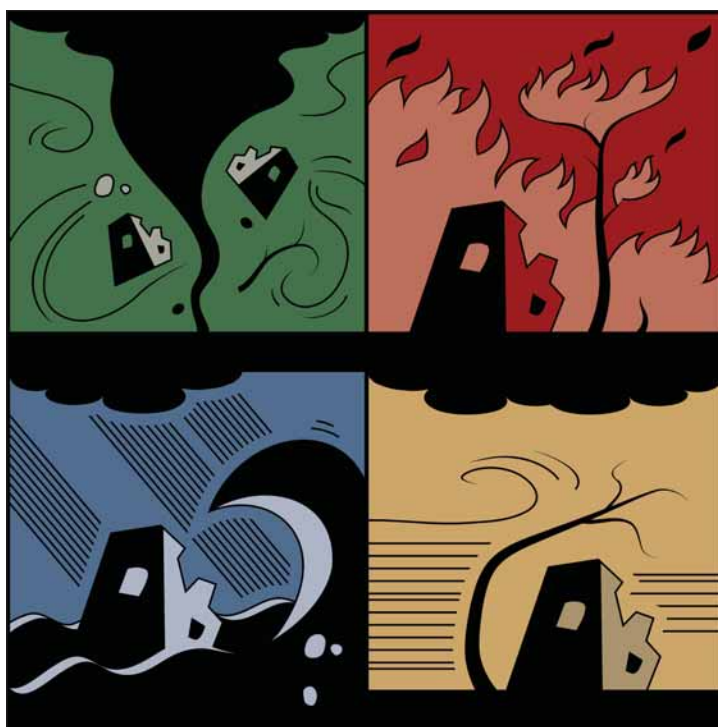


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THURSDAY MORNING, NOV. 3, 2011

Presiding Officer:

Lee H. Shidlofsky, Shidlofsky Law Firm PLLC,
Austin, TX

7:45 a.m. Registration Opens

Includes continental breakfast.

8:35 a.m. Welcoming Remarks

8:45 a.m. .50 hr

Auto Coverage under General Liability Policies

This session examines the changing nature of auto-related claims under CGL policies and the effect of new cases and policy forms.

Stephen A. Melendi, Tollefson Bradley Ball & Mitchell, LLP, Dallas, TX

9:15 a.m. .50 hr

Must an Insured Read an Insurance Policy?

Should all insureds be legally required to read insurance policies issued to them? What does "read" mean? What should the consequences be of not reading a policy that is too difficult to understand or that contains ambiguous language? Who else should be required to read a policy?

Michael Sean Quinn, Law Office of Michael Sean Quinn, Salado, TX
Allyson L. Wilkinson, Hall Maines Lugin, P.C., Houston, TX

9:45 a.m. .50 hr

Insurance Coverage for Leased and Temporary Workers

Claims against employers by leased and temporary employees are becoming more and more common. Are you prepared to counsel your clients when these issues arise? If not, this presentation examines the statutes and cases of which you need to be aware when evaluating issues like whether coverage exists, and if so, whether the claim should be treated as a worker's compensation or a general liability claim. A decision tree is presented that will allow you to decide whose policy applies, i.e., is it covered under the staff leasing company/temporary employment agency's policy, or is it covered under the client company's policy.

James H. "Hamp" Moody III, Quilling Selander Cummiskey & Lownds, P.C., Dallas, TX

10:15 a.m. Break

10:30 a.m. .75 hr

Are the Courts Getting It Right? Making Sense of the Prejudice Rule for Untimely Notice and Settlements without Consent

A policyholder's lawyer and a carrier's lawyer try to answer the question. Naturally, they answer it differently.

J. James Cooper, Gardere Wynne Sewell LLP, Houston, TX
Timothy F. Lee, Ware Jackson Lee & Chambers, Houston, TX

11:15 a.m. .50 hr

Policy Releases and Rescission: What Do You Mean I Can't Settle My Case?

Statutory and public policy limitations on policy releases and other settlements in coverage cases.

