

**2003 Insurance Law Institute**  
**November 12-14, 2003 • Hyatt Regency Austin • Austin, TX**

**Wednesday Evening, Nov. 12, 2003**

6:00 pm 1.00 hr	<p><b>Primer on Personal Lines Coverage</b></p> <p>The scope of the insuring agreements under the liability and UM/UIM coverages of the personal auto policy.</p> <p>Hon. Olga Seelig, Attorney at Law - Austin, TX Esther Cortez Whitaker, Nationwide Insurance - Richardson, TX</p>
7:15 pm 1.00 hr	<p><b>Primer on Commercial Lines Coverage</b></p> <p>The nuts and bolts of coverage under a standard general liability policy. A framework for analysis of coverage.</p> <p>Lance Eric Caughfield, Fletcher &amp; Springer, L.L.P. - Dallas, TX John C. Tollefson, Tollefson Bradley Ball &amp; Mitchell, LLP - Dallas, TX</p>

**Thursday Morning, Nov. 13, 2003**

9:00 am 1.00 hr	<p><b>Myths &amp; Misconceptions as to CGL Coverage for Defective Work</b></p> <p>Legal obligation ... occurrence... property damage ... business risk ... A debate over coverage for defective workmanship claims under the commercial general liability policy.</p> <p>Jill M. Cronin, Van Osselaer, Cronin &amp; Buchanan, LLP - Austin, TX Aaron Mitchell, Thompson Coe - Dallas, TX Lee Howard Shidlofsky, Nickens Keeton Lawless Farrell &amp; Flack - Austin, TX Patrick J. Wielinski, Cokinos, Bosien &amp; Young - Arlington, TX</p>
9:00 am 1.00 hr	<p><b>Optional Friday Luncheon with Hon. Wallace Jefferson</b></p>
9:00 am 1.00 hr	<p><b>Optional Wednesday Evening Session</b></p>
10:00 am 0.75 hr	<p><b>Funky Deals: Recission, Reformation, and Buy Backs of Policies and Other Things That Go Bump in the Night</b></p> <p>Insurance contracts can be made to disappear. In particular, insurance contracts can be eliminated (recission). Also, the terms of an insurance contract can be altered (reformation). Additionally, an insured and insurer can cancel a policy for money (a buy back). Mr. Allen will discuss the first two concepts, while Mr. Quinn will discuss the third.</p> <p>Robert D. Allen, Baker &amp; McKenzie - Dallas, TX Michael Sean Quinn, Quinn Hayes &amp; Quinn - Austin, TX</p>

11:00 am  
1.00 hr

### **Show Me the Money: Determining Duty to Pay for Judgments or Settlements**

Discussion of the ins and outs of the "actual facts" rule for the insurer's duty to indemnify, as contrasted with the "eight corners" rule for the insurer's duty to defend. Includes discussion of unresolved problems arising from blended covered / uncovered claims at trial, and estoppel issues.

Michael Wallace Huddleston, Shannon Gracey Ratliff & Miller LLP - Dallas, TX  
Robert M. Roach Jr., Cook & Roach - Houston, TX

## **Thursday Afternoon, Nov. 13, 2003**

1:30 pm  
0.75 hr

### **A Closer Look at Selection of Counsel Under Texas Law**

Who gets to select defense counsel when an insured gets sued? What are the limitations on what an insurer must do and what an insured can get? What are the obligations of the selected counsel? What remedies are available to either the insured or insurer concerning selection of counsel? These important issues will be addressed from both the policyholder and insurer perspective.

R. Brent Cooper, Cooper & Scully PC - Dallas, TX  
Ernest Martin Jr., Haynes & Boone LLP - Dallas, TX

2:15 pm  
0.50 hr

### **Mediating & Settling the Insurance Case: Ethical, Practical and Evidentiary Pitfalls**

What makes settling insurance cases different, including the challenges in resolving coverage during pendency of underlying claims, competing interests of other carriers and continuing obligations to the policyholder.

Paul J. Van Osselaer, Van Osselaer Cronin & Buchanan LLP - Austin, TX

2:45 pm  
0.75 hr

### **Spiking, Stacking, Spreading & Other Allocation Issues**

A discussion of trigger and allocation issues arising when multiple insurers are on the risk for the same claim, including litigation and settlement strategies.

