

AICA BULLETIN

FEBRUARY 2009

VOLUME 7, ISSUE 6

Guest Speaker—Joe Nowikowski, Forensic Electrical Engineer—EFI



Joe Nowikowski is the District Manager and the Forensic Electrical Engineer for EFI Global's Phoenix District. Prior to joining EFI he spent a number of years in the Life Safety/Fire Protection industry as a District General Manager for a National firm. He received his Bachelor of Science and Masters Degree in Electrical Engineering from the University of Missouri – Columbia, and a Mining Engineering Degree from Penn State. Joe also has an MBA. He is a former Military Officer for the United States Air Force where he did design work for various construction projects in an around Wright Patterson Air Force Base. Joe has a wife and two terrific kids.

Joe will be presenting a short segment on Electrical Myths where he will challenge you to re-think your views on electricity. The presentation will be “hands-on” as he demonstrates the effects of a hair dryer running under water and using a two-by-four as an electrical conductor while he mixes in the application to insurance adjusters.

Meeting Details

DATE: Thursday, February 19, 2009**RSVP:**

To Jenifer Kimbrell at
jenifer@pinnaclerestore.com
or (480) 206-4297 by
Tuesday, February 17, 2009.

TIME: Social Hour 5 p.m.
Dinner & Meeting 6 p.m.**LOCATION:** Doubletree Hotel
44th & Van Buren
Phoenix, Arizona**COST:** Members – \$25 pp
Non-members—\$30 pp
Cash or check only to
be paid at check-in table at
the meeting.

Please remember to RSVP at your earliest convenience in order for us to ensure there is enough seating and meals for everyone at our meetings.

Please also be sure to let us know as soon as possible if you have to cancel your reservation for any reason.

FEBRUARY**MEETING****TOPIC:****ELECTRICAL****MYTHS****INTERESTED IN SPONSORING THE SOCIAL HOUR?****CONTACT JENIFER KIMBRELL THE PHONE NUMBER OR E-MAIL LISTED ABOVE.**

President's Message

If you did not make it to the January meeting you missed a real engaging presentation and conversation with Doug Hardin of Arizona Automobile Theft Authority. Mr. Hardin provided information and good conversation regarding LPR (License Plate Readers). He is one of the offices who has one of the LPR in his vehicle. He provided information on how it works and how it is helping them recover stolen vehicles. He answered numerous questions on the program from the members who were curious how the system worked and how they are using it to recover the stolen vehicles.

If you have not already registered as a member for the new year please consider doing so. Also, when you register, bring a friend or colleague with you to help continue growing our membership. We appreciate your support.

Please keep in mind our upcoming golf outing in May. You know how fast time slips by and it will be here before you know it. If you are interested in

sponsoring a hole please contact Dale Schantz. If you are interested in playing golf you will need to get your name in early as the foursomes fill up early and there is a limited number of teams. Of if you are not a golfer but still want to be a part of the fun and luncheon you can attend this as well. We look forward to seeing you out there.

We look forward to seeing you at our February meeting. If you bring a guest with you, we will pay for their dinner. Now you can't beat that.

Your President,

Joe Hendren

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Misti Van Ernst
 Asst. Manager

Adjuster's Profile—Fred Delgado, Tribal TPA for P&C, White Mountain Apache Tribe

In response to a phone discussion, Fred Delgado sent me his “quickie Resume,” as he called it. Well, with over 35 years in the business, he’s no “quickie.”

Fred started in our business with Hartford, in 1973, because of a head hunter calling him, after he graduated from Northern Arizona University.

Fred says, “He told me it was not in sales, but an ‘Adjuster position.’ And when I asked, ‘What’s an adjuster do?’ I don’t think he knew, either. But, he sent me to the interview and I’m still adjusting claims.

Fred continues, adding, “It has been a fun, exciting and rewarding career. I have met many wonderful people in the industry and have made many long and lasting friendships, as well.”

Between 1980 and 1992, he was with insurers, Mission Insurance and Scottsdale Insurance. Then, he says, “I moved to the Structure Settlement side, becoming a Settlement Specialist with the Delta Group. I returned to the insurer side at Nautilus Insurance, as an Assistant Secretary and the Transportation Claims manager, in ‘92.”

By 1995, he was Executive VP with SRT Corporation, still in Phoenix, “...now in the Risk Management field, which is where I am today.”

To fill in, he went with America Wide Administrators



and then Custard, where he became the Phoenix TPA Manager, until 2005.

“Then,” he proudly adds, “I rejoined SRT as their manager of Property and Casualty Services,” Adding, “I was already appointed the White Mountain Apache Tribe’s Property and Casualty’s TPA in May, 2002, and I still am solely responsible for handling claims and other related functions, including meeting with the Tribal Attorney, Treasurer, Controller – and on occasion, the Tribal Chairman & Council members.”

