



# Mutual LINK



## End of Session Countdown

*Aaron Cocking, MAFMIC Government Affairs Director*



The 2013 legislative session is nearly over and, as of right now, our industry has fared pretty well. There have been four bills that we have concentrated on defeating this year. The status of the following bills is as of this writing. (There are still 3 weeks left in the legislative session and things can still change.)

SF722 would require insurance companies to send out "annual summary statements" to all policy holders including coverages they have, coverages they don't have, and optional coverages available to them. After meeting with the chief author of the bill about our concerns, he agreed that he would not pursue its passage.

HF 642 is a bill pushed by the trial lawyers. This bill would expand the consumer fraud statute so that any civil suit brought under this statute would be deemed "in the public interest." This would allow the plaintiff to recover attorney's fees. The Senate Commerce Chairman recognized the problems with the bill and refused to hear it in committee. This prevented the bill from advancing further.

The third bill that we have been working hard against is a bill that would prohibit the use of waivers of liability. After clearing committees on both the House and Senate sides, many other groups besides MAFMIC recognized the harm this bill would cause. Without being able to utilize waivers of liability, many activities would become significantly more expensive because of the higher cost for liability insurance. As of this writing, there are 35 groups, including MAFMIC, that have expressed opposition to its passage. It appears that this bill will likely not be taken up in the Senate.

The last and most significant bill we have been fighting against is a bill that would add a \$5 insurance surcharge to all auto and homeowners policies sold in this state to bailout police and firefighter pensions. The provision is included in the House tax bill and is not included in the Senate tax bill. MAFMIC will be working diligently to ensure the Senate position is adopted.

Finally, I would like to thank all of you who have called or emailed your legislator asking them to oppose these bills. It is people like you who allow us to be successful in defeating these bad bills in St. Paul, and for that I say thank you!

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## ~ Board Member Profile ~



### Holmes City Farmers Mutual Karin Erickson, Manager Alexandria, Minnesota



Our Company was founded in 1884 by a group of Swedish farmers in Holmes City Township, Douglas County, MN. The company office was moved to Alexandria in 1981.

We write fire, lightning and additional lines for homes and farms. Holmes City has four employees and 28 agencies that represent our mutual.

We serve Swift, Kandiyohi, Pope, Grant, Todd, Otter Tail, Stevens, Stearns, Big Stone and Douglas Counties.

Our mission is to be a Mutual that is strong and an agency and policyholder dedicated while providing excellent customer service. Our goal is to be a company that is dedicated, strong and stable while keeping up with the challenges that the future will present.

Our company's biggest challenge would be staying competitive with rates and invest in technology.

Holmes City Farmers Mutual has a scholarship program. Our Mutual donates to our local fire departments and are a member of the Alexandria Chamber and Commerce.

One word that describes our mutual would be "CONSISTANT".

### Editorial Advisory Committee

Karl Porisch - *Chairman* - Western Mutual

Jim Barta - *Vice Chairman*- Jim Barta CPA, PA

Dan Baasen - Northland Securities

Deb Liden - Bray-Gentilly Mutual

John Neal - Willenbring, Dahl, Wocken & Zimmerman

Dan Stewart - Berean Claims Service, Inc.

Rick Tjarks - *Board Liaison* - Grinnell Mutual

Jerry Zenke - Mound Prairie Mutual

Dani Hennen, MAFMIC - *Staff Liaison*

Arlette Twedt, MAFMIC - *Staff Liaison*



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or [info@mafmic.org](mailto:info@mafmic.org)

## March 2013 Board Meeting Synopsis

The MAFMIC Board of Directors held their first quarterly meeting of the year on March 12 at the Arrowwood Resort & Conference Center prior to the beginning of the Short Course. In addition to routine items like the financial and management reports, district updates, and board liaison committee reports, the board took action on a few items requiring approval. Government Affairs Director, Aaron Cocking also provided a legislative update.



