

2006 Insurance Law Institute
December 6-8, 2006 • Four Seasons Hotel • Austin, TX

Wednesday Evening, Dec. 6, 2006

6:00 pm
2.00 hrs

Cornerstones of Insurance

This session covers the basics for new insurance law litigators, and will cover liability, property, and extra contractual information.

Brian L. Blakeley, Blakeley & Reynolds, P.C. - San Antonio, TX
Veronica M. Carmona Czuchna, Clark Thomas & Winters, P.C. - Austin, TX
Aaron Mitchell, Tollefson Bradley Ball and Mitchell LLP - Dallas, TX

Thursday Morning, Dec. 7, 2006

Presiding Officer:

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

9:00 am
0.75 hr

The Gathering Storm: What Has Been Decided, What Is to Be Decided, and Where Will We Be When It Is All Over

The focus of this session will be on major decisions from the Texas Supreme Court, Fifth Circuit, and Texas Courts of Appeals that affect insurance practice. Major cases that are currently pending will also be addressed, with discussions of where the courts may be headed. Finally, and most importantly, the impact on insurance and tort practices will be addressed, along with long-term implications of the decisions.

R. Brent Cooper, Cooper & Scully, P.C. - Dallas, TX

9:45 am
0.50 hr

Hurricane Losses: Concurrent Causation and Other Hot Topics

The recent hurricane claims and lawsuits are forcing courts and lawyers to re-examine traditional insurance coverage issues. Two of Texas' leading insurance trial lawyers will discuss recent decisions, suggested strategies, and likely outcomes of several important property coverage issues.

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

10:15 am
0.50 hr

Hurricane: Business Interruption and Other Time Element Coverages

This session will concentrate on core business interruption and other time element coverages as they relate to hurricane-related losses. It will also focus on key issues that often arise, including disputes involving causation and valuation.

Thomas H. Cook Jr., Zelle Hofmann Voelbel Mason & Gette LLP - Dallas, TX
Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX
Campbell E Wallace, Chaffe McCall Phillips Toler & Sarpy LLP - New Orleans, LA

11:15 am 0.50 hr	<p>Builders Risk and Construction Defects</p> <p>With most of the attention on third party liability coverage, is builders risk insurance a source of recovery for construction defects?</p> <p>Patrick J. Wielinski, Cokinos, Bosien & Young, P.C. - Arlington, TX</p>
11:45 am 0.75 hr	<p>Agents, Brokers, and Producers: Is the Law Changing, and If So, Why?</p> <p>Insurance arrangements often involve three parties: the insured, the insurer, and the person in the middle—the broker, producer, and/or agent. The law regarding the insurance intermediary is vague and tangled, but has been slow to change. Recent events and trends have put this law under pressure. What new duties and exposures may result? What does all this mean for lawyers who are suing, defending, or providing advice?</p> <p>Michael Sean Quinn, Quinn Hayes & Quinn - Austin, TX</p>

Thursday Afternoon, Dec. 7, 2006

Presiding Officer:

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

12:45 pm 0.50 hr	<p>Luncheon Presentation: Following Fiess</p> <p>It's over, now what? The panel will discuss the Supreme Court's opinion in <i>Fiess v. State Farm Lloyds</i>—not only the impact on future mold litigation, but also the application to other ensuing loss situations, the implications of the court's treatment of prior policy forms, and agency interpretations in policy construction.</p> <p>William J. Chriss, of counsel to Gravely & Pearson, L.L.P. - Austin, TX Robert G. Hogue, Robert G Hogue PC - Dallas, TX Christopher W. Martin, Martin, Disiere, Jefferson, & Wisdom, L.L.P. - Houston, TX Karen Bailey Pettigrew, Austin, TX</p>
1:30 pm 0.50 hr	<p>Coverage for Construction Claims: Clarifying the Confusion over the Business Risk Exclusions</p> <p>A review of the business risk exclusions in a commercial general liability policy, and their application to cases involving construction defects, as well as a discussion of recent cases addressing whether construction defect/faulty workmanship claims constitute an "occurrence" or "property damage" under the policy's insuring language.</p> <p>J. James Cooper, Gardere Wynne Sewell & Riggs - Houston, TX Rebecca Suzanne Dimasi, Van Osselaer, Cronin & Buchanan, L.L.P. - Austin, TX</p>
2:00 pm 0.50 hr	<p>Recent Developments in Personal Auto and Homeowner Policies</p> <p>This session will provide an update on recent court decisions impacting both personal auto and homeowner insurance policies.</p> <p>Lisa A. Songy, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX</p>

