

Program Agenda

DAY ONE—THURSDAY, FEBRUARY 20, 2014

12:00 p.m. – 5:00 p.m.

REGISTRATION

12:45 p.m. – 1:00 p.m.

WELCOME AND OPENING REMARKS:

Bradford S. Moyer, *TIPS Insurance Coverage Litigation Committee Chair*,
Plunkett Cooney, Kalamazoo, MI

INTRODUCTORY SESSION Sponsored by McKenna Long & Aldridge LLP

1:00 p.m. – 3:00 p.m.

BACK TO BASICS: FUNDAMENTALS OF INSURANCE LAW PRACTICE Presentation Co-Sponsored by TIPS Business Litigation Committee

For the coverage novice or the seasoned practitioner looking for fresh ideas or a refresher course, the panel will address the ins and outs of insurance policies, coverage determinations and coverage litigation. The panel will provide valuable insight and debate regarding various policy types, rules of construction, the duties of insurers and policyholders under policies and in the claims and litigation process, the duties and loyalties of defense counsel, the engagement and advice of coverage counsel, the coverage determination process and potential challenges to such decisions.

MODERATOR:

Kim Hogrefe, Senior Vice President, *Chubb & Son*,
a division of Federal Insurance Company, Warren, NJ

PANELISTS:

Michael Brittain, *Calfee, Halter & Griswold LLP, Cleveland, OH*
Gary L. Gassman, *Meckler Bulger Tilson Marick & Pearson LLP, Chicago, IL*
Larry Levine, Vice President & Assistant General Counsel, *Infinity Insurance, Birmingham, AL*
Teresa Milano, Unit Manager, *North American Risk Services, Altamonte Springs, FL*
Nosizi Ralephata, *Tumer Padgett Graham and Laney P.A., Charleston, SC*

3:00 p.m. – 5:00 p.m.

HOTTER THAN A HABANERO! LIKE THE PHOENIX RISING FROM THE ASHES, NEW CONSTRUCTION IS ON THE UPSWING

The battlegrounds in the construction coverage arena are continually evolving, and keeping up to date on recent developments remains essential. This panel will address emerging trends in builders risk coverage, the potential impact of the new ISO additional insured forms, the legislative push to define "occurrence" to include faulty workmanship under general liability insurance policies and recent judicial trends in this area. Panelists will also provide updates on risk transfer, waiver and indemnification provisions.

MODERATOR:

Diane Buccì, *Zelle McDonough & Cohen LLP, White Plains, NY*

PANELISTS:

Dina Bernadelli, *Zupkus & Angell P.C., Denver, CO*
Carol Meedon Broerman, *Scottsdale Insurance Co., Scottsdale, AZ*
Patrick Q. Hustead, *The Hustead Law Firm P.C., Denver CO*
Nicholas N. Nierengarten, *Gray Plant Mooty, Minneapolis, MN*
Robert Wedge, *Smith Moore Leatherwood LLP, Atlanta, GA*

5:00 p.m. – 6:00 p.m.

OPENING RECEPTION—ALL ATTENDEES ARE WELCOME Sponsored by International Risk Management Institute

6:30 p.m. – 8:30 p.m.

DINNER (Ticketed Event) Sponsored by Matson Driscoll & Damico LLP and DecisionQuest

DAY TWO—FRIDAY, FEBRUARY 21, 2014

7:30 a.m. – 5:00 p.m.

REGISTRATION

7:30 a.m. – 8:30 a.m.

CONTINENTAL BREAKFAST

Sponsored by Carrington Coleman Sloman & Blumenthal LLP

8:30 a.m. – 8:45 a.m.

WELCOME & OPENING REMARKS

Eugene Beckham, TIPS Section Chair, *Beckham & Beckham PA, Miami, FL*
Bradford S. Moyer, TIPS Insurance Coverage Litigation Committee Chair,
Plunkett Cooney, Kalamazoo, MI

Helen Michael, TIPS Insurance Coverage Litigation Committee
Chair-Elect, *Kilpatrick Townsend & Stockton LLP, Washington, DC*

Christopher H. Yetka, Program Chair, *Barnes & Thornburg LLP, Minneapolis, MN*

Joanne L. Zimolzak, Program Co-Chair, *McKenna Long & Aldridge LLP, Washington, DC*

MORNING SESSION Sponsored by Sherman Howard LLC

8:45 a.m. – 9:45 a.m.

EFFECTIVE USE OF EXPERTS, CONSULTANTS AND VISUALS IN WINNING A COVERAGE CASE

Whether before an arbitrator, judge or jury, sometimes a coverage case has to be tried. This panel will demonstrate the impact of visual graphics in an opening statement of a complex coverage trial, the value of expert testimony on the meaning of

policy language as it applies to specific claims in a given industry and culture, and how a trial consultant who is an expert in the psychology of communication can enhance your presentation to 21st Century fact finders.