The board received a draft copy of the Media Policy prepared by Government Affairs Director, Aaron Cocking. Chairman, Jeff Mauland asked the board to review this document prior to the June meeting. This item was added to the June board meeting agenda for further discussion and final approval.

The board also discussed and approved a revision in the employment contract for Government Affairs Manager, Marcus Marsh to change the payment schedule during his final year in order to avoid any Social Security penalties. The board also discussed his upcoming retirement on June 30.

Chairman, Jeff Mauland and Vice Chairman, Deb Liden discussed an issue brought to light during recent township mutual audits involving Minnesota Unemployment Tax. As indicated in statute, officers of a township mutual insurance company are not eligible for Minnesota Unemployment benefits. The board discussed possible courses of action to address this issue. Chairman, Jeff Mauland indicated that further research will be necessary and asked to have the item placed on the agenda for the June board meeting.

Chairman, Jeff Mauland also asked the board to submit any ideas and suggestions for the Strategic Plan Committee meeting later this year.

The board will meet for their second quarter meeting at Madden's on Gull Lake, Brainerd, MN on June 11-12. As always, members are encouraged to contact their MAFMIC District Directors with any concerns or issues that may need to come before the board.

Greg Parent  
MAFMIC Secretary-Treasurer

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## 2013 Legislative Update

Aaron Cocking, MAFMIC Government Affairs Director



### What's Happening at The Capitol



We are past the midway point in the 2013 legislative session and many things are starting to come into focus. We have passed the policy committee deadlines which means that if a policy bill is not sitting on the House or Senate floor it is effectively dead for the year.

The biggest issue that we have been working on this year has been trying to defeat a bill which would add a \$5 surcharge to all auto and homeowner's policies to fund shortfalls in police and firefighter pensions. This bill is bad public policy because it ties a benefit to a single revenue source. We believe that if this issue has such statewide importance, the money should come from the general fund. We continue to fight against other bills that we view as damaging to our companies and to our industry. Most of these are initiatives of the trial attorneys. They include a bill which would prohibit waivers of liability and an expansion of the consumer fraud statute.

The legislature is constitutionally required to adjourn for the year by May 20th. In years passed, the legislature has almost always gone until the very last minute of that day. It will be interesting to see this year if one party control of the House, Senate, and Governor's office will enable them to adjourn earlier. If you would like to receive the weekly legislative update, please email Government Affairs Director, Aaron Cocking at [aaron@mafmic.org](mailto:aaron@mafmic.org) and ask to be added.

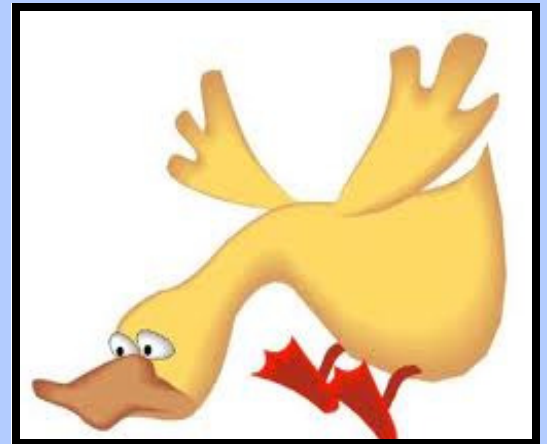
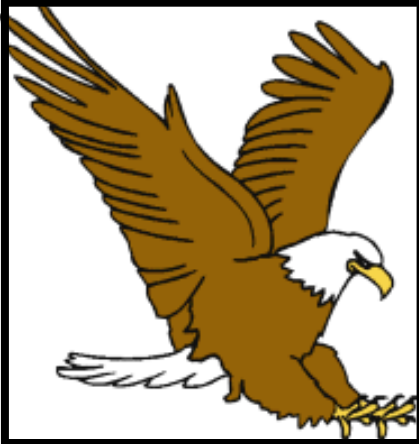
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# 2013 Short Course Highlights

Arrowwood Resort & Conference Center, Alexandria, MN



Yah...I'm just sitting here at the Short Course !!





