose, and
Other Legal Limits
[Colorado Hall A/B](#)**PRODUCT LIABILITY**M.1.7 Subro Wars: A Galaxy on Fire
[Broadmoor Hall D/E](#)**11:30am-12:30pm**

Lunch, Exhibit Hall

12:30pm-1:30pm**CONCURRENT SESSIONS 2****AUTO**M.2.1 Playing the Percentages: A Study of
Comparative Negligence
[Colorado D/E](#)**PROPERTY**M.2.2 Catastrophic Gas Explosions and
Aging Infrastructure: What Every Recovery
Professional Must Know
[International North](#)**HEALTH**M.2.3 Medicare Advantage: Year in Review
[Colorado Hall C](#)**MANAGEMENT**M.2.4 Being a Leader: Effective Leadership
Skills for Subrogators
[International South](#)**WORKERS' COMP**M.2.5 You'll Be Shocked! The Anatomy of
Electrical Failures and Accidents
[Broadmoor Hall F](#)**GENERAL**M.2.6 The Art of Negotiation
[Colorado Hall A/B](#)**PRODUCT LIABILITY**M.2.7 DeHumidi-Fires: Legal and Technical
Aspects of Pursuing Subrogation Against
Dehumidifier Manufacturers
[Broadmoor Hall D/E](#)**1:45pm-2:45pm****CONCURRENT SESSIONS 3****AUTO**M.3.1 Found Money - How to Increase Your
Judgment Recoveries
[Colorado D/E](#)**PROPERTY**M.3.2 Warehouse Losses: Understanding and
Analyzing the Issues
[International North](#)**HEALTH**M.3.3 Burdensome ERISA Document Requests:
How to Read the Important ERISA Documents
and What Your Opponent Really Needs
[Colorado Hall C](#)**MANAGEMENT**M.3.4 Ethical and Practical Implications of
Confidentiality Provisions in Subrogation
Litigation
[International South](#)**WORKERS' COMP**M.3.5 Symbiotic Recovery Success: An
Interactive Case Study to Max Out Your WC
Subrogation Recoveries Through Effective
Insurer and Counsel Collaboration (Part 1)
[Broadmoor Hall F](#)**GENERAL**M.3.6 Who Wants to be an Arbitration
Zillionaire? An Interactive Arb Climbing
Experience
[Colorado Hall A/B](#)**PRODUCT LIABILITY**M.3.7 Federal Hazardous Substance Act: Friend
or Foe? Evaluating and Exploiting Product
Labeling Requirements for Combustible and
Flammable Consumer Products
[Broadmoor Hall D/E](#)**2:45pm-3:15pm**

Break in Exhibit Hall

3:15pm-4:00pm**CONCURRENT SESSIONS 4****AUTO**M.4.1 Maximizing Recovery Through Criminal
Restitution
[Colorado D/E](#)**PROPERTY**M.4.2 High Tech and High Risk: The Hidden
Dangers of Rooftop Solar Electric and the
Subrogation Strategies for Recovery
[International North](#)**HEALTH**M.4.3 Stop Loss Loss Landslide
[Colorado Hall C](#)**MANAGEMENT**M.4.4 Subro College: Management
Considerations - What's This About?
[International South](#)**WORKERS' COMP**M.4.5 Symbiotic Recovery Success: An
Interactive Case Study to Max Out Your WC
Subrogation Recoveries Through Effective
Insurer and Counsel Collaboration (Part 2)
[Broadmoor Hall F](#)**GENERAL**M.4.6 Video Enhancement - A Settlement and
Cost Optimization Tool for Subrogation Claims
[Colorado Hall A/B](#)**PRODUCT LIABILITY**M.4.7 The Insidious Failure Modes of Emerging
Lighting Technologies
[Broadmoor Hall D/E](#)**4:15pm-5:00pm****CONCURRENT SESSIONS 5****AUTO**M.5.1 Utility Poles, Comparative Negligence,
and Subrogation in Automobile Claims
[Colorado D/E](#)**PROPERTY**M.5.2 Of Mice and Mines: The Valuation of
Unique Damages in Subrogating Property
Damage Claims
[International North](#)**HEALTH**M.5.3 ICD-10 One Year Anniversary: Lessons
Learned and Strategies for Refining
Identification of Subrogation Opportunities
[Colorado Hall C](#)**MANAGEMENT**M.5.4 Efficient Attorney-Expert-Adjuster
Relation Can Improve the Odds of Winning
[International South](#)**WORKERS' COMP**M.5.5 Recent Developments, Trends and
Decisions In Workers' Compensation
Subrogation
[Broadmoor Hall F](#)**GENERAL**M.5.6 Getting the Win: How to Posture Your
Claim for Successful Resolution at Mediation
and How to Avoid Common Pitfalls for Failure
[Colorado Hall A/B](#)**PRODUCT LIABILITY**M.5.7 Product Liability Subrogation's 10 Most
Wanted List: Most Common Obstacles to Small
Subrogation Files and How to Avoid Them
[Broadmoor Hall D/E](#)**5:00pm-6:30pm**

