

OFA Newsletter

AN ORGANIZATION OF FLYING ADJUSTERS

SUMMER 2011

President's Message



It has been a pleasure and an honor to serve as this year's President of the OFA. Where has the year gone? It went by so quickly. I felt so proud to announce that I was the President of The Organization of Flying Adjusters whenever

I went out on claim assignments. Often individuals would ask what the OFA is. My response was that we are an elite organization of independent aviation adjusters spread though out North America. I will soon be able to say that I am a Past President of The OFA; one of several that followed in their father's footsteps to obtain such status.

I will continue to promote the OFA to all that I meet involved in a claim whether it is the insured, claimant, manager of an FBO, FAA or NTSB. As a member of the OFA, we are obligated to inform the general aviation public of our diverse wealth of knowledge and experience of the aviation insurance industry. I know when I have a question that may arise during a claim that I am unsure of, the answer is just a phone call away to another OFA member or associate. Our combined experience is unparalleled in the aviation insurance industry. This is what we need to portray to the general aviation public.

On another note, the mid year meeting was a huge success. The meeting was packed with a variety of aviation professionals including insurance claims managers, underwriters, and attorneys along with

many of our regular members. Many thanks go out to all the members involved in arranging the mid-year meeting. My only regret is that there is not enough time to meet with everyone that I would like to.

Our annual meeting gives us adequate time to meet with everyone and enjoy the informative discussions on current topics that are pertinent to the aviation insurance industry in a relaxed and casual environment. This year's annual meeting is held at the West Palm Beach Airport Hilton. It runs from October 27th through the 29th with early registration and a golf tournament scheduled on October 26th. We have arranged a group of speakers that are focusing on recent changes to the general aviation industry. No where else is there the opportunity to gain pertinent knowledge of current issues affecting our industry along with meeting a wide range of professionals that drive our industry. Show your support for the OFA by attending the mid-year and annual meetings.

Again it was my pleasure and honor to serve as the president of the OFA.

We are OFA!

Chad Coogan

President
OFA 133



Committee Assignments OFA Year 2011

Membership Committee:

Al Ryan - Chairman
Joe Jones

By-Law Committee:

Bill Hall - Chairman
Paul Leonard
James Stiger

Executive Secretary:

Hope DeLong

Newsletter:

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Bill Arnold - Chairman
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Martin Clingwall
Eric Popper

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Nominating Committee:

Robert Betts
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Thomas Cook

AIA Conference 2010:

Marty Brown - Chairman
Leo Howe

Memoriam Committee:

Paul Golding
Al Plumley

Parliamentarian:

Bernard Coogan - Chairman

Legal Advisor:

Tim Miller

Mid-Year Meeting:

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Monty Williams
Don Hendricks

NTSB Liaison:

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Steve Homenda
Harry Brooks
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Web Site: www.ofainc.com

Bill Hall - Chairman

Scholarship Committee:

Bernard Coogan - Chairman
Dean West
Giles Nobert
Eric Popper

**Visit us on the web at
www.ofainc.com**



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Membership Chairman Allen Ryan OFA 108
Conference Chairman Bernard Coogan OFA 69

The OFA Newsletter is published for the benefit of the membership, the Aviation Insurance Industry and other related fields. Opinions expressed by the Editor and contributors do not necessarily represent the position of the OFA.

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54th Annual Conference West Palm Beach Florida October 27 through October 29, 2011

The Coogan's have planned an excellent location for this year's annual conference in West Palm Beach, Florida. The West Palm Beach airport Hilton Has reserved room rates of \$99.00 per night. Make reservation through the Hotel at 561-684-9400 or through 1-800-Hiltons. The hotel is located near Palm Beach International airport. Mention OFA Conference 2011 when making the reservation. Let's make this another great conference!

