



Section of Litigation

Insurance Coverage Litigation Committee CLE Seminar

MARCH 3–5, 2011

The Westin La Paloma ■ Tucson, AZ

www.abanet.org/litigation/committees/insurance/calendar_annual.html



11.6 hours of MCLE credit, including 1 hour of ethics credit, have been requested in 60-minute states, and 14 hours of MCLE credit, including 1.2 hours of ethics credit, have been requested in 50-minute states.

PROGRAM HIGHLIGHTS

Why You Should Attend

Insurance touches every aspect of litigation. Today more than ever it is critical to stay informed on the latest trends in the law. Join many of the Nation's top insurance company and policyholder counsel and other industry leaders at the Insurance Coverage Litigation Committee CLE Seminar. Learn from top speakers and discuss current insurance issues with a particular focus on litigation skills. This year's program promises to provide the same high-quality presentations and valuable networking opportunities as the prior 21 ICLC programs.

What You Will Learn

- Experienced practitioners' top 10 hints for careful and successful preparation for ADR
- Coverage for natural and not-so-natural disasters (including the BP Oil Spill)
- An introduction to the new "cyber" world of privacy, data security risks, and the insurance coverage problems they present
- A candid insiders' view of the positive features and flaws of arbitration as a mechanism for resolving insurance disputes
- Emerging insurance issues

Who Should Attend

- All attorneys who practice or are involved in the area of insurance coverage
- In-house counsel and seasoned practitioners needing an update from leading trial lawyers, industry experts, and members of the judiciary on the latest legal developments

Thank you to our 2011 Insurance Coverage Litigation Committee Co-Chairs and Seminar Co-Chairs

Committee Co-Chairs:	Seminar Co-Chairs:
Mary Craig Calkins	Tracy Alan Saxe
Ronald Kammer	Theodore Howard

This year's ICLC Conference will provide support to Angel Charity for Children, Inc. to further their mission to improve the lives of Pima County, AZ, children.

Angel Charity for Children raises money for agencies whose services for children address their healthcare, educational, physical, mental, emotional, and recreational needs. There will be opportunities to support this group's efforts at Friday's dinner and to "drive the green" for its benefit at Friday's golf outing. For more information please visit our Seminar website at abanet.org/litigation/committee/insurance/calendar_annual.html or contact Sherilyn Pastor at spastor@mccarter.com. Attendees are encouraged to support this worthy organization.

SCHEDULE—AT—A—GLANCE

WEDNESDAY, MARCH 2, 2011

6:30 pm – 7:30 pm

Early Bird Cocktail Reception

THURSDAY, MARCH 3, 2011

11:00 am – 12:00 pm **LexisNexis Panel**
Brave New World: Legal Research and the Coverage Attorney

12:00 pm – 6:00 pm Registration

1:00 pm – 2:10 pm **CLE Plenary Session**

Tough Evidentiary Issues in a Coverage and Bad Faith Trial

2:15 pm – 3:20 pm **CLE Plenary Session**

ICLC IDOL 2011 Part I

3:20 pm – 3:35 pm Coffee Break

3:35 pm – 4:45 pm **CLE Plenary Session**

What's Wrong with Arbitration?

4:55 pm – 5:55 pm Subcommittee Expo

4:55 pm – 5:55 pm Managing Editors of Coverage Meeting

6:00 pm – 7:00 pm In-House Counsel and Diversity Subcommittees' Reception

6:30 pm – 8:00 pm Welcome Reception

FRIDAY, MARCH 4, 2011

7:00 am – 12:35 pm Registration

7:00 am – 8:00 am Continental Breakfast

8:00 am – 9:05 am **CLE Plenary Session**

Privacy and Data Security: The New "Cyber" World of Insurance Coverage and Risk Management

9:10 am – 10:15 am **CLE Plenary Session**

Beyond the Usual Suspects: Coverage for Natural and Not-So-Natural Disasters

10:15 am – 10:30 am Coffee Break

10:30 am – 11:30 am **CLE Breakout Sessions**

- **Demystifying the Discovery Process in the Modern Coverage Action**
 - **Pay Me Now! Coverage Disputes over Legal Fees**
 - **Resolving Reinsurance Disputes at Home and Abroad: Developing the Case and Proving It at a Trial or a Hearing**
 - **When "Later" Is Just Too Late: Early "Issue Spotting" in Construction Claims and Litigation**
- 11:35 am – 12:35 pm **CLE Breakout Sessions**
- **What Companies Don't Know They Don't Know about Insurance Coverage for Business Torts**

- **Reimbursement for Payment of Non-Covered Claims**

- **The Role of U.K. Insurers in Resolving U.S. Claims**

■ ICLC IDOL 2011 Part II

12:35 pm – 2:00 pm Roundtable Luncheon (Ticketed Event: \$45 a day/\$80 for both)

2:15 pm – 5:00 pm Activity: Golf (Ticketed Event: \$100)

2:30 pm – 4:30 pm LexisNexis Focus Group

5:00 pm – 6:00 pm Women's Reception

6:00 pm – 7:00 pm Young Lawyers Reception

7:00 pm – 10:00 pm Reception and Dinner (Ticketed Event: \$85)

SATURDAY, MARCH 5, 2011

7:00 am – 12:30 pm Registration

7:00 am – 8:00 am Continental Breakfast

7:00 am – 7:45 am Committee Business Meeting

8:00 am – 9:00 am **CLE Plenary Session**

Will Insurance Be There When You Need to Settle? Top 10 Hints for Careful ADR Preparation