Stephen E. Walraven, Langley & Banack, Inc., San Antonio, TX

11:45 a.m. Break to Pick Up Lunch

Included in conference registration fee.

THURSDAY AFTERNOON

LUNCHEON PRESENTATION

12:00 p.m. 1.00 hr ethics

Family Feud: The Coopers vs. The Martins

Ethics like you've never seen it!

Moderator:

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

Panelists:

J. James Cooper, Gardere Wynne Sewell LLP, Houston, TX
Jamie P. Cooper, Martin, Disiere, Jefferson & Wisdom, L.L.P., Houston, TX
R. Brent Cooper, Cooper & Scully, P.C., Dallas, TX
Brian S. Martin, Thompson, Coe, Cousins & Irons, L.L.P., Houston, TX
Christopher W. Martin, Martin, Disiere, Jefferson & Wisdom, L.L.P., Houston, TX
Ernest Martin Jr., Haynes and Boone, LLP, Dallas, TX

1:00 p.m. Break

1:15 p.m. .75 hr

Unintended Consequences: An Update on the Impact of the Financial Crisis on Your Coverage Practice

The financial crisis has spawned a new era of government regulation for financial institutions and a wide variety of litigation, including disputes over who is liable for the crash and the insurance coverage that will pay for it. This session examines

how new government regulation is affecting insurance coverage for the major actors in the financial crisis. The discussion also addresses the coverage issues at stake in the significant insurance disputes that have arisen from the crisis, including the fortuity and the fraud in the application defenses, and the broader impact resolution of these coverage issues may have on insurance policies with no obvious connection to the financial crisis.

Michah E. Skidmore, Haynes and Boone, LLP, Dallas, TX
Amy Elizabeth Stewart, Amy Stewart PC, Dallas, TX

2:00 p.m. .75 hr

Restrictions in Additional Insured Endorsements and Related Issues

Panelists discuss key issues practitioners need to know about additional insured endorsements, with a particular emphasis on coverage limitations, interplay with indemnity, drafting tips and the latest cases and legislation affecting additional insured coverage.

Moderator:

Erika L. Blomquist, Haynes and Boone, LLP, Dallas, TX

Panelists:

Jamie R. Carsey, Thompson, Coe, Cousins & Irons, L.L.P., Houston, TX
Marcus R. Tucker, Royston Rayzor Vickery & Williams, Houston, TX

2:45 p.m. Break

3:00 p.m. .75 hr

Adding Value: A Corporate Counsel's Guide to Insurance and Risk Management

Topics discussed include the insurance coverage considerations and pitfalls in the context of M&A and corporation conversion in light of a number of recent decisions interpreting Texas law. Also included is discussion of the impact of entity selection on coverage, the use of a single policy to protect multiple entities, treatment of additional insureds, the handling of notice and cooperation issues, indemnity agreements, waiver of subrogation and selection of counsel.

Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP, Dallas, TX

3:45 p.m. .75 hr including .25 hr ethics

Command and Control: Independent Counsel vs. Insurer's Right to Defend

This panel considers whether and when an insurer must relinquish its right to defend in favor of the insured's choice of independent counsel, including issues of reservations of rights, material conflicts of interest, calculating reasonable defense fees,

emerging issues in multiple insurer/multiple carrier situations, and ethical problems posed to lawyers caught in the middle (again!).

Jamie P. Cooper, Martin, Disiere, Jefferson & Wisdom, L.L.P., Houston, TX
Robert J. Cunningham, Roach & Newton, LLP, Houston, TX

4:30 p.m. 1.00 hr including .25 hr ethics

Finding Leverage in the Insurance Battle: Some Practical Considerations

Insurance disputes are inevitable and sometimes the stakes can be high. Each side dutifully analyzes its position and takes a stand. The outcome, however, often turns on the leverage one side has over the other. This panel explores practical points of leverage for both policyholders and carriers and identifies considerations for influencing the outcome of the insurance coverage dispute. These considerations take into account the business relationship between the parties, the roles of underwriters and brokers, policy renewals, the wider ramifications of litigation, and much more.