MODERATOR:
PANELISTS:

Craig Stewart, *White & Williams LLP*, Boston, MA
Joe Loggia, *BuxbaumLoggia*, Fullerton, CA
Kristi Lush, *Zupkus & Angell, P.C.*, Denver, CO
Art Patterson, *DecisionQuest*, State College, PA

9:45 a.m. – 10:45 a.m.

INSURANCE COVERAGE FOR WAGE & HOUR CLAIMS IN CLASS-ACTION LAWSUITS

AON is offering a new Wage & Hour policy which could serve as a model for future products from syndicates such as Beazley which now include sublimits but reach a broader audience. EPLI policies, both with and without Wage & Hour exclusions, continue to spawn coverage litigation nationally. Topics covered will include Aon's launch of its Wage & Hour policy in April of 2013, Beazley's express offers of Wage & Hour coverage with sublimits to a larger group of corporations, and coverage counsel's ongoing litigation under EPLI policies of Wage & Hour claims.

MODERATOR:
PANELISTS:

Christopher Mosley, *Sherman & Howard LLC*, Denver, CO
David A. Gauntlett, *Gauntlett & Associates*, Irvine, CA
Trudy Hardin, *AON Risk Services*, Denver, CO
Brian Harrison, *Sedgwick*, San Francisco, CA
Wayne Imrie, *Beazley*, London, UK

10:40 a.m. – 11:00 a.m.

BREAK Sponsored by Kilpatrick Townsend Stockton LLP

MID-MORNING SESSION Sponsored by Zelle McDonough & Cohen LLP

11:00 a.m. – 12:00 p.m.

CONVERTING LEGACY INSURANCE POLICIES TO CASH

This panel will be focused on the challenges for policyholders with long-tail claims who have encountered difficulties in identifying, locating, and proving their predecessor or historic legacy insurance policies. The panelists will discuss the nuts and bolts of where to look for historic policy information, and challenges to proof of policy terms and conditions. Insurer counsel will discuss their challenges when legacy claims are made, record-keeping and reserve issues, and the types of defenses available to insurers who face claims involving incomplete policy information. Many historic policy forms had few or no relevant exclusions, which poses problems for the carriers.

MODERATOR:
PANELISTS:

James J. Leonard, *Barnes & Thornburg LLP*, Atlanta, GA
Erick Hermanson, *Edwards Wildman Palmer LLP*, Boston, MA
Michele Pierro, *Insurance Archeology Group*, New York, NY
Stanley Richards, *Senior Litigation Counsel*, Georgia-Pacific LLC

12:00 p.m. – 1:15 p.m.

COORDINATORS:

TOOLBOX LUNCHEON SESSIONS Sponsored by Rivkin Radler LLP

Diane Bucci, *Zelle, McDonough & Cohen LLP*, White Plains, NY
Damian Arguello, *David Graham*, Denver, CO

- **The Cyber Security Risk: Understanding the Organization, Discovering the Insurance Coverage Options, and Learning from Litigation**
Ginny L. Peterson, *Kightlinger & Gray LLP*, Indianapolis, IN
- **The Discovery of Electronically-Stored Information (“ESI”) in Insurance Coverage Litigation**
Joseph L. Beavers, *Miles Stockbridge*, Washington, D.C.
James G. Koutras, *Director-Senior Corporate Counsel & Secretary, Cristal USA Inc.*, Hunt Valley, MD
- **Hail Claims: What the Hail Is Going on with These Claims?**
Steve Badger, *Zelle Hofmann*, Dallas, TX
- **Appraisal Process for Property Insurance Claims**
Robin Besaw, *McKenna Long & Aldridge LLP*, Atlanta, GA
- **Coverage for Pre-Tender and/or Pre-Claim Defense Costs**
Michele C. Camerota, *Nuzzo & Roberts*, Cheshire, CT
- **Excess Policy Drop-Down and Erosion (or Exhaustion) of Underlying Limits**
Jeremy Sokop, *Lazare Potter & Giacovas LLP*, New York, NY
- **SIRS and Allocation: Reindeer Games in All Sums and Pro Rata Jurisdictions**
Michael Kotula, *Rivkin Radler LLP*, Uniondale, NY
- **What's New in the Latest Draft in the Principles of the Law of Liability Insurance Project?**
Richard Neumeier, *Morrison Mahoney LLP*, Boston, MA
- **Bound & Determined: Does an Insurance Agent's Knowledge of Claim Constitute Notice to the Insurer?**
Daniel P. Spivey, *Davis Graham & Stubbs LLP*, Denver, CO
- **Who's Going to Pay for That? Contesting Insurance Coverage After a Settlement**
Harvey Nosowitz, *Anderson & Kreiger LLP*, Cambridge, MA
- **Insurance, Climate Change, & Flood Resilience—What's on the Horizon?**
Lindene E. Patton, *Chief Climate Product Officer, Zurich Insurance Group Ltd.*, Washington, DC
J. Randy Evans, *McKenna Long & Aldridge LLP*, Washington, DC
- **Food Recall (Product Contamination) Insurance—When is a Company Covered?**
Arthur S. Garrett III, *Keller and Heckman LLP*, Washington DC
- **Consent to Insured's Settlements**
Matthew M. Mendoza, *Calfee Halter & Griswold LLP*, Cleveland, OH