9:05 am – 10:05 am **CLE Breakout Sessions**

- **What We've Got Here Is a Failure to Communicate**
- **Discovery and Confidential Insurance Settlement Agreements**
- **AI Coverage: Additional, but No Less Important**
- **Key Issues in Bermuda-Form Arbitration Proceedings**

10:05 am – 10:20 am Coffee Break

10:20 am – 11:20 am **CLE Breakout Sessions**

- **The Devil Is in the Details: A Practical Overview of Notice, Tender, and Reservation-of-Rights Letters**
 - **Emerging Insurance Issues for the Healthcare Industry**
 - **Institutional Bad Faith—Putting the Insurer's Practices and Procedures on Trial**
 - **The Business Interruption Conundrum**
- 11:25 am – 12:30 pm **CLE Ethics Session**
- Doing Right and Doing Well—Ethical Rules as a Boon to Practice**
- 12:35 pm – 2:00 pm Roundtable Luncheon (Ticketed Event: \$45)
- 4:30 pm – 5:30 pm Farewell Networking Reception

MODERATORS & SPEAKERS

Robert D. Allen

*Meckler Bugler Tilson Marick
& Pearson, LLP*
Dallas, TX

David Attisani

Choate Hall & Stewart LLP
Boston, MA

Paul Banker

Lindquist & Vennum PLLP
Minneapolis, MN

Eric G. Barber

Perkins Coie LLP
Madison, WI

William T. Barker

SNR Denton
Chicago, IL

Joseph Bauer

Bauer Advising LLC
Cleveland, OH

Sandra L. Berkowitz

*Willis National
Healthcare Practice*
Randor, PA

James P. Bobotek

*Pillsbury Winthrop Shaw
Pittman LLP*
Washington, DC

John Bonnie

*Winberg Wheeler Hudgins
Gunn & Dial*
Atlanta, GA

Kali Bracey

Jenner & Block LLP
Washington, DC

Andrew D. Brands

*The Great-West Life
Assurance Company*
Toronto, ON

David M. Brenner

Riddell Williams PS
Seattle, WA

Thomas A. Brusstar

Hinkhouse Williams Walsh LLP
Chicago, IL

Michele C. Camerota

Nuzzo & Roberts, LLC
Cheshire, CT

Rina Carmel

Carlson, Calladine & Peterson LLP
Los Angeles, CA

Owen B. Carragher

Lankler & Carragher, LLP
New York, NY

Jamie Carsey

*Thompson, Coe, Cousins
& Irons, LLP*
Houston, TX

Keisha Carter

LexisNexis
New Providence, NJ

Suzan F. Charlton

Covington & Burling LLP
Washington, DC

Kit Chaskin

Reed Smith LLP
Chicago, IL

Louis Chiafullo

McCarter & English, LLP
Newark, NJ

Vivek Chopra

Dickstein Shapiro LLP
Washington, DC

Alison R. Christian

Harper Christian Dichter Sluga
Phoenix, AZ

Jeffrey M. Cohen

Carlton Fields
Miami, FL

Michael E. Cobo

DecisionQuest
Los Angeles, CA

J. James Cooper

Gardere Wynne Sewell LLP
Houston, TX

Don Corrigan

GAB Robins
Chicago, IL

Shaun H. Crosner

Dickstein Shapiro LLP
Los Angeles, CA

Alicia G. Curran

Cozen O'Connor
Dallas, TX

Karen Cusato

Cusato Consulting, LLC
Westport, CT

Henry Daar

Aon Risk Services
Chicago, IL

Robert M. Darroch

*Goodman, McGuffey,
Lindsey & Johnson, LLP*
Orlando, FL

James M. Davis

Reed Smith, LLP
Chicago, IL

Kevin P. Dean

*Allied World National
Assurance Company*
Farmington, CT

Linda Eads

*Southern Methodist University
Dedman School of Law*
Dallas, TX

Michael W. Early

Chicago Underwriting Group, Inc.
Chicago, IL

Gillian Eastwood

*Freshfields Bruckhaus
Deringer, LLP*
London, UK

Angela Elbert

Neal, Gerber & Eisenberg LLP
Chicago, IL

Maria G. Enriquez

Bates, Carey & Nicolaidis, LLP
Chicago, IL

J. Randolph Evans

McKenna Long & Aldridge, LLP
Atlanta, GA

Tred R. Eyerly

*Damon Key Leong
Kupchak Hastert*
Honolulu, HI

Ommid Farashahi

Bates, Carey & Nicolaidis, LLP
Chicago, IL

Hallie Miller Fahey

Troutman Sanders LLP
Chicago, IL

MODERATORS & SPEAKERS

Dana Ferestien

Williams Kastner & Gibbs
Seattle, WA

Laura A. Foggan

Wiley Rein LLP
Washington, DC

Bryan Freeman

Lindquist & Vennum PLLP
Minneapolis, MN

Seth Friedman

*Weissman, Nowack,
Curry & Wilco, PC*
Atlanta, GA

Alexandra D. Furth

Liberty Mutual Insurance
Boston, MA

David Gauntlett

Gauntlett & Associates
Irvine, CA

Leonard Goldberger

Stevens & Lee, PC
Philadelphia, PA

Danielle Goldstein

Covington & Burling LLP
San Francisco, CA

David Greenwald

Jenner & Block LLP
Chicago, IL

Thomas Hams

Aon Financial Services
Chicago, IL

Elizabeth Hanke

*Kenesis Corporate and
Information Consulting LLC*
Washington, DC

Josephine Hicks

*Parker Poe Adams &
Bernstein LLP*
Charlotte, NC

Cindy A. Holub

Porter & Hedges, LLP
Houston, TX

Kim Howard

*Riverstone Claims
Management, LLC*
Manchester, NH

Doressia L. Hutton

Winston & Strawn LLP
Chicago, IL

Alan P. Jacobus

Carroll, Burdick & McDonough
San Francisco, CA

Chauntis T. Jenkins

Porteous, Hainkel & Johnson
New Orleans, LA

Lisa Hall Johnson

Dickstein Shapiro LLP
Washington, DC

Julia Reynolds Johnson

K&L Gates LLP
Washington, DC

Beth A. Kahn

Morris Polich & Purdy, LLP
Los Angeles, CA

Marla H. Kanemitsu

Dickstein Shapiro LLP
Washington, DC

Rahul Karnani

*Weissman, Nowack, Curry
& Wilco, PC*
Atlanta, GA

Toyja E. Kelley

Tydings & Rosenberg LLP
Baltimore, MD

Jeff Kichaven

Jeff Kichaven, Mediator
Los Angeles, CA

Shari L. Klevens

McKenna Long & Aldridge, LLP
Washington, DC

Craig Kline

*Sedwick, Detert, Moran
& Arnold LLP*
Irvine, CA

Ruth S. Kochenderfer

Steptoe & Johnson
Washington, DC

Rukesh Korde

Covington & Burling, LLP
Washington, DC

Nancy R. Kornegay

Brown & Kornegay LLP
Houston, TX

Kathryn E. Kransdorf

*Hancock, Daniel, Johnson
& Nagle, P.C.*
Richmond, VA

Rachel Kronowitz

Gilbert LLP
Washington, DC

Rich E. Kubler

*Gary, Plant, Mooty &
Bennet, P.A.*
Minneapolis, MN

John D. LaBarbera

Cozen O'Connor
Chicago, IL

Kevin A. Lane

Sliwa & Lane
Buffalo, NY

Hon. M. Hannah Lauck

U.S. Magistrate Judge
Eastern District of Virginia

Parker J. Lavin

Wiley Rein LLP
Washington, DC

Richard Leedham

Addleshaw Goddard
London, England

Kathryn V. Lindley

*OneBeacon Professional
Insurance*
Minnetonka, MN

Seema Lord

AON
Phoenix, AZ

Hon. Dean Lum

*King County Superior
Court Judge*
Seattle, WA

Ernest Martin, Jr.