# 2013 Short Course Highlights







# 2013 Short Course Highlights



Larry Doerr and Brent Luthens were presented the Trophy by Aaron Cocking for Bean Bag Champs!

Ryan Zylstra wins the Trophy for 9 "easy" shots out of 10! ~ Impressive!



Scott Irvine got **best putter** out of 14 people putting. Presenting him with his \$100 win and a trophy is Tim Iverson.



Thank you to all who participated in the games to help raise money for the PAC !!





# 2013 MAFMIC ETHICS

## June 5 - Holiday Inn & Suites, St. Cloud, MN

Member \$45.00 and Non-Member: \$95.00

### Class Schedule

8:30 - 9:00 am	Registration & Coffee
9:00 - 12:00 pm	Ethics "Same Old Same Old"- Bob Loonan, Insurance Instructor
12:00 pm	Closing Announcements

Application has been made to the MN Department of Commerce for 3.0 hours of Non-company Continuing Education Credits. We do not give partial credit for any portion of this Seminar. **(Approval Pending)**

### Cost and Registration

- For **member company agents** the Early Bird registration fee is \$45.00 before May 17th. The registration fee *after* May 17th is \$70.00.
- For **non-member company agents** the registration fee is \$95.00. The registration fee *after* May 17 is \$120.00.
- Make payment by check to MAFMIC. **Registration deadline** is 10 days prior to the date of the meeting. **PLEASE NOTE:** You will be notified if the class for which you registered is full or cancelled. No other correspondence will be sent.

### Cancellation Policy

- Cancellation notices received on or before May 21st are 75% refundable; by June 3rd, 50% refundable.
- No refunds will be made after June 3rd, 2013; however, you may substitute a participant at no additional charge.
- All registration cancellations and transfers must be made in writing and sent to [info@mafmic.org](mailto:info@mafmic.org) or faxed to (320) 271-0912

## 2013 MAFMIC Ethics Class - June 5, 2013

### Registration Form

Name \_\_\_\_\_ License Number \_\_\_\_\_

Home Address \_\_\_\_\_

Agency Name & Address \_\_\_\_\_

E-mail Address \_\_\_\_\_ Phone \_\_\_\_\_



Mail  
P.O. Box 880, St. Joseph, MN 56374



Fax  
(320) 271-0912



Phone  
(320) 271-0909





# Manager & Director's Seminar

*Wednesday, July 17, 2013*  
*St. Cloud River's Edge Convention Center*  
*St. Cloud, Minnesota*

MAFMIC will once again offer a seminar designed for Mutual Managers and Directors. This seminar features topics of interest and importance to managers and board members alike and should benefit their role in the company. We will also be presenting two sessions that will earn active farm mutual insurance company directors credit toward the **NAMIC Farm Mutual Director Certification (FMDC)**. We will be offering **two classes**:

**Finance & Accounting Module - Investment Perspective and Operations & Insurance Module.**

## Continuing Education Credit

Application has been made for **3.0 hours** of non-company continuing education credits. We do not give partial credit for any portion of this Seminar. (Approval Pending)

## AGENDA

8:00 – 8:45 am	<b>REGISTRATION</b>
9:00 – 10:30 am	<b>“Finance &amp; Accounting Module” - Investment Perspective (FMDC)</b> <i>Wayne Schluchter, Schluchter Investment Advisors</i>
10:45 – 12:15 pm	<b>“Legislative Updates” - Government Affairs Director</b> <i>Aaron Cocking, MAFMIC</i>
12:15 – 1:15 pm	<b>LUNCH</b>
1:15 – 2:45 pm	<b>“Marketing &amp; Branding Your Mutual”</b> <i>Brent Bahler, NAMIC</i>
3:00 – 4:30 pm	<b>TBD (Directors Only)</b>
3:00 – 4:30 pm	<b>“Manager’s Round Table” (Manager Only)</b> <i>Managers will be receiving their copy of the Financial Analysis</i> <b>Moderators: Mike Kaufman, Unity Mutual &amp; Carol Maciej, Mid-Minnesota Mutual</b>

