

16th Annual Insurance Law Institute
November 3-4, 2011 • AT&T Conference Center • Austin, TX

Thursday Morning, Nov. 3, 2011

Presiding Officer:

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

7:45 am	Registration Opens Includes continental breakfast.
8:35 am	Welcoming Remarks
8:45 am 0.50 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 am 0.50 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, Attorney at Law - Salado, TX Allyson Lind Wilkinson, Hall Maines Lugin, P.C. - Houston, TX
9:45 am 0.50 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 am	Break
10:30 am 0.75 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 am 0.50 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 am	Break to Pick Up Lunch Included in conference registration fee.

Thursday Afternoon, Nov. 3, 2011

Presiding Officer:

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	Luncheon Presentation
12:00 pm 1.00 hr ethics	Family Feud: The Coopers vs. The Martins Ethics like you've never seen it! Note: This session will be presented on Friday November 4 at 12:15 p.m. Moderator: John C. Tollefson, Tollefson Bradley Ball & Mitchell, LLP - Dallas, TX Panelists: J. James Cooper, Gardere Wynne Sewell LLP - Houston, TX Panelists: Jamie Penton Cooper, Martin, Disiere, Jefferson & Wisdom, L.L.P. - Houston, TX Panelists: R. Brent Cooper, Cooper & Scully, P.C. - Dallas, TX Panelists: Brian Scott Martin, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX Panelists: Christopher W. Martin, Martin, Disiere, Jefferson & Wisdom, L.L.P. - Houston, TX Panelists: Ernest Martin Jr., Haynes and Boone, LLP - Dallas, TX
1:00 pm	Break
1:15 pm 0.75 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. Micah E. Skidmore, Haynes and Boone, LLP - Dallas, TX Amy Elizabeth Stewart, Attorney at Law - Dallas, TX

2:00 pm 0.75 hr	<p>Restrictions in Additional Insured Endorsements and Related Issues</p> <p>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.</p> <p>Moderator: Erika Lea Blomquist, Haynes and Boone, LLP - Dallas, TX</p> <p>Panelists: Jamie R. Carsey, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX</p> <p>Panelists: Marcus R. Tucker, Royston Rayzor Vickery & Williams - Houston, TX</p>
2:45 pm	Break
3:00 pm 0.75 hr	<p>Adding Value: A Corporate Counsel's Guide to Insurance and Risk Management</p> <p>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.</p> <p>Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX</p>
3:45 pm 0.75 hr 0.25 hr ethics	<p>Command and Control: Independent Counsel vs. Insurer's Right to Defend</p> <p>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!).</p> <p>Jamie Penton Cooper, Martin, Disiere, Jefferson & Wisdom, L.L.P. - Houston, TX Robert J. Cunningham, Roach & Newton, LLP - Houston, TX</p>
4:30 pm 1.00 hr 0.25 hr ethics	<p>Finding Leverage in the Insurance Battle: Some Practical Considerations</p> <p>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.</p> <p>Moderator: Ernest Martin Jr., Haynes and Boone, LLP - Dallas, TX</p> <p>Panelists: Veronica Carmona Czuchna, Duggins Wren Mann & Romero, LLP - Austin, TX</p> <p>Panelists: David E. Mims, LQ Management LLC - Irving, TX</p> <p>Panelists: Demetrius Rush, ZNA Corporate Law Department - Schaumburg, IL</p>
5:30 pm	Adjourn to Sponsored Reception

Friday Morning, Nov. 4, 2011

Presiding Officer:

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8:00 am	Conference Room Opens
8:30 am 0.50 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, Attorney at Law - Dallas, TX
9:00 am 0.50 hr	Stepping Back: <i>Mid-Continent Ins. Co. v. Liberty Mutual Ins. Co.</i> Rights of subrogation and contribution between insurers appeared to change (end?) radically with the Texas Supreme Court's decision in <i>Mid-Continent v. Liberty Mutual</i> . 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 am 0.50 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 am 0.50 hr	Appraisal and Abatement: Assessing the Practical Implications of <i>In Re Universal Underwriters for First Party Coverage Litigation</i> An evaluation of the Texas Supreme Court's recent opinion on the waiver of appraisal, abatement, and other developing issues surrounding insurance appraisal. Jennifer Kurachek Kenchel, Cozen O'Connor - Dallas, TX Shannon Elizabeth Loyd, Gravely & Pearson LLP - San Antonio, TX
10:30 am	Break
10:45 am 0.75 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 am 0.50 hr	Judicial Perspectives Hon. Randall W. Wilson, 157th District Court - Houston, TX

12:00 pm	Break to Pick Up Lunch Included in conference registration fee.
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Friday Afternoon, Nov. 4, 2011

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	Luncheon Presentation
12:15 pm 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-seeded media-driven perceptions of the insurance industry. Note: This session will be presented on Thursday November 3 at 12:00 p.m. William J. Chriss, Law Office of William J. Chriss, P.C., of counsel to Gravely & Pearson, L.L.P. - Austin, TX Christopher W. Martin, Martin, Disiere, Jefferson & Wisdom, L.L.P. - Houston, TX
1:15 pm	Break
1:30 pm 0.75 hr	<i>Gilbert</i> 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 <i>Lamar Homes</i> and Exclusion B. Moderator: Beth D. Bradley, Tollefson Bradley Ball & Mitchell, LLP - Dallas, TX Panelists: Jes Alexander, Fletcher, Farley, Shipman & Salinas, L.L.P. - Dallas, TX Panelists: Douglas Paul Skelley, Shidlofsky Law Firm PLLC - Austin, TX
2:15 pm 0.75 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 perspective of both carriers and policyholders. J. Mark Lawless, McGuire Woods LLP - Austin, TX Brian Scott Martin, Thompson, Coe, Cousins & Irons, L.L.P. - Houston, TX

3:00 pm 1.00 hr	<p>Burden of Proof</p> <p>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.</p> <p>R. Brent Cooper, Cooper & Scully, P.C. - Dallas, TX Lee H. Shidlofsky, Shidlofsky Law Firm PLLC - Austin, TX</p>
4:00 pm 0.50 hr	<p>What's New? What's Changed?</p> <p>A summary of new developments in Texas insurance law, with emphasis on recent legislation affecting insurance matters.</p> <p>Aaron Mitchell, Tollefson Bradley Ball & Mitchell, LLP - Dallas, TX</p>
4:30 pm	<p>Adjourn</p>