Haynes & Boone, LLP
Dallas, TX

Katherine E. Mast

*Sedgewick, Detert, Moran
& Arnold LLP*
Los Angeles, CA

Lorie Masters

Jenner & Block LLP
Washington, DC

MODERATORS & SPEAKERS

John H. Mathias, Jr

Jenner & Block LLP
Chicago, IL

Jason Mazer

Ver Ploeg & Lumpkin, PA
Miami, FL

Stacey L. McGraw

Troutman Sanders
Washington, DC

William Merlin

Merlin Law Group
Tampa, FL

Helen K. Michael

Kilpatrick Stockton LLP
Washington, DC

Thomas Cl. Mielenhausen

Lindquist & Vennum LLP
Minneapolis, MN

Andrew Miller

Thacker Martinsek LPA
Perrysburg, OH

Gregory D. Miller

*Podvey, Meanor, Catenacci,
Hildner, Coccoziello &
Chattman, PC*
Newark, NJ

John D. Miller

Aon Construction Services
Jericho, NY

Jeremy Moen

Arch Insurance Group
Chicago, IL

Paul Moss

Montpelier Re
London, England

Elizabeth Ann Neumann

*Corporate & Financial
Claims/CNA*
New York, NY

Tonya G. Newman

Neal Gerber Eisenberg LLP
Chicago, IL

Nicholas N. Nierengarten

Gray Plant Mooty
Minneapolis, MN

Patricia O'Byrne

CNA Service Mark Companies
Cranbury, NJ

Judy O'Neill

Travelers UK
London, England

Joanna Page

Allen & Overy
London, England

Diane M. Parker

*Allied World Assurance
Company (U.S.), Inc.*
Redwood City, CA

Sherilyn Pastor

McCarter & English, LLP
Newark, NJ

John Podesta

*Branson, Brinkop, Griffith
& Strong, LLP*
Redwood City, CA

Gregory Podolak

Saxe Doernberger & Vita, PC
Hamden, CT

Neil Posner

*Much Shelist Denenberg Ament
& Rubenstein, PC*
Chicago, IL

Richard Resnick

Aon Construction Services Group
Jericho, NY

James L. Rhyner

Chubb Group
Warren, NJ

Paul Rose

Brouse McDowell LPA
Akron, OH

Meghan Anderson Roth

Cooper & Walinski LPA
Toledo, OH

Jonathan Sacher

Berwin Leighton Paisner, LLP
London, England

Kimberly Sands

Upchurch Watson White & Max
Daytona Beach, FL

Joanne Sarasin

*Much Shelist Denenberg Ament
& Rubenstein, PC*
Chicago, IL

Gretchen G. Sayers

*Specialty Global
Insurance Services*
Shawnee Mission, KS

David M. Schoeggli

Mills Meyer Swartling
Seattle, WA

Gregory Schopf

Nixon Peabody LLP
San Francisco, CA

Gregory J. Schwartz

Schwartz Kelly, LLC
Annandale, NJ

Julie Ginden Sears

*Bachara Construction
Law Group*
Jacksonville, FL

Judy Selby

Baker & Hostetler LLP
New York, NY

Nilam Sharma

Crowell & Moring LLP
London, England

Kenneth E. Sharperson

Anderson Kill & Olick, PC
Newark, NJ

Lori Siwik

Risk International Services, Inc.
Fairlawn, OH

Julie S. Sneed

Fowler White Boggs
Tampa, FL

Kay Song

Manulife Financial
Toronto, Canada

Judy Spry

BDO Consulting
Chicago, IL

John M. Sylvester

K&L Gates LLP
Pittsburgh, PA

PROGRAM INFORMATION

WEDNESDAY, MARCH 2, 2011

6:30 pm – 7:30 pm

Early Bird Cocktail Reception

THURSDAY, MARCH 3, 2011

11:00 am – 12:00 pm **LexisNexis Panel**

Brave New World: Legal Research and the Coverage Attorney

Speakers: Keisha Carter, Joanne Sarasin

12:00 pm – 6:00 pm

Registration

1:00 pm – 2:10 pm **CLE Plenary Session**

Tough Evidentiary Issues in a Coverage and Bad Faith Trial

A lively discussion of difficult evidentiary issues unique to coverage and bad faith cases, and the impact such issues can have throughout the claim process. Panelists include experienced coverage trial lawyers, a sitting judge who has presided over numerous coverage and bad faith trials, and a seasoned claim manager who has overseen many complex coverage disputes.

Speakers: Hon. Dean Lum, Thomas CL Mielenhausen, Gretchen G. Sayers, David M. Schoegg

2:15 pm – 3:20 pm **CLE Plenary Session**

ICLC IDOL 2011 Part I

The audience will vote for their favorite contestant in this competition for the "ICLC Idol 2011," where trial lawyers will emphasize their practical skills used during jury trials. A panel of judges will offer their critique of each lawyer's performance. One contestant will win the trophy during this two-day competition.

