

# Member Newsletter

Issue 40 | March 2021

## President's Message

February, 2021 ... are we on a broken record that keeps sticking on the same place on the album?

Adding to the gloom here in the dead of winter is the news of the passing of Tom Braniff. If you are like me, you realize there will be a terrible void in our gatherings with Tom's absence. He meant so much to AAIMCo and to what we aspire to be as a professional organization. On a personal note, he was a good friend to many of us and will be missed.

But life goes on and so will AAIMCO moving forward. Tom would be the first to tell us that AAIMCO is much more now and for the future as a family of insurance professionals offering our knowledge and counsel in the insurance industry to policyholders and carriers alike.

Plans are proceedings full steam ahead for our San Diego conference in May. The Board has had numerous discussions regarding the conference and the consensus is to proceed with the current plans. Extensive measures will be taken to ensure everyone's safety with masks required at the meetings and necessary social distancing in our meeting space. The hotel has assured us that they will take sanitizing and cleaning the areas seriously and provide for our needs as required.

While it is not mandated for attendance, I would encourage everyone to obtain the necessary vaccinations when possible. It is not just for this conference but also to assist you in moving forward with your life in general.

Here in the newsletter is additional information regarding the conference and hotel reservations so I encourage everyone that is planning on attending to get their registrations in as soon as possible.

During our business meeting in San Diego, we will discuss possible amendments to our constitution that will allow the Board to make emergency decisions about conference attendance during special circumstances like we've found ourselves in this past year. We will also discuss possible avenues to honor Tom's memory with scholarships or other means.

Wendy Braniff has expressed her desire to attend as well and will be there with us.

The big freeze here in Texas will open up an onslaught of new property claims and likely bring about unique positions in litigation involving possible liability for the failure of the electrical grid system we have down here. A hundred million dollar lawsuit has already been filed by the family of a 10-yr old who died of hypothermia in his home after the power went out. Watch for details on that one.

I should also have an article in the March issue of the Claims and Litigation Management (CLM) magazine on issues arising out of this freeze event ... if I can get it finished in the next 2 days before the deadline! If not March, then surely in the April issue. Keep an eye out for that.

I hope everyone is staying safe and in good health.



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# In Memoriam

## Remembrances of Tom Braniff and His Impact on AAIMCo...And All of Us!

I joined AAIMCo in 1997 – or thereabouts. Not quite sure how I heard about it, but I do remember that there were several members from Michigan. In fact, Michigan is where AAIMCo's corporate documents were filed. One of those members told Anna Shuherk, membership chair at the time, about me and she called. I learned a lot about the organization from Anna but was still a bit reluctant to join. Anna suggested I call one of their members to talk more about AAIMCo. The member's phone number she gave me belonged to Tom Braniff.

I called Tom and we talked for quite some time about the industry, about AAIMCo, and about my new consulting career. Yes, I was new to the consulting end of the industry and feeling a bit discouraged about how difficult it was to grow a consulting business. However, Tom's enthusiasm about our industry, about AAIMCo and its members was so infectious that I decided to join.

It turned out to be the most important career decision I ever made. Were it not for Tom's mentoring and encouragement, I most likely would have lost my drive and never succeeded as a consultant. I owe it all to Tom.

There were only a handful of members when I joined, and growth was stagnant. Soon after I joined Tom took over the helm as president. Through his leadership AAIMCo began to thrive and by the time he passed the gavel onto me in 2013, AAIMCo was one of the most well respected and prominent insurance and risk management associations in the country.

Tom truly made AAIMCo the organization it is today. Without Tom's drive, enthusiasm, and leadership there might not be an AAIMCo.

His absence will be felt. I miss him already.

### - Lee Hoffman – President 2013-2015

Tom was the heart and soul of AAIMCO. He was the reason I joined initially and the reason I stayed through some 'lean years'. Not only would AAIMCo not be the dynamic organization it is today without Tom, it probably would not exist. He was dedicated to the insurance industry in many ways and he and Wendy made the perfect team. I will miss him, AAIMCo will miss him and our industry will miss him; but we will all be better because of him.

### - Van Hedges – President 2015-2017

One of my first contacts with AAIMCo was with Tom. I soon learned in meeting and talking with other members of AAIMCo that Tom was one of the cornerstones of the organization. I found that he not only gave freely of his time to AAIMCo but to the individual members as well. I know that AAIMCo as well as its members are better off having known and working with Tom. I appreciate that time and counsel that he provided me.