## Early registration fee on or before Friday, June 28, 2013.

\$98 member early registration (\$120 member late registration)

\$130 non-member early registration (\$145 non-member late registration)

## Hotel

Please mention you are with MAFMIC in order to receive our special group rate.

All reservations must be made on or before **June 28, 2013** in order to receive the MAFMIC group rate.

### Le St-Germain Suite Hotel

404 West St. Germain  
 St. Cloud, MN 56301  
 (320) 654-1661

**Rate: \$99.00**

### Best Western Kelly Inn

100 4th Ave South  
 St. Cloud, MN 56301  
 (320) 253-0606

**Rate: \$79.00**

## Cancellation Policy

- Cancellation notices received on or before July 5, 2013 are 75 percent refundable.
  - Cancellation notices received July 5–15, 2013 are 50 percent refundable.
- No refunds are available after July 15, 2013. You may substitute a participant at no additional charge.

## MAFMIC Educational Scholarship Golf Outing

# BEST BALL SCRAMBLE

Little Crow Country Club - Spicer, MN

Thursday, July 18, 2013

10:30 a.m. – Registration

11:30 a.m. – Shotgun Start

4:30 p.m. – Dinner & Awards Ceremony  
Traveling Trophy for 1<sup>st</sup> Place Team

Register with MAFMIC's office by  
Friday, June 28th, 2013



Golf Package - \$95.00

*Fee Includes: Green Fees, Golf Cart, Grilled Hamburgers, Beverage Tickets (2), Prizes and Dinner*

**Dinner Only - \$23.00**

**'Sponsor a Hole' and help educate Minnesota's youth - \$150**

### 2013 MAFMIC Educational Scholarship Golf Outing

Name: \_\_\_\_\_ Average 9 Hole Score \_\_\_\_\_

Company: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*Please check all that apply:*

Golf Package - \$95.00 per person \$ \_\_\_\_\_

Dinner Only - \$23.00 per person \$ \_\_\_\_\_

Hole Sponsorship - \$150 per hole \$ \_\_\_\_\_

Other Sponsorship \$ \_\_\_\_\_

TOTAL ENCLOSED \$ \_\_\_\_\_

Playing Partners (3): \_\_\_\_\_



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## *Legal Corner*    **Innocent Spouse Doctrine, John Neal, Attorney**

With the “Great Recession,” we have seen an increase in arson cases. While hopefully we are pulling ourselves out of this recessionary period—and hopefully less arsons—we are reminded of the “innocent spouse doctrine.” This doctrine holds that a spouse, who has no involvement with the arsonary or fraudulent acts of another spouse, may be entitled to insurance proceeds as a result of that loss. This hinges largely on the type of policy (Homeowner’s vs. Farm Policies) and the underlying facts relating to the “innocent” spouse.

Sometime ago, insurance policies were written in a way to avoid coverage to any insured if another insured intentionally destroyed the property or acted fraudulently. *See Reitzner v. State Farm*, 510 N.W.2d 20 (Minn. Ct. App. 1993). In 1997, the Minnesota Supreme Court determined that this policy language conflicts with the standard form requirements of a homeowner’s policy written under Minnesota Chapter 65A. *See Watson v. United Servs. Auto. Ass’n.*, 566 N.W.2d 683, 689 (Minn. 1997). According to the *Watson* Court, the standard form policy protects an innocent insured and accordingly any homeowner’s policy written in the State of Minnesota must do the same. In light of *Watson*, many homeowner’s policies reflect this “innocent spouse” concept. The following is an example of such policy language:

Intentional Loss. If you or any insured intentionally cause a loss to property covered under this policy, this policy shall not apply. This exclusion does not apply, with respect to loss to covered property, to an insured who does not commit, or direct another to commit, any other act that results in loss. We cover such insured only to the extent of that insured’s legal interests by not exceeding the applicable limit.