Moderator:

Ernest Martin Jr., Haynes and Boone, LLP, Dallas, TX

Panelists:

Veronica C. Czuchna, Duggins Wren Mann & Romero, LLP, Austin, TX
David E. Mims, Senior Vice President, Risk Management, LQ Management LLC, Irving, TX

5:30 p.m. Adjourn to Sponsored Reception

FRIDAY MORNING, NOV. 4, 2011

Presiding Officer:

Lee H. Shidlofsky, Shidlofsky Law Firm PLLC, Austin, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .50 hr ethics

Covert Affairs? Privacy Issues in Insurance Cases

A discussion of confidentiality and privilege concerns involving medical authorizations, fraudulent liens and settlement in insurance claims and lawsuits.

Meloney Perry, Meckler Bulger Tilson Marick & Pearson LLP, Dallas, TX
Mark A. Ticer, Law Office of Mark A. Ticer, Dallas, TX

9:00 a.m. .50 hr

Stepping Back: *Mid-Continent Ins. Co. v. Liberty Mutual Ins. Co.*

Rights of subrogation and contribution between insurers appeared to change (end?) radically with the Texas Supreme Court's decision in *Mid-Continent v. Liberty Mutual*. This presentation explores how courts have handled allocation and subrogation cases in the last four years and under what circumstances insurers can and cannot reallocate defense and indemnity payments.

Ellen L. Van Meir, Thompson, Coe, Cousins & Irons, L.L.P., Dallas, TX

9:30 a.m. .50 hr

Sex, Lies, Social Media and Videotapes: Examinations under Oath and Depositions in Insurance Cases

The ins and outs of examinations under oath of the insured, as well as depositions of both the insured and claims personnel with a focus on what to do before, during and after the examinations.

Lisa A. Songy, Shannon, Gracey, Ratliff & Miller LLP, Dallas, TX

10:00 a.m. .50 hr

Appraisal and Abatement: Assessing the Practical Implications of *In Re Universal Underwriters* for First Party Coverage Litigation

An evaluation of the Texas Supreme Court's recent opinion on the waiver of appraisal, abatement, and other developing issues surrounding insurance appraisal.

Alicia G. Curran, Cozen O'Connor, Dallas, TX
Marc E. Gravely, Gravely & Pearson, L.L.P., San Antonio, TX

10:30 a.m. Break

10:45 a.m. .75 hr

The Independent Injury Rule: Can Denied Policy Benefits Be Trebled as Damages under Texas Insurance Code Chapter 541?

This presentation explores whether the presence of an independent injury, beyond mere unpaid policy proceeds, is necessary for an insured to recover treble damages under the Texas Insurance Code.

Robert M. Hoffman, Gardere Wynne Sewell, LLP, Dallas, TX
David J. Schubert, Schubert & Evans PC, Dallas, TX

11:30 a.m. .50 hr

Judicial Perspectives

Hon. Randall W. Wilson, 157th District Court, Houston, TX

12:00 p.m. Break to Pick Up Lunch

Included in conference registration fee.

FRIDAY AFTERNOON

LUNCHEON PRESENTATION

12:15 p.m. 1.00 hr

Jury Perceptions: Shaped by Hollywood, Refined by Counsel

Movies, TV, and social media shape juror perceptions of insurance companies, their agents, and their employees. Learn from two of the State's leading trial lawyers how you can develop trial strategies and trial themes to maximize or minimize jurors' deep-seated media-driven perceptions of the insurance industry.

William J. Chriss, of Counsel to Gravely & Pearson, L.L.P., Austin, TX
Christopher W. Martin, Martin, Disiere, Jefferson & Wisdom, L.L.P., Houston, TX

1:15 p.m. Break

1:30 p.m. .75 hr

Gilbert and Beyond: The Impact and Potential Demise of the CGL Policy

What is liability assumed in a contract? What coverage exists for breach of contract? This session addresses the developing law regarding the scope of contractual liability coverage under the CGL, the interaction between the exclusion and its exceptions, and the relationship between *Lamar Homes* and Exclusion B.