Speakers: Owen B. Carragher, Suzan F. Charlton, Louis Chiafullo, Michael E. Cobo, Angela Elbert, Toyja E. Kelley, Hon. M. Hannah Lauck, Gregory J. Schwartz, Anna D. Torres

3:20 pm – 3:35 pm Coffee Break

3:35 pm – 4:45 pm **CLE Plenary Session**

What's Wrong with Arbitration?

A panel of U.S. and U.K. experts will take a "no holds barred" look at a broad range of ethical issues involving the arbitrator appointment and umpire selection process and other ethical issues that may arise during an insurance or reinsurance arbitration.

Speakers: Andrew D. Brands, John H. Mathias, Jr., Jonathan Sacher, Kenneth E. Sharperson, Mary Kay Vyskocil, Dorothy Cory-Wright

4:55 pm – 5:55 pm

Subcommittee Expo

4:55 pm – 5:55 pm

Managing Editors of Coverage Meeting

6:00 pm – 7:00 pm

In-House Counsel and Diversity
Subcommittees' Reception

6:30 pm – 8:00 pm

Welcome Reception

FRIDAY, MARCH 4, 2011

7:00 am – 12:35 pm

Registration

7:00 am – 8:00 am

Continental Breakfast

8:00 am – 9:05 am **CLE Plenary Session**

Privacy and Data Security: The New "Cyber" World of Insurance Coverage and Risk Management

This program will identify privacy and data-security risks confronting all types of enterprises, explore the types of insurance policies most enterprises likely already have and the risks those policies do and do not cover, and the ways in which the insurance industry is working to respond to these risks.

Speakers: Rukesh Korde, Stacey L. McGraw, Neil Posner, James L. Rhyner, Andrea Tecce

PROGRAM INFORMATION

9:10 am – 10:15 am **CLE Plenary Session**

Beyond the Usual Suspects: Coverage for Natural and Not-So-Natural Disasters

Today's generation of environmental claims, including climate change and major disasters like the BP oil spill, present evolving theories of liability. We will analyze coverage that may be available from traditional sources, such as GL and pollution policies, and whether new theories of liability may trigger D&O or other policies.

Speakers: Karen Cusato, Kim Howard, John D. LaBarbera, Diane M. Parker, Robert Thavis

10:15 am – 10:30 am

Coffee Break

10:30 am – 11:30 am **CLE Breakout Sessions**

Demystifying the Discovery Process in the Modern Coverage Action

This program addresses the current state of the law regarding contentious areas of discovery in coverage litigation. Topics include discovery of insurers' reserve and reinsurance information, access to insurers' claims files, and discovery of communications to and from in-house counsel. The panel will also discuss depositions of claims handlers and in-house counsel.

Speakers: Shaun H. Crosner, Rahul Karnani, Parker J. Lavin, Meghan Anderson Roth, Jennifer C. Wasson

Pay Me Now! Coverage Disputes over Legal Fees

Explore the debate over coverage for legal costs. We will analyze coverage for fees beyond the duty to defend context and under indemnity-only policies, including the timing of payment and recoupment. We will examine the factors used to determine when legal costs are so "unreasonable" as to not be covered.

Speakers: Jamie Carsey, J. James Cooper, Michael W. Early, Ernest Martin, Jr, John W. Toothman

Resolving Reinsurance Disputes at Home and Abroad: Developing the Case and Proving It at Trial or a Hearing

This panel will address the differing strategies for resolving reinsurance disputes in arbitration vs. litigation, and in U.S. vs. non-U.S. jurisdictions. Topics will include differences between U.S. and non-U.S. jurisdictions regarding discovery and trial/hearing tactics, including scope of potential discovery, presentation of proof, and differing ethical/cultural expectations.

