

12th Annual Insurance Law Institute
October 10*, 11-12, 2007 • Hyatt Regency Austin • Austin, TX

Wednesday Afternoon, Oct. 10, 2007

5:00 pm	Registration Opens Wednesday Evening Session included in Conference Registration.
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Wednesday Evening, Oct. 10, 2007

6:00 pm 2.00 hrs	On Your Mark: Getting Started With Insurance Coverage Linda Marie Dedman, Dedman & Handschuch - Dallas, TX Meloney Cargil Perry, Meckler Bulger & Tilson LLP - Dallas, TX Bob Roberts, The Law Offices of Bob Roberts - Austin, TX
8:15 pm	Adjourn

Thursday Morning, Oct. 11, 2007

Presiding Officer:

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

8:00 am	Registration opens Includes continental breakfast.
8:50 am	Welcoming Remarks
9:00 am 0.50 hr	Pending Cases Important insurance issues still pending in the Texas Supreme Court and the Fifth Circuit: an educated guess! Russell H. McMains, Attorney at Law - Corpus Christi, TX
9:30 am 0.50 hr	A Practical Approach to Concurrent Causation Practical application of the concurrent causation doctrine, with a focus upon burdens of proof, evidentiary issues, use of experts, and the jury charge. Veronica M. Carmona Czuchna, Clark Thomas & Winters, P.C. - Austin, TX

10:00 am 0.67 hr	<p>Prejudice</p> <p>This session will address the confusing body of precedent concerning the "prejudice" requirement for insurers whose policyholders have breached a covenant or condition to coverage. Topics will include when prejudice must be demonstrated; the meaning of the <i>Hernandez</i> decision; the role of the Department of Insurance in creating a prejudice requirement; the intersection between prejudice law and long-standing rules governing insurance policy construction; and the difficult decisions facing insurance companies who know of a suit, but whose policyholders have not provided notice of requested representation. The speakers will attempt to navigate the conflicting duties arising under the contract, ethical concerns of an attorney-client "relationship" with an absent client and recent cases addressing the "prejudice" element in a statutory environment mandating liability coverage to protect the injured party.</p> <p>Mary J. Ibarra Myers, Liberty Mutual Insurance - San Antonio, TX J. Hampton Skelton, Skelton & Woody - Austin, TX</p>
10:40 am	Break
10:55 am 0.50 hr	<p>The Folly of Fortuity</p> <p>Texas courts are increasingly applying the fortuity doctrine in insurance cases. This presentation will focus on the property of this doctrine in the liability context.</p> <p>Ernest Martin Jr., Haynes and Boone, LLP - Dallas, TX</p>
11:25 am 0.50 hr	<p>Agents/Brokers</p> <p>This topic will focus on the duties owed by agent/brokers to insureds, insurers and third parties. The topic will address how and when those duties may arise. The topic will also address practical issues such as the impact of a settlement with the insurer on an E&O action against the agent/broker as well whether such doctrines as the Gandy doctrine that apply to insurers would also apply to agents/brokers.</p> <p>R. Brent Cooper, Cooper & Scully, P.C. - Dallas, TX</p>
11:55 am	<p>Pick up Box Lunch</p> <p>Included in conference registration fee.</p>

Thursday Afternoon, Oct. 11, 2007

Presiding Officer:

David L. Plaut, Hanna & Plaut, LLP - Austin, TX

12:10 pm 1.00 hr ethics	<p>Fraud</p> <p>Insurance Fraud: What is it? What can you do about it? And how does it impact civil litigation?</p> <p>Kyson Matthew Johnson, Texas Department Of Insurance - Dallas, TX Lisa A. Songy, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX David Carl Wenholtz, The Wenholtz Law Firm - Austin, TX</p>
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1:30 pm 0.50 hr	<p>The History of Article 21.21 of the Texas Insurance Code</p> <p>A complete understanding of Article 21.21 (now Chapter 541) of the Texas Insurance Code -- the most potent weapon in the hands of insurance consumers -- requires an understanding of where the statute came from and the changes it has undergone in the hands of the courts and legislature since it became law in 1973.</p> <p>Philip K. Maxwell, Attorney at Law - Austin, TX</p>
2:00 pm 0.50 hr	<p>Post-Litigation Bad Faith Issues</p> <p>Some argue an insurer's duty of good faith continues after the filing of a bad faith suit. Does it? Should it? If it is alleged, how can it be defended? And, most importantly, what are the traps for unwary counsel in making such arguments?</p> <p>Christopher W. Martin, Martin, Disiere, Jefferson, & Wisdom, L.L.P. - Houston, TX</p>
2:45 pm 0.50 hr	<p>Myths, Mistakes and Misconceptions</p> <p>A discussion of common misunderstandings of, or the arguments to circumvent, coverage issues impacting the duty to defend and indemnify and the right to declaratory relief.</p> <p>Beth D. Bradley, Tollefson Bradley Ball & Mitchell, LLP - Dallas, TX Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX</p>
3:00 pm	<p>Break</p>
3:15 pm 0.75 hr	<p>Additional Insureds</p> <p>Party crashers - coming to the party as an "additional insured".</p> <p>David J. Schubert, Schubert Evans PC - Dallas, TX Patrick J. Wielinski, Cokinos, Bosien & Young, P.C. - Arlington, TX</p>
4:00 pm 0.50 hr 0.25 hr ethics	<p>Show Me the Money: Recovery of Attorney's Fees in the Insurance Coverage Case</p> <p>A guide to the various avenues of attorney's fees recovery in an insurance case including prerequisites for recovery and pitfalls to avoid.</p> <p>Jill M. Cronin, Austin, TX</p>
4:30 pm 0.50 hr ethics	<p>Liability Insurers Suing Lawyers</p> <p>If insurance defense lawyers represent only insureds that are sued as tortfeasor and if only clients can sue lawyers for malpractice, how can the liability insurer that hires and pays defense counsel have standing to sue the defense lawyer who botches the job? Some say it cannot. Yet these kinds of suits are becoming more and more common around the country. What is the meaning of all this and what does - or should - the future hold?</p> <p>Michael Sean Quinn, Law Firm Of Michael Sean Quinn - Austin, TX</p>
5:00 pm	<p>Adjourn</p>

Friday Morning, Oct. 12, 2007

Presiding Officer:

Lee H. Shidlofsky, Visser Shidlofsky LLP - Austin, TX

8:30 am 0.50 hr	Supreme Court Update Hon. Scott A. Brister, Supreme Court of Texas - Austin, TX
9:00 am 0.50 hr	Claimant's Beware: The Claim Process and Notice, Cooperation, Examination Under Oath, and Appraisal Policy Provisions How is the claim process affected by the above policy conditions or "insured's duties"? What action must an insured take or refrain from taking post-occurrence, claim, or suit, to avoid forfeiting coverage? Charles L. Levy, Law Office Of Charles L Levy - Waco, TX
9:30 am 0.67 hr	Declaratory Judgement Actions Direct actions by claimants, the many corners rule, and the new rules for litigation coverage in declaratory judgment actions. Lee H. Shidlofsky, Visser Shidlofsky LLP - Austin, TX Stephen E. Walraven, Langley & Banack, Inc. - San Antonio, TX
10:10 am	Break
10:20 am 0.50 hr	Cancellation and Non-Renewal Issues A review of the proper procedures for cancelling and non-renewing personal lines and commercial lines policies in Texas. Elizabeth Ann Gilday, Attorney at Law - Dallas, TX
10:50 am 0.50 hr	Claims-Made Coverage Issues and Recent Developments The Texas-centric review of recent cases and hot-button topics in claims-made coverage litigation. Issues addressed will include: (i) developments in Texas (and beyond) in "prompt notice" cases; (ii) tail coverage and the specificity of reporting necessary; and (iii) the "known loss" rule in the claims-made context. Steve Skarnulis, Cain & Skarnulis LLP - Austin, TX
11:20 am 0.67 hr	The Jury Charge in First-Party Insurance Cases A discussion from both the policyholder and carrier perspectives regarding the drafting, submission and appellate preservation issues involved in the preparation of the jury charge in first-party coverage and bad faith cases, including issues related to the submission of breaches of policy conditions, fortuity, concurrent causation, particularly in light of new policy forms, the feasibility of broad-form submission, and Casteel issues. Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX Mark L. Kincaid, Kincaid & Horton LLP - Austin, TX