Reception, Exhibit Hall

SESSION PREVIEW

Knowledge Is Power When Those Not-So-Sexy ERISA Document Requests Come Your Way

By Bevrlee J. Lips

Sir Francis Bacon is most commonly credited with the quote “Knowledge is power.” In the case of ERISA document requests, knowledge may also be time and money.

A couple of U.S. Supreme Court decisions—*Montanile v. Board of Trustees of the National Elevator Industry Health Benefit Plan* and *US Airways Inc. v. McCutchen*—have focused on dealing with health care benefits, the Employee Retirement Income Security Act of 1974 (ERISA), and what documents the health plan must provide to the other side in order to seek subrogation.

The decisions put more of a burden on the plans to show that they have the right of subrogation. In the past, you could simply point people to the Summary Plan Description and show them your subrogation rights, but now you have to turn over the Master Plan document, tax forms, and other documents.

In light of these two cases, plaintiff’s attorneys or other attorneys seeking to limit subrogation payouts will ask for everything under the sun, much of which they are not entitled to or doesn’t exist. So it becomes very troublesome for subrogation professionals who already have large caseloads. It could take weeks, in some cases, to get everything together, and that impedes them from accomplishing their day-to-day responsibilities.

In today’s session “Burdensome ERISA Document Requests: How to Read the Important ERISA Documents and What Your Opponent Really Needs,” presenters Lance Oliver and Chase Teeple will help attendees understand what documents they do and do not have to turn over to the

other side. It will also highlight new methods and techniques that aid in getting things done more quickly.

“Everybody around the country asks two questions: ‘How do I respond as quickly as possible so that I can continue to do my job on a daily basis without being overwhelmed?’ and ‘How do I respond correctly so that I protect myself and my company and give people what they are allowed under federal law?’ says Oliver.

While the volume of documentation is not overwhelming once compiled, its presentation does play a role in credibility and success. If



Lance Oliver

you present information sloppily to the other side, it makes you look like you’re in disarray and that you don’t know what you’re doing. Once you know what you have to provide and get it all together, how do you present it to the other side?

“If you can get these documents together and put the right letter on top of it that explains what’s underneath, such as mapping out each document, (e.g. A, B, and C), detailing what they are and showing that you have an ERISA right, that will work in every case,” says Oliver.

But what if you can’t get the requested documents? It doesn’t necessarily mean that you can’t seek subrogation. Sometimes requests are made for documents that do not exist, such as tax forms

from large companies that have not yet been completed due to the extended time they have for filing. Additionally, there may be costly penalties if you don’t provide documents within 30 days.

Oliver and Teeple will walk through examples of what to do when something is unavailable or impossible to provide and how to avoid missing deadlines and being assessed penalties. For example, you can always ask the other side for extra time, but that must be addressed from the beginning.

To know what to provide, when to provide it, how to present it, and strategies for managing the load when an ERISA document request comes along, make your way to Colorado Hall C at 1:45pm. *

SESSION PREVIEW

The Hidden Hazards of Labeling

By Eric Gilkey

There’s a fine line between being helpful and downright annoying. What’s remarkable about the Federal Hazardous Substances Act is that it manages to be both, which is why it’s the subject of today’s session “Federal Hazardous Substances Act: Friend



Ken Levine



Dr. William Vigilante



or Foe? Evaluating and Exploiting Product Labeling Requirements for Combustible and Flammable Consumer Products.”

