

2010 Fundamentals of Insurance
July 29-30, 2010 • Belo Mansion • Dallas, TX
August 12-13, 2010 • Norris Conference Center - CityCentre • Houston, TX

Thursday Morning, July 29, 2010

Presiding Officer:

Stephanie Rennell Tippit, Westmoreland Hall Maines & Lugin, P.C. - Houston, TX

8:00 am In Dallas Only	Registration Opens Includes continental breakfast.
8:50 am In Dallas Only	Welcoming Remarks
9:00 am 1.00 hr	The Structure and Context of Insurance Contracts: How to Read and Interpret the Policy Insurance policies come in many different forms, but they typically have the same key structural elements. Understanding those elements is the first step in understanding the coverage. This session examines the anatomy of an insurance contract, including: 1) declarations, 2) insuring agreement(s), 3) definitions, 4) conditions and duties, 5) exclusions and 6) endorsements. The session also highlights some basic concepts for those new to insurance, including the differences between first-party and third-party coverage; the special interpretive rules for insurance contracts; the duties explicitly contained in the policy versus those found in statute or common law; insurance documents and agreements found outside the policy, such as certificates of insurance; and the differences between primary, excess and umbrella insurance policies. Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX
10:00 am 0.75 hr	Understanding the Players: Who Are They? What Are Their Roles? How Do They Operate in Practice? Insurance disputes can involve a number of players, whose roles and classification are important in determining the discoverability of their work, their potential status as parties, their duties and liability, and whether their actions fall under the Texas Insurance Code or DTPA. The goal of this session is to leave you not only with a good understanding of the players, but also a practical knowledge of how such parties are typically involved in real-world disputes. The most commonly encountered players in insurance disputes include: insurance carriers, which may include primary, excess and umbrella carriers; underwriters, who operate within insurance companies to design, price and sometimes advise on the meaning of languages in policies; adjusters, who may be in-house or independent, and are generally the first line of contact for claims investigation and determination and are often target defendants; and third-party insurance brokers and agents, who are frequently retained to assist individuals and companies in obtaining coverage, and can also sometimes be defendants in insurance litigation. Stephanie Rennell Tippit, Westmoreland Hall Maines & Lugin, P.C. - Houston, TX
10:45 am In Dallas Only	Break

11:00 am 0.25 hr	<p>Eyes on the Rules: The Critical Importance of the Texas Insurance Code for Deadlines, Process and Liability</p> <p>You can manage or litigate insurance disputes more effectively once you become friends with the Texas Insurance Code, which includes specific rules on deadlines, claims handling procedures and liability. This session advises you on where to look and highlights some critical differences with general civil trial rules.</p> <p>Mark L. Kincaid, Kincaid & Horton L.L.P. - Austin, TX</p>
In Dallas Only	THE CLAIMS HANDLING PROCESS
11:15 am 1.00 hr	<p>Preparing and Making a Claim: A Practical Guide to the Issues, Pitfalls and Best Practices</p> <p>Providing notice of a claim and proof of loss to the insurer is typically a prerequisite to obtaining proceeds under the applicable policy or policies. This session provides practical guidance, including sample checklists and descriptions of documents and information that should be gathered and reviewed before making a claim. It also addresses strategies and options to maximize potential coverage and benefits, as well as the critical importance of understanding and following the notice provisions of the policy and the effective drafting of proof of loss documents, including avoiding common errors.</p> <p>This session also covers how to evaluate and make claims against policies held by others, and the major--and often overlooked-- Impact of indemnity agreements in other contracts on the rights of insured parties to policy proceeds. The session concludes with a discussion of the various responses a company might make to a claim, e.g., acceptance, denial, reservation of rights, request for more information, etc., and the possible options of an insured to those responses.</p> <p>Mark L. Kincaid, Kincaid & Horton L.L.P. - Austin, TX</p>

Thursday Afternoon, July 29, 2010

Presiding Officer:

David H. Timmins, Gardere Wynne Sewell LLP - Dallas, TX

In Dallas Only	Luncheon Presentation
12:15 pm In Dallas Only	<p>Pick up Box Lunch</p> <p>Included in conference registration.</p>
12:30 pm 0.75 hr ethics	<p>Lunch Presentation: The Tripartite Relationship and <i>Tilley</i> Obligations</p> <p>The Texas Supreme Court's 1973 <i>Tilley</i> decision defined the obligations of the defense counsel hired by insurance companies to defend insureds, but those relationships continue to be a source of friction and confusion. This session examines the ethical obligations of so-called "<i>Tilley</i> counsel," the impact on the attorney-client relationship and privilege, and the question of who has the right to choose counsel.</p> <p>David H. Timmins, Gardere Wynne Sewell LLP - Dallas, TX</p>
1:15 pm In Dallas Only	Break

