

21ST ANNUAL
INSURANCE LAW INSTITUTE



November 10–11, 2016
Hotel Derek ■ Houston, Texas

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Qualifying Course for TDI Continuing Education Credit

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Qualifying Course for TDI Continuing Education Credit

THURSDAY MORNING, NOV. 10, 2016

Presiding Officer:

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

7:30 a.m. Registration Opens

Includes continental breakfast.

8:20 a.m. Welcoming Remarks

8:30 a.m. .50 hr

The 'Unauthorized Insurance' Provisions of the Texas Insurance Code: The Good, The Bad, and the Really Ugly or The Consequences of Not Quite Getting It Right

Explore the scope and breadth of the unauthorized insurance provisions of the Texas Insurance Code and the consequences of being declared subject to those provisions.

Bogdan Rentea, Rentea & Associates, Austin, TX

9:00 a.m. .75 hr

When One is Many: Occurrences, Insurance Towers, and Exhaustion

The lack of clarity (actual or perceived) in commercial liability policies leads to many arguments as to the number of occurrences involved in a claim, particularly those that may span multiple policy years. Explore how malleability of the concept renders it fertile ground for insureds, primary insurers, and umbrella insurers in settling or litigating these claims.

R. Brent Cooper, Cooper & Scully, P.C., Dallas, TX
Patrick J. Wielinski, Cokinis, Bosien & Young, P.C., Irving, TX

9:45 a.m. .50 hr

Social Media and Homeowners Insurance: Are Your Facebook Posts Covered?

Litigation stemming from social media activities has exploded in recent years. While the defendants in these cases often look to their homeowners insurance for protection, the typical policy gives insurers multiple ways out.

Clayton N. Matheson, Akin Gump Strauss Hauer & Feld LLP, San Antonio, TX

10:15 a.m. Break

10:30 a.m. 1.00 hr

Insights from Risk Managers: What They Want and Need from Their Lawyers

A panel of Risk Managers and other insurance professionals discuss things you should know to effectively serve your Risk Manager clients. Learn about providing timely guidance on improving policy terms, providing timely notice, analyzing and responding to reservation of rights or denial letters, and developing effective litigation and negotiation strategies against insurers.

Moderator:

Stephen L. Moll, Reed Smith LLP, Houston, TX

Panelists:

Ginny Penzell, Memorial Resource Development Corp., Houston, TX

William R. Rice, Cardtronics USA, Inc., Houston, TX

Joe Williams, Pozmantier Williams Insurance Consultants, Houston, TX

11:30 a.m. .50 hr

The Independent Injury Rule: A View from Both Sides of the Aisle

Examine the independent injury rule and the debate regarding its existence.

Jason Christopher McLaurin, Strong Pipkin Bissell & Ledyard, Houston, TX

PRESENTATION OF THE LEGENDS OF TEXAS INSURANCE LAW AWARD

12:00 p.m.

MARK L. KINCAID (1959–2016)

The Insurance Law Section of the State Bar of Texas is honored to award Mark L. Kincaid the *Legend of Texas Insurance Law* award for his distinguished legal career and tireless service to others.

12:15 p.m. Pick Up Lunch

Included in registration.

THURSDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

12:35 p.m. 1.00 hr | .25 hr ethics

Insurance Through the Lens of Pop Culture

An entertaining look at key concepts of Insurance law through the lens of TV and Film.

Beth D. Bradley, Tollefson Bradley Mitchell & Melendi, LLP, Dallas, TX

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

1:35 p.m. Break

1:50 p.m. .75 hr

Hail and Windstorm First Party Property Claims

Explore current trends in weather-related first party property claims and litigation from insurer and policyholder perspectives. Examine developments in the law on concurrent causation, appraisal, prompt notice, and other coverage topics.

Daniel Buechler, Thompson Coe, Dallas, TX
Robert D. Green, Green Trial Law, Houston, TX

2:35 p.m. .75 hr

Appraisals: If, When, and How

Learn whether appraisal is appropriate, when it is appropriate, and how it should be conducted as presented from the carrier and policyholder's perspectives.