Thus, when dealing with an “innocent spouse” under a homeowner’s policy, coverage may exist for that spouse. The issue then turns to the “legal interest” that spouse has in the property. Relevant questions in this regard are whether a prenuptial agreement exists whereby the innocent spouse has no interest in the property; or whether the guilty spouse has a full and complete non-marital interest in the property. Other factors may also apply. Assuming the innocent spouse does have a full interest in the property, then generally the insurance payout would be one-half of the loss.

In contrast, when dealing with a farm policy written under Minnesota Chapter 67A, the innocent spouse doctrine would likely not apply. Minn. Stat. § 67A.25, Subd. 2, states in sum that “township mutual fire insurance companies” are excluded from all provisions of the insurance laws in Minnesota. Since the *Watson* decision is based on Minnesota Chapter 65A, it arguably has no application to policies written under Chapter 67A (e.g., farm policies). Indeed language within the TP-1 form reflects this:

Intentional Loss. If you or any insured intentionally cause a loss to property covered under this policy, this policy is void as to all insureds and we will not pay you or any other insured for the loss.

In sum, in dealing with an arson on a farm policy written under Chapter 67A, arguably the innocent spouse doctrine does not apply. In dealing with a homeowner’s policy, a number of variables will need to be evaluated to determine whether the so-called “innocent spouse” has a valid claim.

## Claims Corner



## Claims and Overhead Overhead Profit & Software Issues Dan Stewart, Berean Claim Services

It was a pretty simple claim. The adjuster agreed with the policyholder on the scope and estimate of damage based on the local unit costs. A few months later an invoice from an unknown contractor is submitted for the adjuster's estimate.....plus 20% overhead and profit (OH/P). Now the work is done and you have a re-opened file. Sometimes you also have a "Not too friendly" contractor who is threatening to put a lien on your policyholder's house if he has not paid the balance (the recoverable depreciation and the 20% OH/P) of his invoice.

Every business has overhead (rent, insurance, taxes, utility bills); expenses that are not directly attributable to a single customer job or account. And, every business has to make a profit to stay in business. So yes, we must (and do) pay OH/P all the time—it is due. The issue is more a question of duplication of the OH/P charge than a discussion of whether or not it is due.

When the local roofer, for example, calculates his price per square, he includes labor and material costs then adds some percentage of OH/P to arrive at the price he needs to charge for each square of shingles installed. The adjuster estimated the damage at that unit cost (aka price per square), which includes OH/P. Now Joe Shark Exteriors comes into town and adds 20% (overhead and profit as a percentage whether it be 6% to 40%) to the unit cost. Is that due? Most people would agree that adding a second layer of OH/P is not appropriate.

We have an all together different situation on a fire claim when the estimate of damage may include a material list from a local provider, bids from electricians, plumbers, framers, painters, etc. The general contractor who is organizing, supervising, and "running" the job, is appropriately paid an OH/P figure (usually 20%) for his time and efforts. It is due; he has earned it.

So on what basis is the OH/P denied in the first scenario but acceptable in the second? When do you owe an additional amount for overhead and profit? Well, there is no definite answer. There is nothing from DOC, AG or DOLI on the subject of OH/P. For decades many in our industry have used an arbitrary standard of adding OH/P when there were three or more sub-contracted trades involved. (Why three?) Others have refused to pay OH/P unless the "general" contractor produces invoices (with TIN's) from the sub-contractors. To get around this, we have discovered an unscrupulous "general" contractor submitting invoices produced via another LLC that they control or by using an assumed name; essentially invoicing themselves to make it appear as if sub-contractors were used.