“The Federal Hazardous

Substances Act (FHSA) has been around for over 50 years and seems like the type of federal law that

Hazards, continued on page 11 ▶

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SESSION PREVIEW

An Update on Recent Developments Yields a Take-Home Prize

By Eric Gilkey

Abbot and Costello, Laurel and Hardy, Penn and Teller. All great comedy teams who are legends in their field due to the chemistry they share when performing. The same might be said for Patrick Timoney and Christy Schaefer, two NASP legends who return for their 11th year to tackle “Recent Developments, Trends, and Decisions in Workers’ Compensation Subrogation.”

“Christy and I could be considered the founders of the ‘Recent Developments’ sessions, which are included in many of NASP’s tracks now,” says Timoney, an attorney



with Schwarz Mongeluzzi Law. “It’s almost like a comedy routine for us now in the sense that our interplay involves going back and forth between topics, interrupting each other, and adding to each other’s points.”

Just like a good comedy team, both Timoney and Schaefer embrace the spontaneous and engage in a bit of improvisation based on who is in the audience of their session.

“We always ask the attendees,

‘If this is one of your cases, please speak up,’ because every year we get someone who was directly involved in a case that we are discussing,” says Timoney. “That’s great because then we get to find out the background of a case that none of us previously knew. The person in the audience can fill in those gaps and it becomes



Patrick Timoney



Christy Schaefer

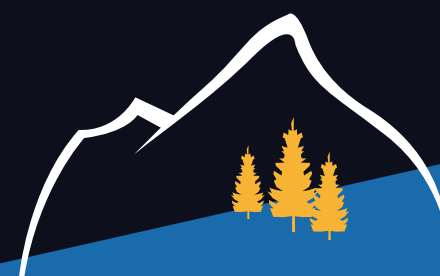
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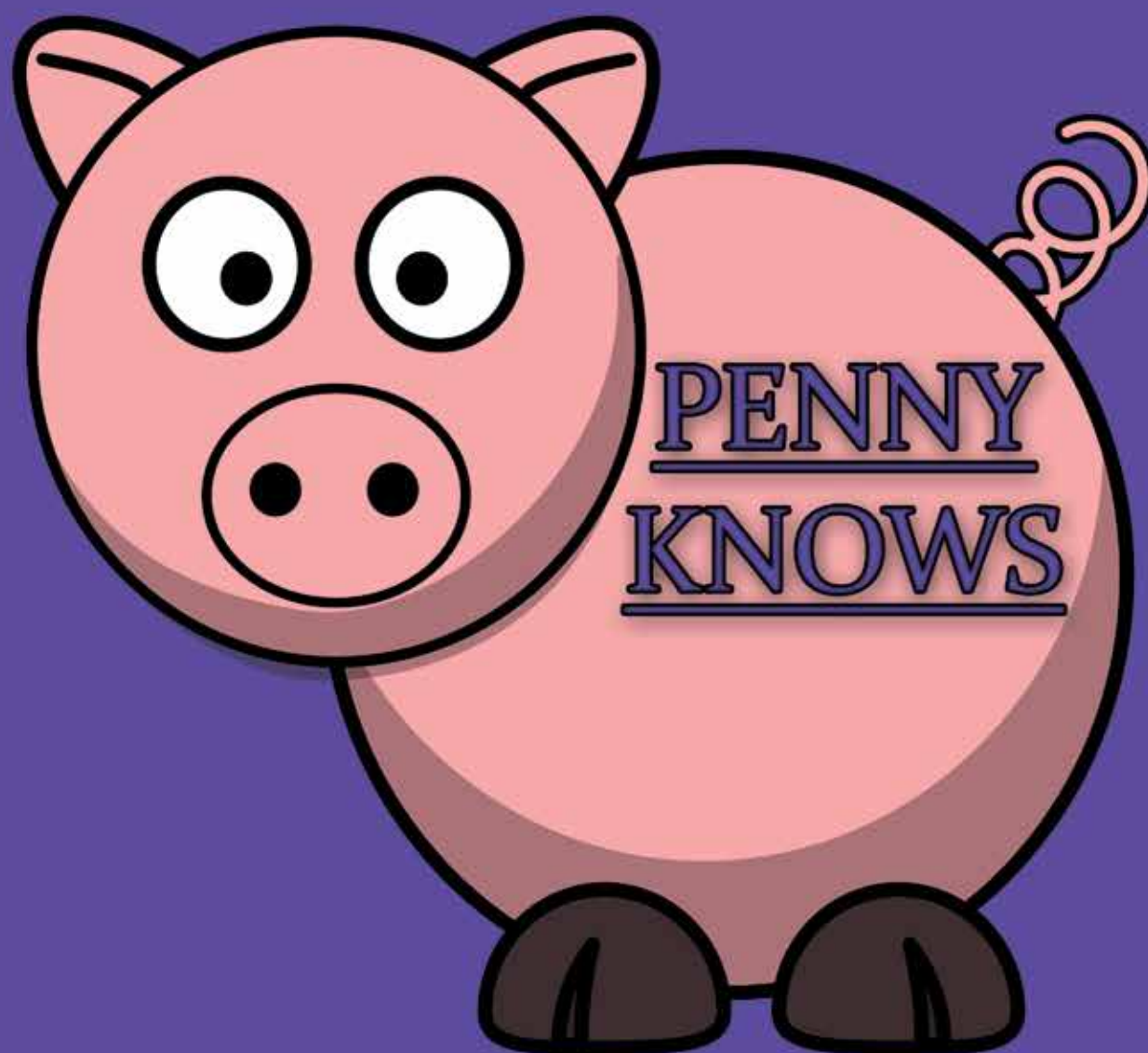
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Intro to Residential Water Filter Failures
11:00 AM Tuesday, Oct 25
Broadmoor Hall D/E