Melinda Elder, Winstead PC, Houston, TX
Shannon E. Loyd, The Loyd Law Firm, PLLC, San Antonio, TX

3:20 p.m. Break

**M
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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 14.00 hours, of which 2.50 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).

3:30 p.m. 1.00 hr | .25 hr ethics

Decades of Unexpected, Accidental, and Wild Changes in Insurance Law Practice

J. Mark Lawless, McGuireWoods LLP, Austin, TX
Brian S. Martin, Thompson Coe, Houston, TX
Michael Sean Quinn, Attorney at Law, Austin, TX

4:30 p.m. .50 hr

What I Had to Learn (and What I Wish I'd Been Taught)

Hear a panel discussion among insurance litigation associates regarding their early years of practice.

Moderator:

Cyrus W. Haralson, Thompson Coe, Houston, TX

Panelists:

Donnie M. Apodaca II, Tollefson Bradley Mitchell & Melendi, LLP, Dallas, TX
Michael M. Gavito, Gravely & Pearson, San Antonio, TX

5:00 p.m. Adjourn

NETWORKING RECEPTION

5:00 – 6:00 p.m.

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

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FRIDAY MORNING, NOV. 11, 2016

Presiding Officer:

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

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .50 hr | .25 hr ethics

Attorney Fees in Insurance Litigation: What Works and What Doesn't

One of the common threads in almost all coverage lawsuits is the potential for the policyholder, and sometimes the insurer, to recover their attorneys fees. Explore the legal, equitable, and evidentiary issues for recovering attorneys fees in insurance litigation.

Robert D. Allen, Law Offices of Robert D. Allen, PLLC, Dallas, TX

9:00 a.m. .75 hr | .25 hr ethics

Tips for Trying an Insurance Case

Two of the state's leading policyholder and carrier trial lawyers provide strategic insights on successful trial techniques and litigation strategies they have seen work in winning insurance bad faith cases.

John Scott Black, Daly & Black, P.C., Houston, TX
Christopher W. Martin, Martin, Disiere, Jefferson & Wisdom, L.L.P., Houston, TX

9:45 a.m. .50 hr | .25 hr ethics

Update on Removal, Diversity Jurisdiction, and Improper Joinder

Examine recent case law developments relating to the removal of state court lawsuits to federal court based on diversity jurisdiction and improper joinder of parties. Discuss the approaches taken by different courts and jurisdictions with respect to whether the plaintiff can establish a cause of action against the non-diverse party in state court.

Andrew R. Kunau, The Travelers Companies, San Antonio, TX

10:15 a.m. Break

10:30 a.m. .75 hr | .50 hr ethics

Insured's Right to Independent Counsel: Navigating Texas Case Law Since the *Davalos* Decision

Review the development of the right to independent counsel in Texas since the seminal 2004 Texas Supreme Court decision in *Northern County Mutual Ins. Co. v. Davalos*, and take an in-depth look at the issues that remain unresolved.

J. James Cooper, Reed Smith LLP, Houston, TX
Candace A. Ourso, Hall Maines Lugin, P.C., Houston, TX

11:15 a.m. 1.00 hr

The View from the Appellate Bench

State and federal appellate judges answer questions of real importance to lawyers and clients engaged in coverage litigation.

Moderator:
Robert M. (Randy) Roach Jr., Roach & Newton, L.L.P., Houston, TX

Panelists:
Hon. J. Brett Busby, Fourteenth Court of Appeals, Houston, TX
Hon. Tracy Christopher, Fourteenth Court of Appeals, Houston, TX
Hon. Gregg Costa, U.S. Court of Appeals, Fifth Circuit, Houston, TX

12:15 p.m. Pick Up Lunch

Included in registration.

FRIDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

12:35 p.m. .75 hr | .25 hr ethics

Total Recall: The Ins and Outs of Coverage for Product Recalls and Chipotle-Like Incidents

Explore potential losses and liability arising out of product recalls and similar incidents, such as the highly publicized outbreaks and closures at Chipotle restaurants. Discover potential coverages available for such incidents, including product recall insurance, D&O, CGL, E&O, and others.