AFTERNOON GENERAL SESSION

SERVICE PROJECT PRESENTATION

EXCESS TO PRIMARY: YOU'RE NOT EXHAUSTED, YOU'RE JUST TIRED

Exhaustion has long been an issue in excess insurance, but new controversies have peaked in recent years as insureds and primary insurers strike deals in which primary insurers settle for less than their full limits and still implicate excess coverage. These cases are often complex with differences in excess policy wording dramatically affecting the outcome. There is serious debate about what should be required for exhaustion, what principles should control and what rights and obligations excess insurers may hold.

Joe Ramirez, *Holland & Hart*, Greenwood Village, CO

Amber Coisman, *Tressler LLP*, Chicago, IL

Douglas R. Richmond, *AON Risk Solutions*, Chicago, IL

Jay Sturhahn, *Sherman & Howard LLC*, Denver, CO

VOICES CRYING IN THE WILDERNESS: MAKE YE STRAIGHT THE PATH TO ETHICS AND REDUCED LEGAL FEES

The insurance relationship was murky even before modern aggressive efforts to reduce legal costs muddied the water. To the tripartite relationship of policyholder, defense counsel, and insurer, add coverage counsel for both the policyholder and insurer. Throw in a possible advice of counsel defense and Model RPC 3.7, and the tripartite relationship becomes hexagonal. No wonder clients are trying to conflate roles and reduce costs. Straight from the mouths of the in-house attorneys managing these relationships and costs, as well as outside counsel living in the middle, this panel will share their experience and expertise with what works and doesn't work, what's ethical and not.

Jodi K Swick, *Edison, McDowell & Hetherington LLP*, Oakland, CA

Damian Arguello, *Davis Graham*, New York, NY

Kevin Quinley, *Quinley Risk Associates, LLC*, Chesterfield, VA

Lynne St. Andre, *Liberty Mutual*, Boston, MA

Peter Loughlin, *Vice President, Assurant, Inc.*, Atlanta, GA

James Sullivan, *Calfee, Halter & Griswold*, Cleveland, OH

BREAK Sponsored by Neal Gerber & Eisenberg LLP

THE INS AND OUTS OF INTERPRETING AND APPLYING D&O AND E&O POLICY EXCLUSIONS

The interpretation and application of policy exclusions is never static. Insurers, counsel, and federal and state courts continue to address exclusionary issues under D&O and E&O policies. In the recent past, courts have issued noteworthy decisions yielding important lessons about policies and exclusions, and how those decisions are applied continues to develop. The panel will address the common issues and pitfalls related to typical D&O and E&O policy exclusions and the interpretation and application of such exclusions in coverage analysis and by the courts.

Janet R. Davis, *Meckler Bulger Tilson Marick & Pearson LLP*, Chicago, IL

Alan D. Chute, *Assistant Vice President, Chubb & Son, a division of Federal Insurance Company*, Pittsburgh, PA

Louis H. Kozloff, *Nelson Levine de Luca & Hamilton LLC*, Blue Bell, PA

Darin J. McMullen, *Anderson Kill*, Philadelphia, PA

Kristine Tejano Rickard, *Vice President, Professional Liability Claims, Protective Specialty Insurance Company*, Indianapolis, IN

Committee Business Meetings: Insurance Coverage Litigation Committee; Business Litigation Committee; Self-Insurers and Risk Managers Committee; Excess, Surplus Lines and Reinsurance Committee

DINNER – DINE AROUND

Reservations will be made at several local restaurants. Sign-up for dinners onsite, join old friends and meet new people as you enjoy the fine Arizona cuisine.

1:15 p.m. – 1:30 p.m.

1:30 p.m. – 2:30 p.m.

MODERATOR:

PANELISTS:

2:30 p.m. – 3:30 p.m.

MODERATOR:

PANELISTS:

3:30 p.m. – 3:45 p.m.

3:45 p.m. – 4:45 p.m.

MODERATOR:

PANELISTS:

4:45 p.m. – 5:45 p.m.

7:00 p.m. – 9:30 p.m.

DAY THREE— SATURDAY, FEBRUARY 22, 2014

7:30 a.m. – 12:00 p.m.

7:30 a.m. – 8:30 a.m.