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SESSION PREVIEW

New Product Categories Are Setting the Galaxy on Fire

By Bevrlee J. Lips

You sit down, and the movie begins. There's an opening crawl, and as the words scroll up the screen, you get the idea that you are entering into an exciting new world and that something is about to happen. No, it's not *Star Wars*; it's "Subro Wars," and there is a galaxy on fire—at least it seems that way recently.



This opening intro kicks off one of the first sessions of the day, "Subro Wars – A Galaxy on Fire," where presenters David Brisco, Michael Eskra, Erik Kirker, and Richard Schuster will usher you into new worlds (or product categories) that include drones (no, not droids),

e-cigarettes, fast vehicles, hoverboards, and smart meters.

From the hoverboard recalls that captured everyone's attention last Christmas and throughout the spring to the recent Samsung Galaxy Note 7 recall to the increasing popularity of drones, these devices may be cool,

but they require robust batteries. If those batteries have any problems in the charging process or something goes wrong, they can create large and swift-moving fires.

"It's probably the hottest area of both subrogation and maybe law in general right now," says Schuster.



David Brisco



Richard Schuster

"Many of these new products have lithium-ion or lithium polymer batteries, and the news is filled these days with stories related to them."

This is a growing area of concern because it is the way the world is going. Everybody wants to have access to all of their electronic devices anytime and anywhere. More products operate on batteries because no one wants to have to plug into a core; they want the ability to be remote. We're even seeing more cars that are operating on batteries, like Tesla's vehicles, which had a fire issue a few years ago.

The session has two parts, which the speakers say represents both an entry-level presentation and a graduate-level presentation. It begins by setting the foundation for attendees on what these products are and how they work along with statistics on the fires they are causing. Incidents leave challenging scenes to investigate, so a battery expert will take it to a high level by talking about the specific defects at issue with these fires, case examples, and what to look for when you have a battery fire.

"We believe in the mantra that

subrogation is made or broken in the first 48 hours after a loss," says Brisco. "You have to get on these losses quickly and you have to get the evidence and information from the product owner, so you need to know what to ask when you have these particular types of losses."

When these batteries explode, it creates a fire scene that's very difficult to investigate in terms of the source of the fire because it presents a bit of the chicken or the egg dilemma. Did the battery explode first and cause the fire? Or did the battery explode because the heat from a fire caused it to explode?

The session will also address the supply chains involved with these products because that will also play a role when attempting recovery.

"Over the last few years, we've been seeing all new products and types of losses," says Brisco. "Whether you are a subrogation or other type of insurance company professional, you have a responsibility to stay on top of these new technologies and the changes when they come out to understand how they work and how they impact our profession."

To understand this new galaxy of products, their defects, and how to pursue a proper investigation, head to Broadmoor Hall D/E at 10:30am. *

► Prize, continued from page 6

more useful for everybody."

Cases that the duo will discuss cover significant verdicts from across the nation, which ensures that, while they may be focusing on specific states, the topics will have national appeal and interest to most attendees.