Friday Afternoon, Oct. 12, 2007

Presiding Officer:

Bob Roberts, The Law Offices of Bob Roberts - Austin, TX

12:00 pm	Pick up Box Lunch Included in conference registration fee.
12:15 pm 0.83 hr ethics	Innovations in Litigation: Apology as a Litigation Resource In the past few years, apology has gained momentum as a litigation and claims mitigation resource, especially in healthcare settings. This program will examine the apology movement from both a theoretical and practical perspective and will highlight emerging litigation and statutory trends. Moderator: Michael Sean Quinn, Law Firm Of Michael Sean Quinn - Austin, TX Lee McCreary Taft, Dallas, TX
1:05 pm 0.50 hr	Game Time! Whaddaya Know About Coverage? Test your knowledge of coverage law in a game show format! Audience members will compete with the help of some of Texas' brightest young coverage lawyers on a variety of insurance coverage and ethics topics. Are you smarter than a coverage lawyer? Moderator: Brian S. Martin, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX Panelists: Jamie R. Carsey, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX Panelists: Stephanie Rojo, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX
1:35 pm 0.42 hr	Policy Buybacks: The Perks and the Pitfalls Policy buybacks arise when the insurer and insured work together to arrive at a solution which frees them both from obligations under their insurance policy. However, if not carefully crafted, such buybacks can have unintended consequences. This session will discuss the concept of a policy buyback, its potential benefits and some unexpected perils. W. Neil Rambin, Sedgwick Detert Moran & Arnold, LLP - Dallas, TX
2:00 pm 0.42 hr	80th Legislative Update: New Insurance Laws Passed and Failed A summary of insurance related legislation passed that will impact insurers, consumers, agents, lawyers, and business, including a summary of bills that did not pass or were vetoed. This session will also examine legislative changes that may be part of "interim" studies. Jay Alan Thompson, Thompson, Coe, Cousins & Irons, L.L.P. - Austin, TX
2:25 pm 0.42 hr	In the Driver's Seat: Personal Auto Update An overview of recent case developments and legislative changes affecting the personal auto policy. Melinda Ruth Burke, Shannon Gracey Ratliff & Miller LLP - Fort Worth, TX
2:50 pm	Break

3:00 pm 0.42 hr	Reinsurance What goes on behind the scenes can effect every aspect of your case and what you can do about it. James W. Walker, Walker Sewell LLP - Dallas, TX
3:25 pm 0.42 hr	Hot Cases Texas Supreme Court Today: Held "made whole" doctrine does not apply and full subrogation benefits must be paid to health carrier. David L. Plaut, Hanna & Plaut, LLP - Austin, TX
3:50 pm 0.67 hr	Damages Most liability policies agree to pay those sums that a policyholder becomes legally obligated to pay "as damages," not otherwise excluded under the policy. This session examines what constitutes covered "damages," including punitive damages, civil fines and penalties, economic damages, attorney's fees, investigative, mitigation and preventative expenses, and costs associated with environmental remediation and medical monitoring. J. Mark Lawless, Nickens Keeton Lawless Farrell & Flack LLP - Austin, TX April Michelle Zubizarreta, Cozen O'Connor - Houston, TX
4:30 pm	Adjourn