Speakers: David Attisani, Alexandra D. Furth, David Greenwald, Kay Song

When "Later" Is Just Too Late: Early "Issue Spotting" in Construction Claims and Litigation

Construction claims often create exceedingly complex legal and insurance issues. This session will explore key milestones for early identification of the critical issues and law, and devising strategies to deal with them that can make or break the successful pursuit or defense of construction insurance claims and litigation.

Speakers: John Bonnie, Hallie Miller Fahey, Josephine Hicks, John Podesta, Gregory Podolak

11:35 am – 12:35 pm **CLE Breakout Sessions**

What Companies Don't Know They Don't Know about Insurance Coverage for Business Torts

Business tort claims may implicate coverage under a variety of policy forms—CGL, Umbrella, Excess, International, E&O, D&O, Media Liability to name but a few. The key to maximizing insurance coverage includes evaluating policies not routinely consulted to address such risks.

Speakers: David Gauntlett, Tonya G. Newman, Julie S. Sneed

PROGRAM INFORMATION

Reimbursement for Payment of Non-Covered Claims

This program will analyze the various schools of thought that have developed on the issue of whether an insurer can seek reimbursement of defense costs and/or settlements attributable to non-covered claims.

Speakers: Robert D. Allen, Gary Thompson, Sara Thorpe, Hon. Dale Wainwright

The Role of U.K. Insurers in Resolving U.S. Claims

In the world of insurance coverage litigation, “cross-cultural negotiation” typically involves communications with our British counterparts. There are subtle and important differences between how we and they handle and resolve claims. This program will explore those differences and impart critical information that will help practitioners serve both their U.S. and U.K. clients better.

Speakers: Jeff Kichaven, Paul Moss, Judy O’Neil, Nilam Sharma, Christine Williams

ICLC IDOL 2011 Part II

The audience will vote for their favorite contestant in this competition for the “ICLC Idol 2011,” where trial lawyers will emphasize their practical skills used during jury trials. A panel of judges will offer their critique of each lawyer’s performance. One contestant will win the trophy during this two-day competition.

Speakers: Owen B. Carragher, Suzan F. Charlton, Louis Chiafullo, Michael E. Colo, Angela Elbert, Toyja E. Kelley, Hon. M. Hannah Lauck, Gregory J. Schwartz, Anna D. Torres

12:35 pm – 2:00 pm

Roundtable Luncheons (Ticketed Event: \$45)

1.* D&O Policy Applications: Can What You Don’t Know Hurt You?

Speaker: Nancy R. Kornegay

2.* Are Insurers Stuck Defending Assault Cases?

Speaker: Michele C. Camerota

3.* Who Is “You”?—Does the CGL Policy Require Timely Notice of an Occurrence from Additional Insureds?

Speakers: Kathryn E. Kransdorf, Kevin A. Lane

4.* Ensuing Loss: Deny My Claim if You Must, But Cover My Resulting Loss

Speaker: Tred R. Eyerly, Rina Carmel

5. To Notice or Not to Notice?: That Is the Question (The Effective Use of Notice Provisions in Claims-Made Policies)

Speakers: Eric G. Barber, Elizabeth Ann Neumann

6.* Deconstructing Wrap-Up Policies: A Coverage and Contract Challenge

Speakers: James P. Bobotek, Ruth S. Kochenderfer, Richard Resnick

7. Insurance Issues Arising from the Gulf Oil Spill

Speakers: Laura A. Foggan, Lorie Masters

8.* Green Building Risks and Insurability

Speaker: Howard Tollin

9.* Five Critical D&O Policy Provisions Every Practitioner Should Know

Speakers: Paul Banker, Bryan Freeman

10. Now You Have It, Now You Don’t

Speakers: Cindy A. Holub, Kathryn V. Lindley

11.* Who’s on First?—Strategies for Addressing Allocation Issues in D&O Coverage Disputes

Speakers: Helen K. Michael, Andrea Tecce

12.* Title Insurance to the Rescue? Deep Pockets Meet the Deep Real Estate Crisis

Speaker: Kit Chaskin

*Being presented on Saturday as well.

Continued...

PROGRAM INFORMATION

13.* There's a New Claim in Town: Insurer Liability for Vendor/Consultant Conduct

Speaker: J. Randolph Evans, Shari L. Klevens

14. Bad Faith and Summary Judgment: When Is Summary Judgment Appropriate on an Insured's Bad Faith Claim?

Speaker: Gregory D. Miller

15.* Coverage Issues in Chinese Drywall Litigation

Speaker: Robert M. Darroch

16.* Insurability Concerns in the EPLI Context—Punitive Damages, Intentional Acts and the Insurance Market's Response to Coverage

Speakers: Thomas Hams, Beth A. Kahn

17.* Subcontracting Default Risk: How Should Legal Practitioners Position Their General Contracting Clients to Effectively Manage the Risk Through Insurance and Surety Risk Management and Subcontract Provisions?

Speaker: Leonard Goldberger, John D. Miller

18.* Making Rain

Speaker: Sherilyn Pastor

19.* Insurance Coverage for Social Media Risks—Should You Give a Tweet?

Speakers: Rick E. Kubler, Nicholas N. Nierengarten

20.* The Role of the Broker, Owner/Contractor, and Program Administrator with respect to an OCIP and/or CCIP.