"We can't discuss all the cases that we want to; there's too many," says Timoney. "So we pull out the cases in which we think the same

argument could spread to other jurisdictions. For instance, there might be strategies used by defendants or claimants to get out of paying a lien or fight the workers' compensation carrier in some way that could apply across the board. So those are the ones that we choose to talk about."

As an example, Timoney mentions a case out of Illinois in which the workers' compensation carrier found a way to pursue a subrogation claim through a contractual ar-

bitration clause. He said it demonstrates a quicker and cheaper way to pursue subrogation outside the normal pathway, which wouldn't just apply to that state.

For those attorneys and professionals who have to deal with workers' compensation subrogation every day and want to take a deep dive into all of last year's significant developments, Timoney and Schaefer have you covered. They will be offering attendees a reference guide to take home with them.

"A lot of people know they are supposed to come home with our book," laughs Timoney. "In a lot of subrogation departments, only one person gets to go to the annual meeting, so it's that person's job to bring back our book so everyone in the office or firm can be current on the recent developments in the law."

To get your copy and learn more about recent workers' compensation developments and decisions, head to Broadmoor Hall F at 4:15pm. *



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SESSION PREVIEW

Are You Ready to Be Shocked (Literally)?

By Eric Gilkey

Warning: This afternoon's Workers' Comp track session at 12:30pm promises to be a live wire of education and entertainment, so be prepared to proceed with caution. Entitled, "You'll Be Shocked! The Anatomy of Electrical Failures and Accidents," the session will shed light (pun intended) on what turns out to be a very common work-related injury, and it will even include live demonstrations—but only on the presenters.

"We came up with the idea for this session because workers being injured either from direct contact



with energized wires or indirectly such as falling off a ladder after be-

ing shocked actually is a relatively common type of accident," says Jesse Cohen, a civil litigation attorney based out of Philadelphia. "So we wanted to do something that explains how it happens, the effects that it can have on the human body, and what should be done to prevent it from happening."

Cohen is co-presenting the session with Ronald Kilgore, a forensic investigative engineer and president of Kilgore Engineering, who will conduct some hands-on demonstrations.

"Ron is very experienced with investigating and assisting attorneys with both fire- and electrical-related insurance claims," says Cohen. "As such, he will be demonstrating an electrical arc (to the best of his ability within the hotel confines), and he will show the effect that an energized electrical conductor has on a human body. He also will have a full arc flash suit to show what it and other personal protective equipment looks like so attendees will understand what workers should be utilizing when they are working on energized equipment."

So how exactly are workers getting shocked and injured on the job? Cohen says it happens easily, and that it's a prevalent claim.

"One of the most common scenarios that we see is when someone is working on equipment that they believe is not energized," says Cohen.

"They might be changing a light fixture, replacing an outlet, or installing a piece of equipment and not realize that they are handling something that is

not de-energized. If they are up on a ladder when it happens, then they typically experience a secondary injury from falling. Sometimes it can be their own fault; other times it's due to the failure of safety equipment provided to them."

Cohen says he thinks the most useful bit of knowledge that attendees will gain from attending his and Kilgore's session involves getting a better understanding of the types of injuries that occur in shock situations and how the body is affected.

"I think there often is a lot of misconception from watching television and movies as to what happens to a person when they come into contact with electricity," says Cohen. "Adjusters may see injuries after an electrical accident that don't make sense to them, so this presentation seeks to give them a better understanding of why sometimes there may be an electrical shock claim on a worker who has a sprained elbow, a broken wrist, or something else that seems to not make sense, and how to identify any potential third parties who might be responsible for it."

To hear more shocking tales from the field, head to Broadmoor Hall F today at 12:30pm. *



Jesse Cohen



Ronald Kilgore

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► **Hazards**, continued from page 4

would be great because it seeks to protect consumers,” says Ken Levine, member, deLuca Levine. “In actuality, however, it often ends up protecting manufacturers of these products more than anyone else because of its low standards.”

Levine says when FHSA was first implemented to make consumers more aware of combustible products, all that it required was some minimal wording to be buried somewhere on a label in order to comply. That doesn’t cut it in today’s graphic-intensive approach to communicating danger.



Levine and Vigilante plan to review some typical losses and explain the law in order to help loss professionals be more successful.