Main Schedule *(Spouses' Schedule on page 7)*

Wednesday

- 1300 Golf at West Palm Beach Golf Course
- 1500 Early registration
- 1700 Executive Committee meeting
- 1800 Hospitality suite cocktail party



Thursday

- 0900 Sign In and closed business meeting (Advisory Council Meeting)
- Noon Opening lunch
- 1330-1415 Re-registration process by Clay Healey (AIC Title Service, LLC)
- 1800-1900 Presidential cocktail reception
- 1900-2200 Presidential dinner

Friday

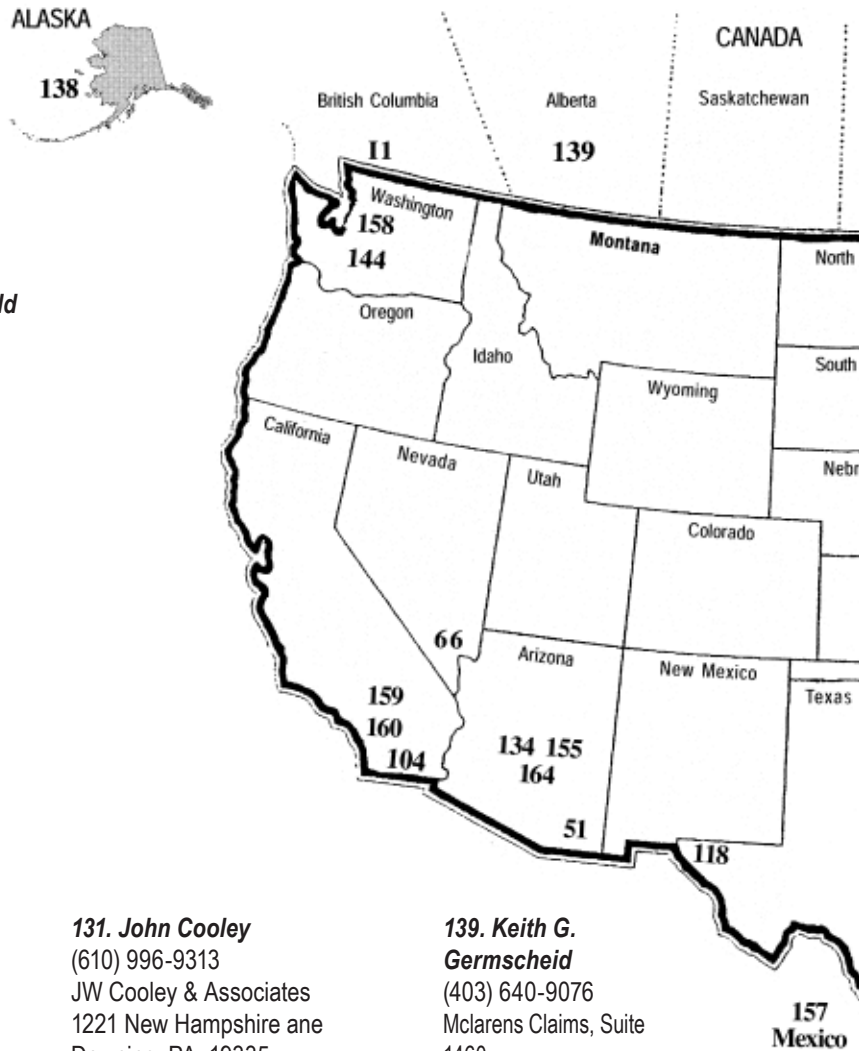
- 0900-0945 Helicopter accident investigation by Doug Cunzeman (ACE North American Claims)
- 1000-1045 Continued helicopter accident Investigation by Doug Cunzeman
- 1100-1200 MMSEA update and an update on claims handling By Jon Morse (The Morse Law Group)
- 1200-1330 Lunch
- 1330-1415 Blood-borne pathogen training by Dennis Kruger (ACE North American Claims)
- 1430-1515 FAA-What is a general aviation accident by Larry Byrd (South Florida FSDO)
- 1800-2200 Dinner and entertainment on site

Saturday

- 0900-0945 Cirrus-Safety tips and future outlook of the company (Cirrus Manufacture Rep.)
- 1000-1100 Closed business meeting
- 1100-1230 Farewell lunch and installation of new officers

**West Palm Beach Airport Hilton
561-684-9400**

The membership of OFA is dedicated to the highest standard of professional ethics in handling aviation insurance claims, investigating causes of aircraft accidents objectively and promoting every aspect of air safety.



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Conference Chairman

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The OFA Mid-Winter Meeting Was Held In Irving, TX

Collaged are a few snapshots from this event.



An Illinois' "Adjuster's Lien"

By: John Scott Hoff J.D. CPCU

An Illinois trial court was recently found to have properly granted summary judgment to a "public insurance adjuster" who was "fired" by a homeowner after the adjuster negotiated a settlement with her insurance company to cover her losses.