Moderator:

Beth D. Bradley, Tollefson Bradley Ball & Mitchell, LLP, Dallas, TX

Panelists:

Jes Alexander, Pruessner & Alexander, Dallas, TX
Douglas P. Skelley, Shidlofsky Law Firm PLLC, Austin, TX

2:15 p.m. .75 hr

Triggering Excess Coverage by Exhaustion

What constitutes proper exhaustion of underlying coverage(s) for purposes of triggering coverage under an excess liability policy, particularly when there are multiple policies or multiple claims? This issue is discussed from the perspectives of both carriers and policyholders.

J. Mark Lawless, McGuire Woods LLP, Austin, TX
Brian S. Martin, Thompson, Coe, Cousins & Irons, L.L.P., Houston, TX

3:00 p.m. 1.00 hr

Burden of Proof

This session addresses one of if not the most important issues in coverage litigation: the burden of proof. Countless lawsuits are lost because one party was unaware that it had the burden of proof. The speakers discuss the burden of proof in issues such as policy period, insuring agreement, exclusions, exceptions to exclusions, warranties, exhaustion of limits, allocation and many other issues, and also address the standard of proof and how the burden of proof must be met.

R. Brent Cooper, Cooper & Scully, P.C., Dallas, TX
Lee H. Shidlofsky, Shidlofsky Law Firm PLLC, Austin, TX

4:00 p.m. .50 hr

What's New? What's Changed?

A summary of new developments in Texas insurance law, with emphasis on recent legislation affecting insurance matters.

Aaron Mitchell, Tollefson Bradley Ball & Mitchell, LLP, Dallas, TX

4:30 p.m. Adjourn

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WEDNESDAY MORNING

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. .83 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 these elements is the first step in understanding the coverage. This session examines the anatomy of an insurance contract, including declarations, insuring agreement(s), definitions, conditions and duties, exclusions and endorsements.

This 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.

9:50 a.m. .50 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 classifications are important in determining the discoverability of their work, their potential status as parties, their duties and liabilities, 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 (including underwriting and claim personnel), brokers and agents, and outside adjusters and claim consultants.

10:20 a.m. Break

10:35 a.m. .75 hr

The Claim Handling Process: The View from Both Sides

Providing notice of a claim to the insurer typically is a prerequisite to obtaining proceeds under the applicable policy or policies. This session provides practical guidance, including descriptions of documents and information that should be gathered and reviewed before making a claim.

It also addresses the carrier's response, including strategies for assessing the claim's submission, compliance with claim handling deadlines and other obligations, and the various options a carrier has in response to a claim.

11:20 a.m. .75 hr

Litigating Insurance Claims, Part I: Jurisdiction, Parties and Pleadings

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.

Having reviewed the players in insurance disputes earlier in the day, this session looks at those entities involved in insurance 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.

12:05 p.m. Break to Pick Up Lunch

Included in conference registration fee.

WEDNESDAY AFTERNOON

LUNCHEON PRESENTATION

12:20 p.m. .75 hr ethics

The Tripartite Relationship and Tilley Obligations

The Texas Supreme Court's 1973 *Tilley* 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 "*Tilley* counsel," the impact on the attorney-client relationship and privilege, and the question of who has the right to choose counsel.

1:05 p.m. Break

1:20 p.m. .50 hr

The Stowers Case: Introduction

The *Stowers* doctrine, which addresses when an insurer is obligated to settle a claim against its insured, was born more than 80 years ago. This session explores the fascinating history behind this landmark case, including the participants, the theories advanced by the parties and the rulings from the various courts.

1:50 p.m. .50 hr

Stowers, Continued: Understanding and Working with Stowers Issues Today

Stowers now refers to an ever-growing body of case law, and knowing what is meant by "*Stowerize*" is critical to anyone involved in litigation as it continues to be the subject of heated disputes among policyholders, insurers and claimants.

This session focuses on the current state of the law 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 *Stowers* doctrine to more complicated scenarios involving multiple claimants, multiple insureds or multiple policies.