“Back in 1960 when the law was created, nobody was putting what we call ‘pictograms’ on a label to get consumers’ attention that a particular product could easily ignite or spontaneously combust,” says Levine. “Labels and printers weren’t that sophisticated, and FHSA doesn’t require there to be any pictograms to draw a user’s attention to the risk. So states cannot pass stricter laws and lawsuits can’t be brought claiming that the warnings should be better because

federal law controls these issues.”

With the National Fire Protection Association reporting that 5,000 spontaneous combustion fires occur at residences annually, it’s a problem that is in need of an updated solution. That’s why Levine and his co-presenter Dr. William Vigilante, who specializes in adequate warnings both in workplaces and on labels, plan to review some typical losses and explain the law to help loss professionals be more successful.

“We want to show attendees how they can make FHSA a sword for them, and what to do when the other side tries to use it as a shield,” says Levine. “When they leave the session, subrogation professionals will far better understand how to analyze and prosecute cases involving household combustible products.”

Beyond the session itself, Levine says it’s his goal to advocate for change by pushing for more collaboration amongst industry

players to improve the law going forward.

“This is an area that NASP is going to be working on with legislators and with the Consumer Product Safety Commission,” says Levine. “We hope to gather momentum to change the law in order to improve it for everybody’s benefit.”

To learn more about combustible materials, labeling, and the push for reform, head to Broadmoor Hall D/E at 1:45pm today. *

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SESSION PREVIEW

Can the Use of Video Enhancement Help You Avoid Regrets Later?

By Bevrlee J. Lips

I imagine that every investigation could be wrapped up in a neat little bow at the end of 60 minutes like they do on television shows like CBS' "CSI," a hugely popular show that focuses on crime scene investigation, forensic science, and a mesmerizing use of technology and instincts. Weapons in the characters' crime-fighting arsenal include the use of video enhancement and 3D modeling, but do these powerful weapons apply in subrogation defense?

Enhancement brings out information that is already contained in the recording; it does not create new data that was not there before.

Presenter Barbara Worsham will provide answers in today's session "Video Enhancement – A Settlement and Cost Optimization Tool for Subrogation Claims" in Colorado Hall A/B at 3:15pm. The session provides an overview of surveillance video enhancement and how to use it in real-world cases and claims. Attendees will learn the challenges of real surveillance video versus what you see in movies and on TV.

When it comes to video use, Worsham says people tend to fall into two groups: those who believe everything they've seen on TV, and those who believe little or nothing can be done to security video and take it face value. "We'll be looking

at actual cases and learning what you can do and the different methods to help the attendee understand what's going on in surveillance video," says Worsham.

Enhancement brings out information that is already contained in the recording; it does not create new data that was not there before. One of the ways to look at enhancement is that it provides other ways for viewing the video, such as slow motion or frame by frame. It can make the video much more understandable, allowing a better view of what actually occurred. Where this is most helpful is in dark videos where it appears that there is very little or no information available. Enhancement often shows that there is quite a bit of data available.

On the whole, 99.9 percent of security video has a low quality and prevents working with details such as small reflections. This session will include case examples where you might think there is nothing of value and then enhancement brings out something. Where it looks like there is a large liability, after enhancement it is evident that what was assumed to have occurred actually did not.

The biggest game changer in understanding video enhancement possibilities usually occurs when attendees see how surveillance video can be combined with a 3D model of an exact area, which essentially provides a view of the action from an entirely different camera angle. Attendees tend to be very surprised by what is available and begin thinking of past cases.

"At the time, they had no idea that this could be done or that you could get this information, so there are usually regrets and they wish they



Barbara Worsham



would have known this sooner," says Worsham. "I just want them to realize what a great tool video enhancement can be for their case."

Session attendees will also receive best practices to aid in the process, such as requesting the best possible video and getting video that covers not only the time of

the incident but also before and after, at different times of the day, and from the same camera before anything is changed.

When it comes to the use of video enhancement and 3D modeling, make sure you are regret-free in the future by heading over to Colorado Hall A/B at 3:15pm. *

SESSION PREVIEW

Embracing the Benefits of ICD-10 Codes One Year Later

By Bevrlee J. Lips

It's the one-year anniversary of the ICD-10 codes, and NASP is celebrating by hosting a party (some might call it a session) where we'll look at how we're doing as an industry.

