

20TH ANNUAL
INSURANCE LAW INSTITUTE



November 12–13, 2015
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THURSDAY MORNING, NOV. 12, 2015

Presiding Officer:

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

8:00 a.m. Registration Opens
 Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. .75 hr

Supreme Court Update

Hon. Craig T. Enoch, Enoch Keever PLLC, Austin, TX

9:45 a.m. .50 hr

Using the New Pattern Jury Charge Insurance Questions

A brief guide to the new PJC questions and instructions for insurance breach of contract cases.

Mark L. Kincaid, George, Brothers, Kincaid & Horton LLP, Austin, TX

10:15 a.m. Break

10:30 a.m. .75 hr

Gandy/Seger: Assignments and Actual Trials

Explore *Gandy* and *Seger* and their progeny, with a focus on courts requiring an actual trial before a judgment is binding on an insurer. Judicial exceptions are addressed, as well as the assignability of contractual, statutory and tort causes of action by an insured against an insurer to others, and the limitations placed upon such assignments by the courts.

R. Brent Cooper, Cooper & Scully, P.C., Dallas, TX
 John T. Smithe, Templeton Smithe Hayes Heinrich Russell LLP, Amarillo, TX

11:15 a.m. .50 hr

Insurer Duty to Indemnify: Before Judgment or Settlement?

For decades, an insurer knew it had no duty to indemnify, if it had no duty to defend. The Texas Supreme Court, however, upended that well-settled issue in *D.R. Horton-Tex., Ltd. v. Markel Int'l Ins. Co.*, meaning that insurers who have properly denied a defense may have to make difficult coverage decisions when an insured demands indemnity for a settlement or a judgment. Based on recent Supreme Court precedent, may a court rule on the duty to indemnify prior to judgment or settlement?

Cathlynn H. Cannon, Wilson Elser, Dallas, TX

11:45 a.m. Pick Up Lunch

Included in registration.

THURSDAY AFTERNOON

Presiding Officer:

Rebecca Suzanne DiMasi, Buchanan DiMasi Dancy & Grabouski LLP, Austin, TX

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LUNCHEON PRESENTATION

12:05 p.m. 1.00 hr | .25 hr ethics

How to Get Dough Out of Insurance Companies: Tactics and Tricks of the Trade

A discussion of critical tactics and strategies for getting insurance companies to pay on a variety of claims. Learn the differences in approach as to different lines of coverage, based on the varied experiences of the panelists, such as first-party property, automobile liability and underinsured/uninsured motorists coverage, general liability and professional liability. The use of settlement agreements in liability cases that push the limits of *Gandy* and *Lennar* is also addressed.

Moderator:

Michael W. Huddleston, Munsch Hardt Kopf & Harr, P.C., Dallas, TX

Panelists:

Ernest Martin Jr., Haynes and Boone, LLP, Dallas, TX
 J. Steven Mostyn, Mostyn Law, Houston, TX
 James Craig Orr Jr., Heygood, Orr & Pearson, Dallas, TX
 Mark A. Ticer, Law Office of Mark A. Ticer, Dallas, TX

1:05 p.m. Break

1:20 p.m. .50 hr

Duties During Litigation

An examination of the continuing duties of carriers and insureds after coverage litigation is filed, including an in-depth look at the continuation of penalty interest under the Prompt Payment Statute.

J. Mark Lawless, McGuireWoods LLP, Austin, TX
 Brian S. Martin, Thompson Coe, Houston, TX

“

Good variety of topics, high quality of speakers and very timely topics.

Perfect amount of helpful, practiced-based information.

I love the absolute geekiness of it, unapologetically geared to insurance practitioners.

Very well organized with good topics and speakers.

Broad and diverse topics, most of which are particularly representative of issues I am seeing in my practice.

”

1:50 p.m. .75 hr

**Do You Really Want to Go to Appraisal?
Pros and Cons of the Appraisal Process from
the Carrier and Policyholder's Perspective**

Analyze the appraisal process during the claims process and after litigation—including issues such as the impartiality of appraisers, umpires and the impact on extra-contractual claims.

Janet K. Colaneri, The Colaneri Firm, P.C., Arlington, TX
Matthew R. Pearson, Gravely & Pearson, LLP, San Antonio, TX

2:35 p.m. Break

2:45 p.m. 1.00 hr

Hacking through Cyber Insurance

Review the damages arising from a data or privacy breach as well as important underwriting considerations in negotiating and placing dedicated network security/privacy liability insurance policies, with a focus on recent legal developments impacting claims for data-breach related loss and liability under both traditional coverages and "cyber" insurance policies.

Moderator:
Micah E. Skidmore, Haynes and Boone, LLP, Dallas, TX

Panelists:
Jes Alexander, Dickey's Barbecue Restaurants, Inc., Dallas, TX
Mariah Quiroz, Thompson Coe, Dallas, TX
Peter D. Smith, Willis of Texas, Inc., Addison, TX

3:45 p.m. 1.00 hr

Developments in Energy Insurance

Explore the rulings in recent Texas insurance cases with a highlight of the broader application of energy-insurance concepts.