Karen Keltz, Riddle And Williams PC - Dallas, TX  
J. Mark Lawless, Nickens Keeton Lawless Farrell & Flack - Austin, TX

3:45 pm  
0.75 hr

### **Strategic and Ethical Issues in Actions for Declaratory Judgment**

Declaratory judgments are frequently sought to resolve coverage issues while the underlying liability lawsuit is pending. This presentation addresses strategic and ethical issues that may arise, including when indemnity is justiciable, the use of extrinsic evidence, privileges, and the procedural impact of developing liability facts in the coverage case.

Beth D. Bradley, Tollefon Bradley Ball & Mitchell, LLP - Dallas, TX  
Russell Hugh McMains, Law Ofc Of Russell H McMains - Corpus Christi, TX

4:30 pm  
0.50 hr

### **Directors & Officers / Errors & Omissions Coverage**

Current forms of Directors and Officers insurance policies pose difficult coverage issues. This presentation will survey current D&O coverage issues, including the entity coverage controversy, the effect of insolvency, and insurer attempts to rescind coverage.

David Hurst Brown, Vinson & Elkins - Houston, TX

5:00 pm  
0.50 hr

### **Unique Coverage Challenges in the Class Action and Mass Tort Context**

Relevant challenges arising in connection with determining coverage for class action and mass tort claims will be discussed.

James W. Walker, Walker Sewell LLP - Dallas, TX

## **Friday Morning, Nov. 14, 2003**

8:30 am  
0.75 hr

### **Coverage for Business Losses**

An overview of coverage for business losses, including property and business interruption claims. Key issues of first-party coverage will also be presented, from insurance placement through claim resolution.

Vincent Eugene Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX  
Daniel T. Torpey, Ernst & Young LLP - Dallas, TX

9:15 am  
0.50 hr

### **Legislative Update**

Overview of major insurance legislation for practioners - tort, medical mal, prompt pay, mold and other reform legislation.

Gloria Leal, Texas Dept Of Insurance - Austin, TX

9:45 am  
0.50 hr

### **Rate and Policy Form Regulation**

Discussion of Texas' new regulatory scheme for auto and homeowners' policy forms and rates and how it will affect individual and class action litigation.

D. J. Powers, Austin, TX

10:30 am  
0.50 hr

### ***Daubert* and WAG**

Offensive and defensive use of *Daubert* in bad faith and coverage litigation.

Eva C. Ramos, Skelton & Woody - Austin, TX

11:00 am  
0.50 hr

### **What Every Lawyer Needs to Know About Insolvency**

As the Special Master since 1992 for all Texas insurance company receiverships, Mr. Collins will summarize the key provisions and procedures of the receivership statute and the roles of the receiver and guaranty associations, from both a regulatory and judicial perspective. He also will share his thoughts and tips for counsel who find themselves involved in such proceedings.

Thomas A. Collins, Austin, TX

11:30 am  
0.50 hr

### **Extra Contractual Update**

Case law continues to refine the duty of good faith and fair dealing, the Stowers duty to settle, and statutory liability under Article 21.21 and 21.55; this topic will present the latest and greatest decisions affecting these issues.

David J. Schubert, Schubert Evans PC - Dallas, TX

## Friday Afternoon, Nov. 14, 2003

12:00 pm 0.50 hr	<b>Luncheon Presentation</b>  Emerging Issues: What's in the Pipeline?  Wallace B. Jefferson, The Supreme Court Of Texas - Austin, TX
1:30 pm 0.50 hr	<b>The Rockin' Rules of Texas Insurance Litigation</b>  The Rock-n-Roll hits of the last three decades provide surprising insight into some of the important strategic considerations in first party insurance litigation in Texas.  Christopher W. Martin, Martin Disiere & Jefferson - Houston, TX
2:00 pm 0.50 hr	<b>When In Doubt, Map It Out: Unraveling Indemnity, Subrogation, Contribution, and "Additional Insured" Rights in Complex Litigation</b>  Overview of contractual provisions regarding indemnity, subrogation, contribution and "additional insured" coverage, followed by a discussion of tricky patterns in cases involving multiple contracts, and suggestions on how to clarify contractual relationships and identify "hidden" rights or liabilities.  Claudia Kathryn Frey, Cortner, McNaoboe, Colliau & Elenius - Dallas, TX
2:30 pm 0.50 hr	<b>Current Issues in Homeowners Insurance</b>  Insurance goes to the movies: From <i>Star Trek</i> to <i>The Empire Strikes Back</i> .  William John Chriss, Law Offices Of William J. Chriss, P.C. - Corpus Christi, TX