In today's session "ICD-10 One Year Anniversary – Lessons Learned and Strategies for Refining Identification of Subrogation Opportunities" held in Colorado Hall

C at 4:15pm, session presenter Edward Pall will highlight the advantages of ICD-10 codes and show subrogation professionals proven strategies and techniques for identifying potentially recoverable cases.

"I'll provide guidance on how



Edward Pall

to start using or to continue using ICD-10 codes to your advantage because they can make your subrogation program a lot more efficient and increase recoveries,” says Pall. “I want to help attendees make a significant jump in terms of increasing recoveries in their subrogation programs.”

If you haven’t mastered ICD-10 codes yet, it’s certainly understandable. Implemented in October 2015, the ICD-10 codes took ICD-9 clinical modification codes from 14,000 to about 68,000, and the procedural codes set within ICD-9 went from about 4,000 to 72,000. Additionally, E-codes (external-cause-of-injury codes) are now V-, W-, X-, and Y-codes.

Attendees will learn how to pinpoint which codes are most likely to result in a recovery and immediately discard those codes that do not.

However, the biggest change also is the biggest challenge and benefit. The granularity of ICD-10 codes provides subrogation professionals with the opportunity to more accurately identify and pinpoint the episodes of care that have high subrogation potential. In general, the main benefit is the specificity—unspecified codes aren’t used as often, and the new codes offer granularity such as laterality (right or left). So, for example, if someone has a preexisting condition in their left hip, you’ll know not to include that claim.

No one wants to miss out on cases that should have been investigated and pursued in terms of subrogation. However, you also don’t want to over-identify and waste a lot of resources, such as people and time, investigating cases that do

not have a very high potential for success.

This session will focus heavily on four things: how to pinpoint cases with subrogation potential accurately; how to leverage ICD-10 codes in order to reduce the false positives that lead to the investigation of cases that do not end in recovery for the health plan; how to avoid under-identifying cases that have potential for success; and how to navigate through the different ICD-10 chapters, the most

important one being Chapter 20. Attendees will learn how to pinpoint which codes are most likely to result in a recovery and immediately discard those codes that do not typically result in any kind of recovery.

“I want subrogation professionals to view ICD-10 codes as a positive tool that can be used not only to benefit the health care professionals and the patients—because of the increased specificity of this care, people will receive better

treatment—but also within their subrogation programs to better identify cases,” says Pall

The session will also include the important role that ICD-10 plays in subrogation compliance, specifically with Medicare and Medicaid rules and regulations, which definitely will be very valuable for everyone.

Wrap up the day with this unique session and leave with a better grip on ICD-10 codes by heading to Colorado Hall C at 4:15pm. *

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SESSION PREVIEW

In the Face of Regulation, Is There Still Money to Be Found?

By Eric Gilkey

I imagine sitting on millions of dollars of money and not realizing it. Or, worse, realizing the money is right in front of you with your name on it, but not taking the steps to actually pick it up. That's the unfortunate reality for many insurance carriers when it comes to subrogation judgments that aren't pursued to payment, and it's being addressed in this afternoon's session "Found Money: How to Increase Your Judgment Recoveries."

"We've been hearing for a long time that insurers are winning millions of judgments, but they are just

left alone and uncollected," says Howard Barnard, vice president of InvestiNet LLC. "I've heard from one major carrier that says it has millions of judgments that haven't been paid."

So what can you expect from today's presentation? First, co-presenter Roy du Plessis, CEO of Sequoia Financial Services, will address the subrogation aspects as they relate to collection, then Barnard will explain the broader consumer debt collection process. At the end of the presentation, the two will share some of the best stories they have that demonstrate different ways of thinking about collecting on subrogation judgments.

"I think attendees will be

excited to learn about all of the recovery methods available to them besides just suspending a driver's license," says Barnard. "A judgment is a judgment, so insurers need to think like a bank or credit card company if they want to get serious about recovering it."

With increasing regulations for both the collections and subrogation industries, du Plessis says innovation will be essential if found money is to be secured. He says attendees will learn about some of the new ways they are pursuing subrogation and how technology is helping in the face of growing restrictions.