“Three years ago, my wife and I sold our Phoenix home and built in Show Low. I don’t have to drive back and forth, now.” “No pollution, congestion or heat to contend with. Maybe an occasional bear, skunk or fox.

He thinks “it will be great, when I retire, too. I could golf without interruptions. But, I still have fun working, so don’t count on my retirement anytime soon.”

You can reach him as follows:

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Expert's Corner—Speaking of: Expert Witnesses

To examine the underlying psychological principles and implications of juror skepticism toward expert testimony, *Claims'* Christina Bramlet enlisted the expertise of Steven M. Gursten (michiganautolaw.com), who is recognized as one of the nation's top experts in serious auto accident injury cases and auto insurance no-fault litigation. Gursten spoke candidly about how claim adjusters and lawyers can prevent juror misconceptions from sabotaging viable cases.

Why are juries leery of experts on the stand?

The problem goes well beyond skepticism. How claim adjusters and lawyers look at experts versus how jurors look at them is completely different. Jurors do not wait until the close of all of the evidence to start deciding which side in a case should win. Our brain doesn't work this way. The brain begins processing information and starts to address the side of the story that seems more likely almost immediately after a trial begins. Of course, this contradicts the expectation judges have for jurors to listen to all evidence before deciding which side is correct.

We have to understand that experts don't matter to jurors in the way that we think they do. This is not to diminish the importance of experts, who are absolutely essential in helping lawyers meet legal and evidentiary burdens of proof. Omitting an expert on a crucial matter of proof can result in dismissal of a cause of action, a directed verdict, or the dismissal of an affirmative defense. So both sides need experts.

Specifically, what challenges do claim adjusters and lawyers face?

Many lawyers and adjusters are surprised that most jurors have a real distaste for expert testimony and experts in general. As lawyers, we are trained to believe that to persuade and win a case, we must rely on experts to establish arguments. In reality, jurors rarely view experts as credible.

Adjusters must understand the basic social science behind persuasion. Once a juror has decided which side's story is more likely, "revelations" from an expert witness aren't going to change that juror's mind. Jurors believe — and many of us who work in the legal field must agree — that an expert can be found to say almost anything. The irony here is that even if the expert convincingly refutes what a juror believes to be true, that expert will still be rejected. When an expert's opinions are in conflict with what a juror believes, no matter how uninformed or baseless that opinion is, a juror will likely feel justified in dismissing that expert.

This means that ideas that are counterintuitive to a juror's belief system can result in making it very difficult for the proponent of the idea to win a case, even in the presence of supporting evidence. This conflicts with everything that lawyers are taught in law school. Because this juror decision-making process is in direct violation of the way jurors are required under our system of justice to view evidence, lawyers and adjusters are shocked when our "brilliant" experts are disregarded by jurors.

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Expert's Corner Cont'd

What advice can you relay for successfully vetting experts?

The process by which claim adjusters “successfully vet” these potential experts is exactly what leads jurors to disregard experts. Vetting an expert usually means finding one who will help your side of the case. To ensure a suitable candidate, we want that expert to be reliable. We want an expert who has testified in similar cases and has been used by lots of other adjusters, lawyers, and insurance companies for this same issue. Yet, all of these factors cause an expert to lose credibility before a jury. Experts who are regularly employed by insurance companies — and have thus been paid a lot of money to testify in case after case — will not seem credible.

In an article titled, “The Hired Gun Effect: Assessing the Effect of Pay, Frequency of Testifying, and Credentials on the Perception of Expert Testimony,” by Joel Cooper and Isaac Neuhaus in the journal *Law and Human Behavior* (Vol. 24, No. 2, 1980), the authors performed studies to assess the credibility of expert testimony. The studies found that experts who are highly paid and who testify frequently are viewed as “hired guns” by jurors. However, the inverse of these conclusions from this important study are also true. Claim adjusters and defense attorneys would be better served to find experts who do not testify frequently.

Source: Claims Magazine, January 2009

AICA Annual Golf Tournament

The AICA Golf Tournament has become a great tradition of our association. It's a been a great time for all those who participated.

You don't have to be a golfer to participate, either. Spectators are welcome.

Mark your calendars now:

- ◆ Friday, May 1, 2000
- ◆ 7 a.m. Shotgun Start
- ◆ Stonecreek Golf Club—Tatum & Cactus in Phoenix
- ◆ \$110 per player

Sponsorships available from \$125—\$1,000.

Be sure to sign up early as player and sponsorship spots fill up quickly.

Registration forms for players and sponsorships are available online at www.aicaonline.org.

Contact Dale Schantz at 623-875-7872 with any questions.



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ASSOCIATION**

2009 Meeting Calendar

Meetings are held on the 3rd Thursday of each month.

- ◆ March 19, 2009
- ◆ April 16, 2009
- ◆ May 21, 2009
- ◆ Summer Break
- ◆ September 17, 2009
- ◆ October 15, 2009
- ◆ November 19, 2009
- ◆ December 17, 2009