Speaker: Julie Ginden Sears

2:15 pm – 5:00 pm

Activity: Golf

(Ticketed Event: \$100)

2:30 pm – 4:30 pm

LexisNexis Focus Group

5:00 pm – 6:00 pm

Women's Reception

6:00 pm – 7:00 pm

Young Lawyers' Reception

7:00 pm – 10:00 pm

Reception and Dinner

(Ticketed Event: \$85)

SATURDAY, MARCH 5, 2011

7:00 am – 12:30 pm

Registration

7:00 am – 8:00 am

Continental Breakfast

7:00 am – 7:45 am

Committee Business Meeting

8:00 am – 9:00 am **CLE Plenary Session**

Will Insurance Be There When You Need to Settle? Top 10 Hints for Careful ADR Preparation

This panel will address the top 10 traps that stump even the most sophisticated ADR participants during settlement negotiations, touching on key settlement issues including notice, prior consent, insurer solvency, London Market, valuation, jurisdiction, reinsurance and claim data. In addition, we will provide timely solutions for maximizing coverage.

Speakers: Elizabeth Hanke, Rachel Kronowitz, Richard Leedham, Greg Schopf, Ray Wong

9:05 am – 10:05 am **CLE Breakout Sessions**

What We've Got Here Is a Failure to Communicate

What are insurers entitled to ask of their policyholders? What are insureds required to provide to their insurers? The panel of in-house counsel and outside coverage counsel from both the policyholder and insurer sides will discuss how communications can help lead to the successful resolution of claims and at the same time protect the rights of both insurers and policyholders involved.

Speakers: Joseph Bauer, Ommid Farashahi, Jeremy Moen, Paul Rose, Lori Siwik

Discovery and Confidential Insurance Settlement Agreements

Insurance coverage litigators will eventually confront a situation where someone is seeking discovery relating to a confidential insurance settlement agreement. The panel will present ideas from both perspectives—how to protect a confidential agreement from disclosure and how to obtain discovery of someone else’s confidential settlement agreement.

Speakers: Danielle Goldstein, Alan P. Jacobus, Craig Kline, Seema Lord, Patricia O’Byrne

AI Coverage: Additional, but No Less Important

This program will explore additional insured issues including what is additional insurance, how do you obtain it, how to defend against it, notice issues, rights of the additional insured, the impact of the various additional insured endorsements, along with real world examples of the application of these issues to coverage cases in a variety of contexts.

Speakers: James M. Davis, Seth Friedman, Marla H. Kanemitsu, Amy J. Woodworth

Key Issues in Bermuda-Form Arbitration Proceedings

This panel will discuss key issues and hot topics in Bermuda-form arbitrations, such as possible state-law preemption of mandatory arbitration provisions, application of NY substantive law vs. UK procedural law, attorney-client privilege and joint defense issues, confidentiality of proceedings vis-a-vis interested non-parties, conflicts of interest in choice of counsel and arbitrators, and challenges to arbitral awards.

Speakers: Thomas A. Brusstar, Gillian Eastwood, Maria G. Enriquez, Joanna Page, Judy Shelby, John M. Sylvester

10:05 am – 10:20 am Coffee Break

10:20 am – 11:20 am **CLE Breakout Sessions**

The Devil Is in the Details: A Practical Overview of Notice, Tender, and Reservation-of-Rights Letters

Often the first tasks assigned to young lawyers are drafting, analyzing and responding to routine correspondence, such as notice, tender, and reservation of rights letters. Hidden in what may seem mundane tasks are potential pitfalls. This panel, designed for new coverage practitioners, will discuss issues that arise in connection with insurance correspondence, as well as provide practical advice.

Speakers: Alison R. Christian, Doressia L. Hutton, Katherine E. Mast, Andrew Miller

Emerging Insurance Issues for the Healthcare Industry

This session will address emerging issues such as whether costs related to increasingly common regulatory investigations of healthcare providers for alleged improper billing and fraud are covered under healthcare providers’ D&O/E&O coverages. This session will also explore reimbursement and underpayment issues faced by healthcare providers.

Speakers: Sandra L. Berkowitz, Kevin P. Dean, Lisa Hall Johnson, Julia Reynolds Johnson

Institutional Bad Faith—Putting the Insurer’s Practices and Procedures on Trial

This program will address issues relating to the prosecution and defense of bad faith actions implicating an insurer’s general business practices, through the presentation of vignettes illustrating problems that arise in the discovery and trial of cases alleging that the insurer’s standard “course of conduct” demonstrated a willful disregard for the rights and interests of its insured.

Speakers: Vivek Chopra, Jeffrey M. Cohen, Dana Ferestien, Jason Mazer, Kimberly Sands

PROGRAM INFORMATION

The Business Interruption Conundrum

Unanticipated perils give rise to significant business interruption losses: volcanoes, the BP oil spill, or a typical hurricane. The panelists will discuss the controversial BI issues, including claims resulting from unusual causes of loss, recent decisions, and standard adjusting practices.

Speakers: Don Corrigan, Henry Daar, Chauntis T. Jenkins, William Merlin, Judy Spry

11:25 am – 12:30 pm **CLE Ethics Session**

Doing Right and Doing Well—Ethical Rules as a Boon to Practice

The Rules of Professional Conduct often seem to get in the way of “getting the job done.” But they save attorneys from actions likely to destroy practices. This program is designed to increase understanding of the practical reasons underlying ethical rules of particular import to coverage attorneys.