"With the Dodd-Frank Act and the economic downturn that

began around 2007, we found that there were more consumer rights trial attorneys who seemed to focus on the subrogation and collection industries," says du Plessis. "We have seen more lawsuits filed against both debt collection firms and subrogation recovery agencies in the last five years than in the history of our receivables management industry, and we've also seen a number of appellate cases come down that restrict our ability to pursue subrogation claims. With that in mind, we'll explain some ways in which recovery professionals can still be successful."

To learn more, head to Colorado Hall D/E today at 1:45pm. *

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SESSION PREVIEW

Don't Blow It When Attempting to Contain Gas Explosion Cases

By Bevrlee J. Lips

If you like action movies, you're probably a fan of high-speed chases, impossible situations, daredevil feats, and, most important, massive explosions because they really get the adrenaline pumping. In reality, events like gas explosions cause destruction and mayhem, and if you're not prepared to handle them properly, it could cost you dearly.

In today's session "Catastrophic Gas Explosions and Aging Infrastructure: What Every Recovery Professional Must Know," presenters Raymond Mack and Mark McDonald will tackle natural gas and propane gas explosions from around the country. The session takes a close look at the different roles in the process and what should be known when responding to these explosions, including how explosions occur; how the gas company, utilities, and public entities play a part; and strategies for approaching these unique cases.

"I can't stress enough how important it is to gather evidence early on, because once it's lost, it's gone, and you don't have access to it throughout the rest of your case," says McDonald. "You must identify what is important at the outset that will help define your case, give it direction, and hopefully bring it



Mark McDonald

toward a successful settlement."

To start out right, you must know what's out there and what's important and document evidence that the gas company takes and what are they going to do with it. Put the gas company on notice immediately about what you want regarding equipment, valves, couplings, or parts of the service line and declare that all are to be kept in a secured facility until such time as you have an opportunity for full testing and examination.

Gas explosions involving natural gas distribution lines are

up. One of the major factors is the infrastructure that was put in place from the '60s through the '80s when the gas industry transitioned into using plastic, called vintage plastic, which is failing at a rapid pace.

"We're seeing quite a bit of these explosions occurring. Early identification of the type of plastic, connection, coupling, or compression setting is where an educated eye can recognize past incidents," says McDonald. "Being able to identify trends in the particular

vintage plastic pipe or compression coupling can help in establishing a potential cause of the explosion."

The gas industry knows their world inside and out, so building your knowledge of the industry is critical to success. This session is designed to help even the playing field and educate subrogation and insurance company professionals so

they understand what the process is, the critical steps to take early on, the parts that need investigation as well as what will be needed later in the process, such as developing and testing evidence.

"There's a real lack of knowledge out there that the gas industry tends to enjoy because it gives it the advantage in any gas explosion investigation," says McDonald. "It is critical from the beginning of an investigation to make sure that each professional understands what they should be doing and what the gas company is doing."

Presenters will take attendees from evidence gathering to spoliation to the role of public entities and government to current law, drawing from their extensive experience in the gas industry and subrogation law. "It's going to help even the attorney who's never attempted a gas explosion investigation to hit the ground running," says McDonald.

To gain a clearer understanding of gas explosions and to make sure you don't blow an opportunity for recovery, make your way to International North at 12:30pm. *

► Pinnacle, continued from page 1

membership of both subrogation and frontline claims professionals.

NASP's primary mission is education, and we continue to be the leading subrogation education resource for the insurance industry. Our conferences, webinars, chapter meetings, and Subro Colleges provide educational opportunities to our members, as well as to those outside of NASP.

I would like to particularly

thank the NASP board and staff. I will genuinely miss meeting with and working beside a great group of people. Their support, work ethics, and passion have allowed me to grow tremendously, and I will remain grateful for the opportunity to serve as NASP's president. I look forward to remaining involved, however, and seeing the evolution of NASP in the future.

Enjoy the conference! *

Chris

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Congratulations, Nicole!

Yost & Baill, LLP is proud of partner **Nicole Kustermann**, incoming President of the National Association of Subrogation Professionals!

Nicole has been a member of NASP since 2001. She has volunteered in many capacities over the years, including serving as Editor of the *Subrogator* magazine, Conference Co-Chair, Minnesota Chapter Chair, conference speaker, and as a member of the NASP Board of Directors. She most recently served as Vice President of the organization and as a member and co-chair of various NASP committees.

Nicole will serve a two-year term as NASP President. We are excited to watch her lead NASP over the next two years!

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