2:20 p.m. .75 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 viability 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.

3:05 p.m. Break

3:20 p.m. .50 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.

3:50 p.m. .75 hr

**Litigating Insurance Claims, Part II:
Rights, Remedies and Outcomes**

This session examines the rights and remedies available in insurance litigation, including injunctive relief, pleading and calculating amounts recoverable under common law, the Texas Insurance Code or the DTPA, and addresses how to collect attorney's fees. It also addresses the various methods of resolving insurance disputes, including appraisal, summary judgments, trial, arbitration and other forms of alternative dispute resolution.

4:35 p.m. .42 hr

What I Know Now that I Wish I Knew Then

Lessons learned from recent entrants to the field.

5:00 p.m. Adjourn

**NETWORKING RECEPTION
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COMMENTS FROM PAST FUNDAMENTALS OF INSURANCE AND INSURANCE LAW INSTITUTES

This was an altogether excellent conference.

Knowledgeable speakers. Very good materials. Wonderfully interactive.

Excellent program.

One of the best I have attended.

Good variety of topics with excellent materials.

Excellent presentations.

The speakers were all interesting and had lots of great personal experience with insurance cases.

REGISTRATION FOR FUNDAMENTALS OF INSURANCE AND INSURANCE LAW INSTITUTE

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Houston, October 12, 2011

Includes Course Binder, Wednesday Luncheon Presentation, and Wednesday Evening Reception

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☐ Registration after Wednesday, October 5, 2011 \$345

Austin, November 2, 2011

Includes Course Binder and Wednesday Luncheon Presentation

- ☐ Early Registration due Wednesday, October 26, 2011 \$245
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Fundamentals Registration Total. \$ _____

INSURANCE LAW INSTITUTE

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for a networking reception immediately following the Fundamentals of Insurance.*

Austin, November 3-4, 2011

Includes Course Binder, Thursday and Friday Luncheon Presentations, and Thursday Evening Reception

- ☐ Early Registration due Wednesday, October 26, 2011 \$545
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Austin—November 3-4, 2011

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Houston—October 12, 2011 ■ Austin—November 2, 2011

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HOUSTON

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\$21 overnight

KEY DATES

October 5, 2011, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

October 7, 2011, 5 p.m.
last day for full refund

October 10, 2011, 5 p.m.
last day for partial refund
\$50 processing fee applied

October 12, 2011, 9 a.m.
Fundamentals begins

October 12, 2011, 5 p.m.
Networking Reception begins

AUSTIN

FUNDAMENTALS, NOVEMBER 2, 2011
INSTITUTE, NOVEMBER 3-4, 2011

CONFERENCE LOCATION



AT&T Conference Center - Hotel at UT
1900 University Avenue
Austin, TX 78705
512-404-3600

Special Room Rate: \$169
good through October 2, 2011
(subject to availability)

Parking:
Parking: Free Daily Self-Parking at UT
garages. Separate fees apply for valet
and overnight parking.

KEY DATES

October 26, 2011, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

October 28, 2011, 5 p.m.
last day for full refund

October 31, 2011, 5 p.m.
last day for partial refund
\$50 processing fee applied

November 2, 2011, 9 a.m.
Fundamentals begins

November 3, 2011, 8:45 a.m.
Institute begins

INSTITUTE ACCREDITATION

The Insurance Law Institute has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 15.00 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

Specialization Credit Approved for
Civil Trial Law, Consumer and Commercial Law,
and Personal Injury Trial Law

18.00 Hours of Texas CPE Credit for Accountants
(Sponsor #250)

Qualifying Course for TDI Continuing
Education Credit (up to 10.00 Hours)

FUNDAMENTALS ACCREDITATION

The Fundamentals of Insurance has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 7.00 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

Specialization Credit Approved for
Civil Trial Law, Consumer and Commercial Law,
and Personal Injury Trial Law

8.00 Hours of Texas CPE Credit for Accountants
(Sponsor #250)

Qualifying Course for TDI Continuing
Education Credit (up to 10.00 Hours)