### - Peter Marchel - President 2017-2019

# Association News

## Robert Pettinicchi – Current M&A Activity

Affiliate Member, **Robert Pettinicchi** with InsurBanc recently co-authored an article in the January 2021 edition of Rough Notes magazine. Mr. Pettinicchi's article titled "Looking Ahead: Pandemic, Agency Growth and the New Year" comments that mergers and acquisitions are still on a tear, and that agency sales velocity, organic growth and profitability have all been stronger than expected. He and his co-author list eight reasons why the industry is seeing healthy M&A activity. To take a look at the article, please [click here](#).

## Bill Wilson – Is It Covered?

**Bill Wilson** recently contributed to the latest edition of the Insurance Journal magazine. His article "Logic & Language and Forms & Facts: The Final Word on Covid-19 and Insurance?" concludes that the vast majority of legal jurisdictions have held that for there to be Business Interruption coverage, "direct physical" loss or damage requires some material alteration, usually of a permanent nature, to tangible property. For further reading, please visit the Insurance Journal website by [clicking here](#).

## Kevin Quinley – The Covid Bad Faith Boogeyman

CPCU Insights published member **Kevin Quinley's** article "Battling the Covid Bad Faith Boogeyman" in its December issue. What does a "good faith reasonable investigation" mean in the context of a Covid-19 insurance claim? Mr. Quinley's article explores this topic and offers practical tips for claim professionals. To take a look at the whole article on the AAIM-Co website you can [click here](#).

## Joseph Junfolo – IRMI

Member, **Joseph Junfolo**, recently published another article titled "Defining and Fixing Construction Defects". Mr. Junfolo writes that while design and construction professionals can fail to meet standards of care resulting in construction defects and damages, structures are simply not built to last forever and neither are they required to be perfect in design and construction. The question, then, is whether the failure is due to normal wear and tear, the result of the expiration of the useful life of the structure, a maintenance problem, or one actually due to a construction and/or design defect. For further reading, please [click here](#).

## Have news for the next edition?

We want to know what's been going on in your practice. Received an award? In the middle of a really interesting assignment? Published an article?

Email your news to Lesley Perkins.

[lesley.perkins@aaimco.com](mailto:lesley.perkins@aaimco.com)

# Membership Report »

## Richard J. Faber, CPCU



After over 30 years as a company underwriter, Richard founded Underwriter's Resource to "provide practical educational and consulting services to producers and underwriters" from his home in Buckeye, AZ. Nancy Germond, who has known Richard for a number of years, recommends him as "...an outstanding underwriter. Probably one of the best underwriting training people I have met." Another underwriter who had worked with Richard for several years provided this perspective, "Wonderful expertise and a great resource. He worked with some of the older GL forms earlier in his career and can quote them from memory. He always did what was right by the insurance company and at the same time figured out ways to write a client. If there was something he couldn't do, he was very up front and tried to help the brokers stay out of an E&O." In

the last few months Richard has also begun serving as an expert witness on underwriting issues. He can be reached at 859-466-7772, Richard.uwresource@cox.net.

## Christopher "Todd" Thomas, LL.M, CPCU, ARM-P, Ch.Fe (and many others)



Todd is a past President of the Society of Risk Management Consultants (SRMC) and first came to know of AAIMCo when the two organizations were exploring the possibility of a joint meeting in New Orleans. He is the Chief Consultant at Sigma Consulting Corp. in New Orleans, which provides consulting in a broad range of areas – actuarial, benefits, claims, continuity, forensics, and insurance and risk management. Todd's education and experience are just as broad. He also serves as an expert witness, and much of that work is in the agent E&O space. He was recommended to AAIMCo by our own Pauline Thomas. In addition to Pauline's recommendation, one of his references commented, "I have been in the claims business for 29 years and have seen about everything, but if there is something I don't know, I call Todd." He can be reached at 504-258-2587, tthomas@sigmacorp.net.



## Brent Winans, ARM, CPCU

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# Member Spotlight »

## James J. Moore, AIC, MBA, ChFC, ARM

My journey began with working in the oilfields of Oklahoma, doing odd jobs as a teenager for what seems now as almost pro bono work. I graduated with Honors from Hominy High School in 1979. Hominy was a small town that owed its existence to oil and ranching including buffaloes. I lived across the street from the Osage Native American Nation's reservation.

Northeastern Oklahoma A&M (NEO) offered me a scholarship if I would attend college there. I wanted to avoid the 35,000 student campuses of major colleges such as OSU and OU. NEO had 1,300 students.

Once there, I majored in Computer Science and received my Associates In Computer Science technology. I was saving the programs I wrote onto cassette tape. There were no disk drives at the time.

I decided to try my best at Oklahoma State University where my hours earned at NEO would transfer on my student record. I worked part-time and attended school full time. I returned every summer to the Oklahoma oilfields to work as the pay was three times higher than on campus.