To determine whether an additional charge for OH/P is due or not, we may need to ask the simple questions: "Was it earned?" "Has it already been included in the unit cost figures?" So, is OH/P due? Yes! Don't pay it twice.





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## NOTICES

### JOB OPENING!

**NORTH STAR MUTUAL**, Cottonwood, MN, is seeking to fill two **Catastrophe Claims Adjuster** positions in the Minneapolis/St. Cloud, Minnesota area. Please visit the Careers tab of our website at [www.nstarco.com](http://www.nstarco.com) for further information regarding these positions and instructions on how to apply.

### Merger

Effective 1/1/13 Arctander & Lake Andrew Mutual merged with Crate Farmers Mutual. The company name has been changed to **"Prairie West Mutual"**  
Manager: Galen Gerdes

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## 2013 MAFMIC CALENDAR OF EVENTS

- May 6-7** Congressional Contact Visit  
Washington D.C.
- May 14-15** Managers Workshop  
Grand View Lodge, Nisswa
- June 5** Ethics  
Holiday Inn, St. Cloud
- July 17** Manager & Director's Seminar  
River's Edge Convention Center,  
St. Cloud
- July 18** Scholarship Golf Outing  
Little Crow Country Club, Spicer
- July 23-25** NAMIC Ag Risk Inspection School  
Airport Marriot, Minneapolis
- September 4** PIA –Education Day & Trade Show  
Mystic Lake Casino, Prior Lake
- Sept. 22-25** NAMIC 118<sup>th</sup> Convention  
Seattle, Washington
- November 18** Fall Regional Meetings  
Shooting Star, Mahanomen
- November 19** Fall Regional Meetings  
Holiday Inn, St. Cloud
- November 20** Fall Regional Meetings  
Ramada Inn, Rochester
- November 21** Fall Regional Meetings  
Jackpot Junction, Morton



To submit an article to be published in the Mutual Link please send them to Mutual Link, PO Box 880, St. Joseph, MN 56374 or email them to [info@mafmic.org](mailto:info@mafmic.org).



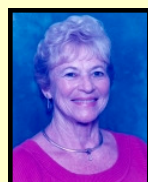
## IN SYMPATHY



### In Sympathy



Sylvan Lien, 80, a resident of rural Dalton, died peacefully Tuesday, March 12, 2013 at his home under the loving care of family and Lake-land Hospice. He worked at Northern Mutual and Austin Mutual. He was a marketing rep and field adjuster. In 1966 Sylvan left farming and went to work as a salesman for Prudential Insurance Company. In 1971 he left Prudential and took over the insurance agency at the bank in Dalton. In 1976 he went to work for Austin/Northern Insurance Company of Minneapolis. He became a Director on the Board of Northern Insurance Company. After retiring from full time work in 1995 he continued to work part time as an insurance adjuster for The Austin Group of Companies until 2001.



Rita O. Verkinnes, 78, a resident of St. Cloud, died peacefully Wednesday, April 24, 2013 at Quiet Oaks Hospice House in St. Cloud after battling a form of Leukemia for the past year. Funeral services were held Monday, April 29. Rita was born on February 11, 1935 in St. Cloud to the late Matt and Caroline (Ertl) Bauer. She married John (Jack) Verkinnes on September 10, 1955, he preceded her in death on December 22, 2003. Following her husband's retirement the couple moved to the Villages in Lady Lake, Florida. Following Jack's death in 2003, Rita moved back to St. Cloud. Rita worked as a Personnel Manager at JC Penney in St. Cloud for 23 years prior to her retirement. For the past eight years she was a hostess at The 400 Supper Club. Rita was the mother of Lori Olmscheid, Member Services Director of MAFMIC.

*MAFMIC wishes to express its sincerest condolences to family and friends of Sylvan & Rita.*

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