2:50 pm 0.50 hr	<p>The Once and Future Coverage: Coverage B</p> <p>How has coverage for Personal and Advertising Injury changed under recent ISO forms; what's covered and what's not; and what are the new horizons for its application?</p> <p>Beth D. Bradley, Tollefson Bradley Ball & Mitchell, LLP - Dallas, TX</p>
3:15 pm 0.50 hr	<p>Issues Arising from Alternative Employment Relationships</p> <p>Employers increasingly rely on alternative employment arrangements for all or part of their workforce. Leased employees, borrowed servants, temporary employees, co-employees create unique coverage issues. Are these worker "employees" excluded from coverage for bodily injury under commercial general liability policies? Are the jury findings from the underlying tort suits binding on the employer or carrier? Can claiming employee status have far-reaching and unintended effects on employee benefit programs?</p> <p>Linda Marie Dedman, Dedman & Handschuch - Dallas, TX</p>
3:45 pm 0.50 hr	<p>Expert Witnesses in Insurance Cases</p> <p>The law of expert testimony applied to insurance litigation. Do you need an expert? What issues allow expert testimony? Supporting and attacking "expert" testimony.</p> <p>Mark L. Kincaid, Kincaid & Horton LLP - Austin, TX</p>
4:15 pm 0.00 hr 1.00 hr ethics	<p>Slippery Slopes and Ethical Landmines</p> <p>A panel discussion of the privilege-related pitfalls and ethical dilemmas in the context of developing areas of law—including the practical aspects of the role of independent counsel, the use of joint defense agreements and communications involving non-defending insurers.</p> <p>Moderator: Ernest Martin Jr., Haynes and Boone, LLP - Dallas, TX Aaron Mitchell, Tollefson Bradley Ball and Mitchell LLP - Dallas, TX Meloney Cargil Perry, Meckler Bulger Tilson Marick & Pearson LLP - Dallas, TX Lee H. Shidlofsky, Visser Shidlofsky LLP - Austin, TX</p>

Friday Morning, Dec. 8, 2006

Presiding Officer:

Veronica M. Carmona Czuchna, Clark Thomas & Winters, P.C. - Austin, TX

9:00 am 0.50 hr	<p>Making a Little Bit Go a Long Way—The Policy Limits in Multiple Claimant Cases</p> <p>Addressing the numerous issues raised where the limits appear insufficient to satisfy multiple claimants, including an update on Soriano, approaches to increasing the number of occurrences in automobile and commercial general liability policies, the "per occurrence" deductible dilemma, special reservation of rights consideration, and handling issues presented where the limits depend on facts to be litigated in the underlying case.</p> <p>Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX</p>
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9:30 am 0.50 hr	Taking and Defending Adjuster's Depositions How to prepare an adjuster to give a deposition; how to take an effective deposition of an adjuster. Thomas C. Wright, Wright Brown & Close - Houston, TX
10:00 am 0.50 hr	What Goes In, What Goes Out: Discovery & Evidentiary Issues in Coverage Litigation An overview of discovery and evidentiary issues in coverage litigation, including the consideration of: extrinsic evidence in policy interpretation and whether the "surrounding circumstances" exception allows consideration of underwriting files and other collateral matter; extrinsic evidence and the pleadings in liability coverage disputes; obtaining and using the insurer's own evaluations, records, guidelines and directives; and the limits imposed by concerns over others' privacy interests. J. Stephen Gibson, Shannon, Gracey, Ratliff & Miller, L.L.P - Dallas, TX
10:45 am 1.25 hrs ethics	Setting the Chess Pieces: Preparation and Strategy Considerations in Filing and Prosecuting Coverage Litigation A discussion of litigation considerations and issues involved in litigating coverage disputes, including venue, severance, declaratory judgments and strategies to maximize your position from both the carrier and policyholder perspectives. Brian Scott Martin, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX Russell H. McMains, Attorney at Law - Corpus Christi, TX

Friday Afternoon, Dec. 8, 2006

Presiding Officer:

Russell H. McMains, Attorney at Law - Corpus Christi, TX

12:30 pm 0.00 hr 0.50 hr ethics	Luncheon Presentation: The Rhetorical is Ethical: A Defense of Rhetoric and Lawyers The rhetorical skills possessed by lawyers instill in citizens what the Greeks called euboulia, good judgment. Daniel V. Pozza, San Antonio, TX
1:15 pm 0.75 hr	Going Naked: Self-Insurance, Captives and Fronting Arrangements Why are so many corporations and associations self-insured? What is a captive? Why and how are they established and run? What difference does it make to be offshore? How does reinsurance work in this context—does the reinsurer get to control defense? Owe a duty of good faith? What about insolvency? What is a fronting policy? What's the difference between a deductible and a SIR? D. Christopher Heckman, Exxon Mobil Corporation - Irving, TX
2:00 pm 0.75 hr	Additional Insurance Additional insureds and certificates of insurance: What do you get when you have someone else buy your coverage? David J. Schubert, Schubert & Evans PC - Dallas, TX Stephen E. Walraven, Langley & Banack, Inc. - San Antonio, TX

2:45 pm
0.00 hr
0.50 hr ethics

Post-Verdict Solutions—Bonding on Net Worth, Intervention, and Other Extraordinary Measures

A trip through the post-verdict world after House Bill 4 and the changes made to the amount of and posting of supersedeas bonds, as well as recent appellate court opinions interpreting the legislative changes. Also, examine a number of disputed issues and aggressive tactics currently being used by claimants to thwart attempts to post bonds for half of the net worth of the insured.

R. Brent Cooper, Cooper & Scully, P.C. - Dallas, TX