REGISTRATION

TOOLBOX BREAKFAST SESSIONS Sponsored by **Barnes & Thornburg LLP**
(See prior descriptions for Toolbox Luncheon Sessions)

MORNING SESSION

NATURAL DISASTERS: RESOLUTION OF COVERAGE DISPUTES

Presentation Co-Sponsored by TIPS Self-Insurers and Risk Manager Committee

Super storm Sandy spawned tens of thousands of insurance claims by homeowners, renters and business owners alike. In an effort to provide a fair, efficient and expeditious mechanism to resolve insurance claims, the Governors of the States of New York and New Jersey promulgated Orders and Regulations which required every insurer in both states to offer every insured (personal and commercial) the opportunity to mediate their claims at the expense of the insurers under a program administered by the American

8:30 a.m. – 9:30 a.m.

Arbitration Association. The panel will examine the issues and pitfalls presented by these types of natural disasters.

MODERATOR:
PANELISTS:

Seth D. Lamden, *Neal Gerber Eisenberg*, Chicago, IL
Harold Coleman Jr., Executive Director & Mediator Mediation.org,
a Division of the American Arbitration Association, Los Angeles, CA
Charles Platto, *Law Offices of Charles Platto*, New York, NY
Michael Wehrli, *Catastrophic Quality Assurance Manager*,
Nationwide Mutual Insurance Company, Butler, PA
Christopher Westrick, *Tressler LLP*, Newark, NJ

9:30 a.m. – 10:30 a.m.

WHO'S ON FIRST? INSURANCE COVERAGE FOR MASS AND CLASS ACTIONS

Class actions and mass actions asserting a wide variety of claims from one's defective products and environmental injuries to those involving alleged unfair business practices continue to be filed in large numbers, notwithstanding tort and other legislative reforms. The coverage disputes that often follow invariably raise complex issues with respect to the availability of coverage and proper allocation of losses, including, among numerous others, regarding trigger of coverage; the number of occurrences; stacking; and other insurance clauses. This panel will explore these complex issues and strategies for resolving coverage disputes involving them in the context of some of the recent high profile mass and class litigations.

MODERATOR:
PANELISTS:

Helen Michael, *Kilpatrick Townsend & Stockton LLP*, Washington, DC
Roberta D. Anderson, *K&L Gates*, Pittsburgh, PA
David R. Elmore, Jr., *Matson, Driscoll & Damico LLP*, Philadelphia, PA
Stephanie F. Glickhauf, *Goodman McGuffey Lindsey & Johnson LLP*, Atlanta, GA

10:30 a.m. – 10:45 a.m.

BREAK Sponsored by Buxbaum Loggia

MID-MORNING SESSION

10:45 a.m. – 11:45 a.m.

THE JURY'S OUT: WHEN IS FIRST-PARTY BAD FAITH A JURY ISSUE, AND WHEN CAN IT BE RESOLVED AS A MATTER OF LAW?

Courts take a number of different views on this critical issue. Some jurisdictions seem to be changing or reconsidering their views while other jurisdictions have not yet taken clear positions. Considering whether a bad faith case is for the judge or the jury is not only important in the litigation context, but in analyzing and evaluating bad faith cases prior to litigation as well.

MODERATOR:

Dean Jeffery E. Thomas, *University of Missouri-Kansas City School of Law*, Kansas City, MO

PANELISTS:

William Barker, *Dentons US LLP*, Chicago, IL
William Beck, *Lathrop Gage*, Kansas City, MO
Hon. Heather A. Welch, *Marion County Indiana Superior Court*
Indianapolis, IN

11:45 a.m.

CLOSING REMARKS

12:30 p.m. – 5:30 p.m.

AFTERNOON ACTIVITIES

Golf Outing (Lynx course, Arizona Biltmore)—Ticketed Event

Sponsored by Plunkett Cooney P.C.

Golf Lunches Provided

Drink Carts sponsored by The Johnson Insurance Law Group LLC

VOLUNTEER/SERVICE PROJECT—SOUTHWEST HUMAN DEVELOPMENT/RAISING A READER

Southwest Human Development is the largest early childhood non-profit agency in Arizona and serves 135,000 children and their families annually through 40 programs in five primary areas: child health and welfare, services for children with disabilities, Head Start, early literacy, and training for early childhood professionals. The children and families served cover a wide range of cultural, linguistic and socioeconomic backgrounds.

One of Southwest Human Development's signature programs is *Raising A Reader*. Based on a national model, *Raising a Reader* is an eight-week early literacy program that shows parents and caregivers how to integrate books and storytelling into their family routines. The program is offered in low income apartment communities, elementary schools, the City of Phoenix Public Housing, and other non-profit organizations that serve families with children. Every quarter, *Raising a Reader* conducts an average of 25-30 programs that reach approximately 300 children and their families. Each child that participates in a series receives five books.

**Your donation can
make an impact!**