Tamara D. Bruno, Pillsbury Winthrop Shaw Pittman LLP, Houston, TX
Karen K. Milhollin, Hall Maines Lugin, P.C., Houston, TX

4:45 p.m. Adjourn

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NETWORKING RECEPTION
4:45 p.m. – 5:45 p.m.
42nd Floor Club

Join us for drinks and hors d'oeuvres with program faculty and attendees

FRIDAY MORNING, NOV. 13, 2015

Presiding Officer:
Rebecca Suzanne DiMasi, Buchanan
DiMasi Dancy & Grabouski LLP, Austin, TX

7:30 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .75 hr

Broker Liability
A look at the current state of the law and where broker liability is expanding.
Thomas A. Culpepper, Thompson Coe, Dallas, TX

9:15 a.m. .50 hr

Duties and Liability of Public Adjusters
A review of the law governing public adjusters in Texas and how and when they get sued.
William J. Chriss, Law Office of William J. Chriss, P.C., Corpus Christi, TX

9:45 a.m. .50 hr

Construction Insurance Update
An update on recent developments in insurance coverage for construction defects with analysis of the post-Lennar, post-Ewing world, as well as the ramifications of the *Deepwater Horizon* case.
Lee H. Shidlofsky, Shidlofsky Law Firm PLLC, Austin, TX

10:15 a.m. Break

10:30 a.m. 1.00 hr ethics

Ready Player One: Ethics
Insurance coverage and litigation present numerous ethical traps for unwary lawyers. Sharpen your understanding of ethical issues common in insurance cases in this interactive presentation.
Jamie Penton Cooper, Martin, Disiere, Jefferson & Wisdom, L.L.P., Houston, TX

**THE INSURANCE LAW SECTION
LEGEND OF TEXAS INSURANCE LAW
AWARD PRESENTATION**

11:30 a.m.
Award Recipient: Sidney H. Davis, Jr.

The Insurance Law Section of the State Bar of Texas "Legend of Texas Insurance Law" award honoring a practitioner who had an outsized impact on Texas insurance law over their career is posthumously awarded to Sidney H. Davis, Jr. He was the managing partner at Touchstone Bernays Law Firm, where he worked for 30 years. He was a member of the Texas Association of Defense Counsel, the International Association of Defense Counsel, a seven time Texas Super Lawyer and recognized in The Best Lawyers in America and The Best Lawyers in Texas. He graduated magna cum laude from Texas Tech University and magna cum laude and member of the Order of the Coif from The University of Texas at Austin School of Law.

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

11:40 a.m. Pick Up Lunch
Included in registration.

FRIDAY AFTERNOON

Presiding Officer:
Stephen A. Melendi, Tollefson Bradley
Mitchell & Melendi, LLP, Dallas, TX

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LUNCHEON PRESENTATION

12:00 p.m. .75 hr

**Corporate Policyholders' Most Common
Insurance Questions and How to Answer Them**
A discussion of issues important to in-house counsel clients—policy placement and possible enhancements to the company's insurance program; when, how or when not to provide notice to the insurance carrier; analyzing and responding to reservation of rights or denial letters; whether the company has the right to choose its own lawyer to defend it in litigated matters; and litigation strategies against the insurer and related third parties.

Moderator:
Robert M. Hoffman, Andrews Kurth LLP, Dallas, TX

Panelists:
James E. Mutrie III, RSP Permian, Dallas, TX
Robert J. Ryan, Stallion Oilfield Services, Houston, TX
Christopher S. Willis, Interstate Battery System of America, Inc., Dallas, TX

12:45 p.m. Break

1:00 p.m. .75 hr | .25 hr ethics

How to Draft a Proper Stowers Demand and Submit a Stowers Case to a Jury

An interactive examination of the often debated question—is this a valid Stowers demand? Are you ever called to draft, review or evaluate settlement letters purporting to be a “Stowers” demand? Put your Stowers knowledge to the test. Cast your vote on whether you think certain “real world” settlement demands are valid Stowers demands, and learn valuable tips on how to submit a Stowers case to a jury.

Jamie R. Carsey, Thompson Coe, Houston, TX
J. James Cooper, Gardere Wynne Sewell LLP, Houston, TX

1:45 p.m. 1.00 hr

Preserving Error

An appellate Justice, a trial judge, and an appellate practitioner evaluate common problems with error preservation over the life cycle of a case, with a particular emphasis on insurance cases.

Moderator:

Scott P. Stolley, Thompson & Knight LLP, Dallas, TX

Panelists:

Hon. J. Brett Busby, Fourteenth Court of Appeals, Houston, TX
Hon. Mark B. Greenberg, Dallas County Court at Law No. 5, Dallas, TX

2:45 p.m. .50 hr

Emerging Trends in Auto Claims

Examine the litigation strategies currently used to recover medical expenses in the aftermath of *Haygood v. De Escabedo*, the impact healthcare regulations have had on the recovery of medical expenses, and coverage issues in auto claims and lawsuits.

Meloney Perry, Perry Law P.C., Dallas, TX

3:15 p.m. .75 hr ethics

Ethics of Witness Preparation in Coverage Case

Consider what a lawyer should and should not do when preparing a witness to testify for deposition and trial.

Tarron L. Gartner-Ilai, Amy Stewart PC, Dallas, TX
Lisa A. Songy, Tollefson Bradley Mitchell & Melendi, LLP, Dallas, TX

4:00 p.m. Adjourn

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.25 hours, of which 2.25 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).

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*Planning Committee Member

ABOUT THE COVER



Song of Winter, 36" x 36", oil on canvas, is by Maxine Price. Visit www.maxineprice.com for more information.

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- Registration by Wednesday, November 4 \$495
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- Registration by Wednesday, November 4 \$465
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2. Select Course Materials Format

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DALLAS

November 12–13, 2015

CONFERENCE LOCATION



Cityplace Conference Center
2711 North Haskell Avenue
Dallas, Texas
214.515.5100

NEARBY ACCOMMODATIONS

Warwick Melrose Hotel Dallas
3015 Oak Lawn Avenue
Dallas, Texas
214.521.5151 (reservations)

Complimentary Self Parking
(subject to change)

KEY DATES

November 4, 2015

last day for early registration
add \$50 for registrations
received after this time

November 6, 2015

last day for cancellation (full refund)

November 9, 2015

last day for cancellation (partial refund)
\$50 processing fee applied

November 12, 2015, 8:50 a.m.

Institute begins

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