Speakers: William T. Barker, Kali Bracey, David M. Brenner, Alicia G. Curran, Linda Eads

12:35 pm – 2:00 pm

Roundtable Luncheons

(See Friday Schedule; Ticketed Event: \$45)

4:30 pm – 5:30 pm

Farewell Networking Reception

...Continued from page 4

MODERATORS & SPEAKERS

Andrea Tecce

Navigant Consulting, Inc.
Washington, DC

Robert Thavis

Leonard, Street and Deinard
Minneapolis, MN

Gary Thompson

Reed Smith LLP
Washington, DC

Sara Thorpe

Gordon Rees LLP
San Francisco, CA

Howard Tollin

Aon Risk Solutions
Jericho, NY

John W. Toothman

The Devil's Advocate
Great Falls, VA

Anna D. Torres

Powers, McNalis, Torres & Teebagy
West Palm Beach, FL

Mary Kay Vyskocil

Simpson Thacher & Bartlett LLP
New York, NY

Hon. Dale Wainwright

Supreme Court of Texas
Austin, TX

Jennifer C. Wasson

Potter Anderson & Corroon LLP
Wilmington, DE

Christine Williams

Xchanging
London, England

Ray Wong

Duane Morris LLP
San Francisco, CA

Amy J. Woodworth

Meagher & Geer, PLLP
Minneapolis, MN

Dorothy Cory-Wright

Sidley Austin LLP
London, England

Cyber Café

LexisNexis has generously provided computers for the benefit of all seminar attendees. Stop by to check your emails, browse the web, etc.

Thursday, March 3, 2011

Friday, March 4, 2011

Saturday, March 5, 2011

12:00 pm – 6:00 pm

7:00 am – 2:30 pm

7:00 am – 12:30 pm

LITIGATION PRACTICE SOLUTIONS
Sponsor of the ABA Section of Litigation



REGISTRATION/GENERAL INFORMATION

The deadline for advance registration is **Wednesday, February 16, 2011**. After February 16, registration will take place on-site.

Registration Options

ONLINE (credit card users only)

www.abanet.org/litigation/committees/insurance/calendar_annual.html

FAX registration forms to (312) 988-6234

MAIL registration forms to:

Svetlana Kramarova Battaglin
ABA Section of Litigation
321 N. Clark Street, 18th FL
Chicago, IL 60654

Registration

The registration fee allows registrants to attend all CLE programs, committee and subcommittee meetings. In addition, the fee includes program materials, continental breakfasts, and admission to the Wednesday Early Bird Reception, Thursday Evening Networking Reception, Thursday In-House Counsel and Diversity Networking Event, Friday Women's Networking Event, Friday Young Lawyers Networking Event and Saturday Evening Happy Hour.

On-Site Registration will take place during the following hours:

Thursday, March 3, 2011 Noon – 6:00 pm

Friday, March 4, 2011 7:00 am – 12:35 pm

Saturday, March 5, 2011 7:00 am – 12:30 pm

For information regarding registration, please contact Svetlana Kramarova Battaglin at (312) 988-6247.

For more information on the ABA Insurance Coverage Litigation Committee and to **register online**, log on to the Committee's home page at www.abanet.org/litigation/committees/insurance/.

Registration Cancellations

Requests for registration and social event refunds must be made in writing and received no later than **Wednesday, February 16, 2011**, in the ABA Section of Litigation office. Please fax or email your request to Svetlana Kramarova Battaglin at (312) 988-6247 or kramaros@staff.abanet.org. A \$50 administrative fee will be deducted from the refund. **Cancellations received after February 16, 2011, will not be refunded**; however, the Section will gladly accept substitutions for those unable to attend.

GENERAL INFORMATION

Airline Information

The American Bar Association has an online travel site where you can receive ABA discounts from a variety of carriers and purchase low fare tickets. ABA Online Travel can be accessed at www.abanet.org/travel/onlinetravel.html. Reservations can also be made with the ABA Orbitz for Business agent at (877) 222-4185.

Transportation Information

Arizona Stagecoach Shuttle offers service between the Tucson Airport and The Westin La Paloma for \$42 one-way/\$78 roundtrip or \$49 one-way/\$92 round trip, if traveling as a couple.

Please inquire about special rates for more than two traveling. For reservations, please call (520) 889-1000 or visit www.azstagecoach.com. Taxis are available for approximately \$40–42 to/from the airport (please note that the wait for a taxi may be extensive based upon city demand).

Most major car rental companies are located in the baggage claim area of the Tucson Airport. ABA members are entitled to special discounts by calling Hertz at (800) 654-3131 and referencing the ABA group discount number 13000.

Hotel Information

All programs will take place at The Westin La Paloma, nestled in the rugged beauty of the Santa Catalina Mountains and the lush high

THANK YOU

Sonora Desert. To make reservations, please visit www.abanet.org/litigation/committees/insurance/calendar_annual.html or call the hotel at (520) 742-6000 or central reservations at (800) 937-8461 by **Tuesday, February 1, 2011**. To receive the ABA discounted rate of \$259 single/double occupancy (excluding 13.05% tax), please refer to the ABA Section of Litigation Insurance Coverage Litigation CLE Seminar. After Tuesday, February 1, 2011, the ABA discounted rate cannot be guaranteed and will be subject to availability. Hotel reservations must be cancelled 48 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge. **Please note that the room block tends to fill up prior to the deadline date. Be sure to make your reservations soon!**

Program Materials

Attendees will be sent a link where they can access program materials online two weeks before the seminar. Section Members can access the materials one month after the seminar at www.abanet.org/litigation/prog_materials.