1:30 pm 0.25 hr	<p>General Obligations of the Insured: The Role of Policy Provisions, Statutes and Case Law</p> <p>The duties under an insurance policy are not a one-way street. An insured also has several obligations that must be observed, and the failure to do so can have a significant effect on coverage. This session examines the insured's obligations, including notice, cooperation and obtaining the insurer's consent.</p> <p>Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX</p>
1:45 pm 1.00 hr 0.25 hr ethics	<p>The Insurers' Response to a Claim: Reservation of Rights</p> <p>What is a reservation of rights? What rights does an insurer have to reserve? What must always be included? When should a reservation be issued? When should the insured respond to a reservation of rights?</p> <p>This session addresses the purpose of reservation of rights, how they may affect the rights of the insurer and the insured, and what to do when you receive one. We'll look at sample correspondence and talk about strategic decisions prompted by reservations.</p> <p>Commentator: Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX Michael Sean Quinn, Quinn Hayes & Quinn - Austin, TX</p>
2:45 pm 1.00 hr	<p>Insurer's Duty to Settle: Understanding and Working with <i>Stowers</i> Issues</p> <p>The <i>Stowers</i> doctrine, which addresses when an insurer is obligated to settle a claim against its insured, was born more than 80 years ago but continues to be the subject of heated disputes among policyholders, insurers and claimants. <i>Stowers</i> now refers to an ever-growing body of case law, and knowing what is meant by "Stowerize" is critical to anyone involved in litigation.</p> <p>This session briefly explores the fascinating history behind this landmark case, introduces you to the duty to settle by addressing the circumstances that trigger it (and those that don't), examines the strategic considerations for the policyholder and the insurer in dealing with settlement demands, and applies the <i>Stowers</i> doctrine to more complicated scenarios involving multiple claimants, multiple insureds or multiple policies.</p> <p>J. James Cooper, Gardere Wynne Sewell LLP - Houston, TX David H. Timmins, Gardere Wynne Sewell LLP - Dallas, TX</p>
3:45 pm In Dallas Only	Break
In Dallas Only	THE LITIGATION AND SETTLEMENT PROCESS
4:00 pm 1.00 hr 0.25 hr ethics	<p>Litigating Insurance Claims, Part I: Jurisdiction, Parties and Pleadings</p> <p>When it's time to file suit, a host of strategic considerations must be considered. This session identifies the available and proper forums for litigation, whether by contract or statute, and examines the option whether to concede to the forum or challenge it.</p> <p>Having reviewed earlier in the day the players in insurance disputes, this session looks at those entities involved insureded disputes as potential parties to litigation and at theories of their possible liability; examines how to plead and prove issues in insurance disputes; and introduces the use of declaratory judgments and other mechanisms to obtain early coverage determinations.</p> <p>Stephanie Rennell Tippit, Westmoreland Hall Maines & Lugin, P.C. - Houston, TX</p>
5:00 pm 0.50 hr	<p>Q&A Session: Thursday</p> <p>The speakers from the day's sessions are available to answer questions.</p>

5:30 pm
In Dallas Only

Adjourn

Friday Morning, July 30, 2010

Presiding Officer:

Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX

7:45 am

Conference Room Opens

Includes continental breakfast.

THE LITIGATION AND SETTLEMENT PROCESS continued

8:30 am
1.00 hr
0.75 hr ethics

Key Discoverability and Privilege Issues involving Insurance Disputes

Can I have the adjuster's file? If a lawyer conducts the investigation, can I get her file? Can the lawyer communicate with the insured and the insurer without waiving privilege? These questions are frequent issues in insurance litigation.

Michael Sean Quinn, Quinn Hayes & Quinn - Austin, TX

9:30 am
0.75 hr

Litigating Insurance Claims, Part II: Damages, Fees and Penalties

This session examines the remedies available in insurance litigation, including pleading and calculating amounts recoverable under common law, the Texas Insurance Code or the DTPA, and addresses how to collect attorney fees.

Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX

10:15 am

Break

10:30 am
0.67 hr

The Critical Role of Summary Judgment Motions and Rules of Construction in Insurance Litigation

The majority of insurance litigation is resolved on summary judgment. This session addresses how it works, when it's available and how to oppose it.

Stephanie Rennell Tippit, Westmoreland Hall Maines & Lugin, P.C. - Houston, TX

11:10 am
0.67 hr
0.25 hr ethics

Expert Witnesses in Insurance Cases

Disputes with insurance companies frequently require the use of expert witnesses. The insured may need experts to prove the validity of the claim when it involves scientific, medical or engineering evidence, or to address financial, legal or organizational matters. In *Stowers* cases, experts may be needed to establish the reasonableness of the Plaintiff's settlement demand. The insured frequently hires an expert to testify that the insurer's handling of the claim was unreasonable or untimely. Of course, the insurer itself may need expert witnesses on each of these topics in rebuttal. All of those experts may be the subject of *Daubert* challenges. This session addresses the circumstances when experts may be necessary, and the *Daubert* and other considerations involved in using them.

Michael Sean Quinn, Quinn Hayes & Quinn - Austin, TX

11:50 am 0.67 hr	<p>Mother Nature and Insurance: Current Law and Strategies for Texas Storm Litigation</p> <p>An overview of coverage issues arising out of extreme weather events, such as floods, hurricanes, tornadoes and hail storms. The presentation explores the core coverages that are implicated by those events, such as property damage, business interruption and extra expense, as well as extensions of coverage and examines cutting-edge litigation topics, including causation, cosmetic versus structural damage, and other frequent areas of dispute.</p> <p>Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX Michael Sean Quinn, Quinn Hayes & Quinn - Austin, TX</p>
12:30 pm 0.33 hr	<p>Q&A Session: Friday</p> <p>The speakers from the day's sessions are available to answer questions.</p>
12:50 pm	<p>Adjourn</p>