While at Oklahoma State, I taught myself additional programming languages and wrote software packages that were sold in computer stores in Oklahoma and Kansas. The most languages that I knew at one time totaled 16. The Wichita Red Cross used my inventory software to keep track of and to estimate their emergency blood supplies.

I graduated from Oklahoma State University in 1985 with a double Bachelors's in Actuarial Science and Marketing. The oil boom in Oklahoma became the oil bust. The job market was anemic at best during that time in Oklahoma. Many of my family and friends had to close multi-million-dollar businesses.

I was hired out of college as an all-lines adjuster in 1986 by Liberty Mutual. They sent me to intense training as an all-lines claims adjuster. After a year of claims adjusting, I decided to get back into tech-based companies.

I finally decided while living in Plano, TX in 1988 (the best place I have ever lived) that technology was a lagging industry. I had more computing power at home than I did at work. The calling to stay with insurance came over me strongly.

I moved to Boca Raton, FL, and worked for Lumbermen's Underwriting (LUA). I had never seen the ocean. I drove to the beach each day and would dress down from my office-wear to a bathing suit. That lasted approximately a year until I became bored with the beach scene.

I got married in 1991 and settled down quite a bit from partying at the beach bars all the time. I worked with LUA in the claims department until 1994 when I made a smart move to eastern North Carolina.

I despised going into an office every day. I was born and lived deep in the woods. I was usually recruited into the insurance carrier and TPA home offices which very strict about what you wore and how you acted while working.

I decided to start J&L Insurance Consultant on my kitchen table in 1996. At the same time, I was hired by the North Carolina School Boards Association (NCSBA) as a claims consultant. I was later promoted to Director of Risk Management – a VP level.

During my insurance career, I attained in AIC, ARM, and ChFC designations. I wanted something different than a CPCU. I also finished my MBA online.

Due to a major heart infection with surgery, I could not continue the stresses of running a large claims department with 46 workers reporting to me as with the NCSBA. At a conference I attended, a psychiatrist that we used for injured worker medical evaluations told me that I was going to slump over a claims desk and die if I went back to that much stress.



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9/11 woke me up from sitting at home and writing these massive business plans while recovering from my surgery. Guy Kawasaki's book woke me up to – quit writing business plans and do something. I was supposed to close on a business start-up loan, yes you guessed it – September 13, 2001. The bank called and said they were not going to lend me money right now. I was furious.

With a loan from my mother and cashing in my retirement from the NCSBA, I moved into an office and started J&L Risk Management. I had to change away from J&L Insurance Consultant due to the company not being an agency. We received at least 10 calls per day wanting an auto or homeowner's insurance quote. Our phone lines were hopping but for the wrong reason.

I started the website CutCompCosts.com in 2002. Websites were more of a business card then. The website now contains over 2,000 articles written by me since 2007. The phone started ringing off the hook for the right reason in 2005. The website became a great resource for Workers' Compensation insurance personnel. All I asked as a fee to use the articles is a backlink to the article. Then, the web became oh, so crowded.

My expert witness career began with assignments for a non-testifying consultant in 2005. Attorneys wanted me to opine on Workers' Compensation matters all over the US and internationally. My first deposition was in 2005 in Los Angeles. The deposition lasted 9.5 hours. I asked the opposing attorney why so long after the deposition. He said that I taught him a huge amount of Workers' Comp info, so he decided to cover everything possible.

I then was a go-to consultant for the opposing attorney over the next few years if he had come across any more collection matters in Workers' Comp.

In 2007, I became a FEMA flood adjuster and later a Catastrophe adjuster. I oversaw the Quality Control with the North Carolina Joint Underwriting Association for three named storms over the last decade.

After three class actions and many assignments in Workers' Compensation, I decided to expand beyond just Workers' Compensation matters. In the last year. I have been named as the expert on two massive class actions involving obstacle courses and tobacco.

My hobby is one that many people very close to me are shocked when I tell them that I have been playing guitar for over 40 years. My brother bought a guitar for me when I was 14. The old hock-shop guitar came with a whammy bar and an amplifier. I plinked on it for years.

I had a musical background as a trumpet player in the Hominy High School Band.

I could not figure out how to transpose what I knew on the trumpet to the guitar. A friend of mine invited me to go with him to see a Van Halen concert. The lightbulb went off at the concert where I could transpose the notes. Then the sky was the limit.



When I was rehabbing from heart surgery in 2000, I played guitar every day for 9 months. Now, I know how guitar players become so good. One must practice every day all day to become great.

I decided to attach a sound recording for your listening pleasure. I only played for 45 seconds to conserve server space. The passage is from Con Agua that I wrote in college. Please enjoy! I am playing classical guitar on metal strings which no one does except me. It may sound a little tinny as I had to hold the guitar over my android phone to make the recording.