Services for the Disabled

If special arrangements are required for an individual to attend this seminar, please contact Svetlana Kramarova Battaglin at (312) 988-6247.

MCLE Credit

Accreditation has been requested for this program from every state with mandatory continuing legal education requirements for attorneys. Please be aware that each state has its own rules and regulations, including its definition of CLE. Certificates of Attendance will be available at the conclusion of the program for both attendees and speakers. Please call Svetlana Kramarova Battaglin at (312) 988-6247 two to three weeks prior to the seminar for questions pertaining to the number of credit hours requested.

A special thank you to **LexisNexis** and **Navigant Consulting, Inc.** for their continuing support of the ABA Section of Litigation.

LITIGATION PRACTICE SOLUTIONS
Sponsor of the ABA Section of Litigation



NAVIGANT

Litigation Advisory Services
Sponsor of the ABA Section of Litigation

The ABA Section of Litigation Insurance Coverage Litigation Committee would like to thank the following sponsors for their generous support of this 2011 CLE Seminar:

- Arnall Golden Gregory LLP
- Covington & Burling LLP
- Cozen O'Connor
- Dickstein Shapiro LLP
- Duane Morris LLP
- Hancock, Daniel, Johnson & Nagel, PC
- Hanson Bridgett LLP
- Haynes & Boone
- Hinshaw & Culbertson LLP
- Howrey LLP
- Ice Miller LLP
- Jenner & Block LLP
- Kilpatrick, Stockton LLP
- McCarter & English, LLP
- Meagher & Geer, PLLP
- Neal Gerber Eisenberg
- Parsons Behle & Latimer
- Perkins Coie LLP
- Potter Anderson & Corroon LLP
- Reed Smith LLP
- Robinson & Cole, LLP
- Saxe Doernberger & Vita, PC
- Thacker Martinsek LPA
- Ver Ploeg & Lumpkin, PA
- Weissman, Nowack, Curry & Wilco, PC
- Wiley Rein LLP

The Committee would also like to thank Linda Klamm and John Mumford for their hard work in coordinating the panelists, programs, and materials. Their efforts and outstanding ABA Section of Litigation staff support, along with the panelists' participation, made this CLE Seminar possible.

REGISTRATION FORM

ABA Section of Litigation
Insurance Coverage Litigation Committee CLE Seminar
MARCH 3-5, 2011 ■ The Westin La Paloma ■ Tucson, AZ

REGISTRATION DEADLINE:
WEDNESDAY, FEBRUARY 16, 2011
After February 16, You May
Register On-Site

Name _____ ABA Membership Id# _____
(As it should appear on badge) (The number is above your name on the mailing label)

Company/Affiliation _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Email _____
(Providing your email allows you to receive communications and promotions from the ABA and its entities)

Accompanying Spouse/Guest _____
(As it should appear on badge)

Are you a "Young Lawyer" (Age 35 or Younger?) Y N Special Dietary Needs _____

REGISTRATION FEES

	Online	Mail/Fax
Section of Litigation Member	\$445	\$495
First Time Attendee		
—Section of Litigation Member	\$345	\$395
Speakers	\$445	
Government/Academic/Legal Service/In-House Counsel*	\$295	\$345
Young Lawyer* (age 35 or younger or in practice less than 5 years)	\$295	\$345
ABA Member	\$590	\$640
<input type="checkbox"/> I am an ABA Member and want to join the Section of Litigation for \$55 and receive the Section Member Rate	\$500	\$550
First Time Attendee—ABA Members	\$490	\$540
<input type="checkbox"/> I am an ABA Member and want to join the Section of Litigation for \$55 and receive the Section Member First Time Attendee Rate	\$400	\$450
Non-ABA Member	\$735	\$785
Law Student	\$25	\$50

*these rates are only for Section members who fall into those categories.

TICKETED EVENTS

	Event Fee	Qty.	Total
Wednesday, March 2, 2011	Early Bird Reception	No charge	\$ \$0
Thursday, March 3, 2011	In-House and Diversity Reception	No charge	\$ \$0
	Welcome Reception	No charge	\$ \$0
Friday, March 4, 2011	Roundtable Luncheon	\$45	\$ _____
	Topic Choice: 1st _____		2nd _____
	Golf Tournament	\$100	\$ _____
	<small>(Email Svetlana Battaglin your foursome: kramaros@staff.abanet.org)</small>		
	Women's Reception	No charge	\$ \$0
Saturday, March 5, 2011	Young Lawyer's Reception	No charge	\$ \$0
	Dinner Event	\$85	\$ _____
	Roundtable Luncheon	\$45	\$ _____
	Topic Choice: 1st _____		2nd _____
	Farewell Networking Reception	No charge	\$ \$0
	Roundtable Luncheons Both Days	\$80	\$ _____

TOTAL ENCLOSED \$ _____

METHOD OF PAYMENT (Please Check One)

Check enclosed for \$ _____ (Payable to American Bar Association, Section of Litigation)

Charge my: American Express Visa MasterCard

Card No. _____ Exp. Date _____

Cardholder's Signature _____



321 North Clark Street | Chicago, IL 60654

Nonprofit Org.
U.S. Postage
PAID
American Bar
Association

Insurance Coverage Litigation Committee CLE Seminar

MARCH 3-5, 2011

The Westin La Paloma ■ Tucson, AZ

www.abanet.org/litigation/committees/insurance/calendar_annual.html