The Illinois Appellate Court, 5th District, has affirmed a ruling by St. Clair County Associate Judge Vincent J. Lopinot.

After a fire destroyed her home, Rosalind Clayton filed a first party claim with State Farm and hired the Plaintiff, a public insurance adjuster, to assist her in adjusting her claim. The contract authorized the plaintiff to assist Clayton in the adjustment of her fire loss; Clayton agreed to pay the plaintiff 10% of the amount of the adjustment.

Ace Hart, an agent employed by the plaintiff, notified State Farm of his contract with Clayton and the plaintiff's lien on the insurance proceeds and asked that the plaintiff's name be included on any first party loss payments made to Clayton's fire-damaged property. A settlement for \$ 72,076.58 resulted with State Farm on Clayton's behalf.

Shortly after the settlement was negotiated, Clayton "fired" the plaintiff. Initially, State Farm issued a check to both the plaintiff and Clayton. But Clayton gave oral and written notice to State Farm that she had terminated her contract with the plaintiff, and asked that the plaintiff not be named on any settlement check State Farm paid to her. Thereafter, State Farm complied with her request not to include the plaintiff as 3rd additional payee, and reissued a single-payee check with only Clayton as a named payee. The check was cashed by Clayton.

The plaintiff who was ruled to have been the "procuring cause" of the resulting settlement filed a breach of contract suit against Clayton, alleging that she breached her contract with him and State Farm. Hart also alleged that State Farm was liable for his fees because he, the plaintiff, had timely notice of "adjuster's lien" on Clayton's insurance proceeds, which State Farm failed to honor when it unilaterally issued the single-payee check to the insured alone.

The trial court found there to be no material questions of fact or law, granting a summary judgment in favor of the plaintiff and entered a judgment against State Farm in the amount of \$ 7,562.85. State Farm appealed.

This was deemed by the court to have been "a classic case in which a party who has been provided a service attempts to hustle the provider out of its fee," the Illinois Appellate Court stated. "Here, plaintiff adjusted the claim on behalf of Clayton against State farm; however, once the claim was adjusted, Clayton attempted to 'fire' plaintiff." This was tantamount to a "theft of services."

State Farm argued that the plaintiff did not have a valid lien or recognized lien on Clayton's insurance pro-

ceeds. They argued that this was because the Illinois Insurance Code does not expressly create a statutory lien in favor of public adjusters, and State Farm's only contractual duty was to its insured. The appellate court disagreed.

"No one should be expected to work in a profession that would allow clients to fire the professional after the professional's services were rendered unless there is an avenue to ensure payment," the court noted.

"We are aware that Chapter 770 of the Illinois Compiled Statute creates lien rights in favor of numerous occupations and professions, such as attorneys and health-care professions, including physicians and dentists, but fails to expressly or specifically discuss liens with regard to public insurance adjusters," the court said.

"However, nowhere in chapter 770 does it state that these are the only liens that can be recognized. ... Thus, we disagree with State Farm's assertion that because chapter 770... fails to specifically set forth that public insurance adjusters shall have no lien, no such lien can exist."

Public insurance adjusters commonly assert liens on insurance proceed that are honored by insurance companies, the court further noted, in recognition of the existing industry standard.

"Here, plaintiff performed the work and negotiated a settlement with State Farm. Plaintiff is entitled to be compensated for its work per the terms of its contract with Clayton. State Farm initially issued a check to plaintiff but later followed Clayton's instructions not to pay plaintiff. State Farm was wrong to go along with Clayton's plan to deprive plaintiff of its rightfully earned fee."

Golub and Associates v. State Farm Fire and Casualty Company, et al., No. 5-09-0454. Justice Richard P. Goldenhersh wrote the court's opinion with Justices Stephen L. Spomer and James M. Wexstten concurring. Released January 18, 2011.

54th Annual Conference West Palm Beach Florida Spouses' Schedule

Wednesday

1300 Golf at West Palm Beach Golf Course

1500 Early registration

Thursday

0930 Duck Tour of West Palm Beach

1200 Lunch at City Place

1800-1900 Presidential cocktail reception

1900-2200 Presidential dinner

Friday

Afternoon Open day

1800-2200 Dinner and entertainment on site

Saturday

1100-1230 Farewell lunch and installation of new officers

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