<https://drive.google.com/file/d/1hMe9ruvtOZcF-FDjrs2Zli8jxRbBMobD/view?usp=drivesdk>

You can see the lineup of the guitars I have kept over the years. The guitars are arranged from oldest to newest from the red one on the left to the Tramontane that I now play and played for the recording. Many of the guitars need repair here and there. I will likely take them in post-pandemic.

# Spotlight Article

## Telecommuting Employee Accidents - Risk Management and Claims Nightmare?

By : James M. Moore

The Coronavirus pandemic grew what was a “cottage industry” type job to one of the most popular jobs in existence today. Most telecommuting employee accidents will involve in-home hazards.

Let us look at the:

Previous telecommuter articles – check out the articles I wrote over the last few months on telecommuting employees since the beginning of the pandemic

Class Code 8871 Popular Now  
Premium Refunds From COVID Crisis  
California Adds Telecommuter Class Code  
Furloughed Employees

Definition of a Telecommuting Employee- from the rate bureau(s)  
In-home hazards that may cause accidents  
Most popular accident type with telecommuters

### Telecommuting Employee Definition

The best way to define telecommuting employees comes from the rate bureaus. NCCI’s definition covers approximately 40 states. (with a few state exceptions). The other states have independent rating bureaus. The definition is (paraphrased):

*For purposes of Code 8871, a residence office is a clerical work area located within the home of the clerical employee. Additional requirements are that the residence office must be separate and distinct from the location of the employer.*

*Clerical duties of an employee classified to Code 8871 include but are not limited to the creation or maintenance of financial or other employer records, handling correspondence, computer composition, technical drafting, and telephone duties, including sales by phone.*

*Telecommuter employees who also engage in duties away from the residence such as depositing funds at banks, the purchase of office supplies, and/or the pickup or delivery of mail are assigned to Code 8871 provided these duties are incidental and directly related to that employee’s duties in the residential office.*

California’s rating bureau (WCIRB) has not officially added the telecommuter code to their manuals. The lion’s share of their next meeting covers Class Code 8871. You can check out the next meeting [here](#).

### In-home Hazards Could Cause Telecommuting Employee Accidents

According to an article in OMG Top Tens – the following are the Top 10 Hazards and associated employee accidents in a home office.

10. Wet Floor Accidents
9. Tripping on Carpets & Cables
8. Stairway Accidents
7. Burns
6. Injury Caused by Machinery
5. Head Injuries – overhead cabinets
4. Chair-Related Injuries or Accidents
3. Accidents in the Restrooms – can be compensable see next link
2. Glass Accidents
1. Furniture Corners



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*The most common type of office accident is the one attributed to furniture corners. Sharp table corners should be covered with protective tabs to prevent accidents; placing furniture pieces with rounded edges can help, too.*

The #1 most common injury is why I decided to link to and quote the article. We have all seen people injure themselves with furniture corners – sometimes seriously. The overhead cabinets in #5 could have been ranked higher.

A great telecommuter article from SFM pointed out three important considerations in the next two sections:

1. Coffee or bathroom breaks may be compensable – an office is an office if you designate it as one
2. A safety plan needs to be in place for telecommuters
3. A dedicated workstation enhances safety and productivity

### **Planning for safe remote work**

You can prepare for the safety of your remote workers by creating or reviewing your policies and procedures for remote work:

- Develop a remote work policy that covers eligibility, safety, equipment, and security
- Have the employee sign a remote work agreement, acknowledging their responsibilities
- Create a safety checklist or assessment for remote workspaces
- Require a dedicated workstation in their home
- Consider equipment and security needs
- Provide safety training and resources
- Follow up regularly to ensure safety procedures are being followed

### **Safety concerns in home offices**

As an employer, you can monitor and enforce safety practices at your central office. It becomes more challenging when you do not control your worker's environment.

Do all you can to ensure that employees' working spaces meet the minimum criteria for safety. Workers may be more complacent in their own homes, and disregard tripping hazards or poor ergonomics.

- A dedicated home workstation is beneficial because, unlike lounging on the couch with a laptop, the workstation can be set up for proper ergonomics. An optimal setup includes:
- An appropriate chair and desk
- The computer, keyboard, and mouse in the correct positions
- A telephone, possibly with a headset
- Proper lighting to reduce eye strain
- Adequate, accessible storage to eliminate tripping and lifting dangers – these are huge losses when they occur
- Awareness about electrical and fire hazards

The above-linked articles have one thing in common. Both were written pre-pandemic. They were not written as a response to any telecommuting employee accidents or current work situations.

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