Jes Alexander, International Risk Management Institute, Inc. (IRMI), Dallas, TX
Tamara D. Bruno, Pillsbury Winthrop Shaw Pittman LLP, Houston, TX

1:20 p.m. Break

1:35 p.m. .50 hr

Anatomy of an Insurance Claim in Bankruptcy

Uncover what the insurance practitioner needs to know when an insured person asserting a first party claim or an insured person with third party coverage goes into bankruptcy.

R. Glen Ayers Jr., Langley & Banack, Inc., San Antonio, TX

2:05 p.m. .50 hr

Insurance Coverage for Construction Claims Update

Listen to recent developments regarding insurance coverage for construction claims, including the potential impact of the *U.S. Metals* decision.

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

2:35 p.m. .50 hr ethics

In the Trenches: Litigation from the Insured's Perspective

Get practical advice and tips for handling coverage litigation from the insured's perspective.

Norton A. Colvin Jr., Colvin, Chaney, Saenz & Rodriguez, L.L.P., Brownsville, TX

3:05 p.m. Break

3:15 p.m. .50 hr

Managing Key Insurance Issues in Corporate and Finance Transactions

Review the key insurance issues that must be considered in a variety of corporate and finance transactions: best practices in drafting insurance requirements for third-parties in service agreements; tail coverage and insurance due diligence in mergers, acquisitions, and other transactions; and ensuring adequate insurance protection for secured collateral.

David Gresko, Noble Energy, Houston, TX
Micah E. Skidmore, Haynes and Boone, LLP,
Dallas, TX

3:45 p.m. .50 hr

My Big Fat Greek Insurance Policy

Hear Dr. Chriss's now legendary presentation of the meaning of, and etymology behind, numerous terms of art commonly found in insurance policies.

William J. Chriss, Law Office of William J. Chriss, P.C.,
Corpus Christi, TX

4:15 p.m. Adjourn

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PO Box 7759
Austin, TX 78713-7759

Fax:

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Questions? 512.475.6700

Dietary requirements or Accessibility needs?
Call 512.475.6700 or email service@utcle.org

REGISTRATION BENEFITS

Before the Conference: Access course materials—downloadable PDFs of papers and slides—and speaker and attendee roster in *Your Briefcase* 48 hours before the conference.

After the Conference: Unlimited access to final, complete course materials—downloadable PDFs of papers and slides—in *Your Briefcase*.

eConference: Complimentary 180-day access to the eConference—with papers, slides, and audio—for CLE credit (TX and CA) you may have missed at the live conference. Available in *Your Briefcase* 6–8 weeks after the conference.

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Bring Insurance Law in-house. Audio presentations and written materials for learning with your colleagues—for Texas MCLE credit. We manage the accreditation process from approval to reporting. Custom packages available.

ConferenceComplete Materials

Comprehensive Binder and Audio products from the live conference—for research and self-study. Available for download and shipping.

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IN16

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REGISTRATION—Includes Electronic Course Materials, Thursday Luncheon Presentation, Thursday Evening Cocktail Reception, and Friday Luncheon Presentation

Special group registration rates available. Call 512.475.6700.

1. Select Registration Type

- Individual registration by Wednesday, November 2 \$495
- Individual registration after Wednesday, November 2 \$545
- Insurance Law Section Member registration by Wednesday, November 2 \$465
- Insurance Law Section Member registration after Wednesday, November 2 \$515

2. Select Course Materials Format

- Electronic Course Binder Download (PDF) ONLY
- PURCHASE: Printed Course Binder (available through Wednesday, November 9) \$27.06
Price of binder includes 8.25% sales tax
- Printed Binder for Tax Exempt Registrants \$25
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HOUSTON

November 10–11, 2016

CONFERENCE LOCATION



Hotel Derek

2525 West Loop South
Houston, TX 77027
713.961.3000

Special Room Rate: \$179

good through October 9
(subject to availability)
866.292.4100

Parking:

Daily self-parking: \$10
Overnight self-parking: \$14
(subject to change)

KEY DATES

November 2, 2016

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

November 4, 2016

last day for cancellation (full refund)

November 7, 2016

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

November 10, 2016, 8:20 a.m.

Conference begins

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REASONS TO ATTEND THE INSURANCE LAW INSTITUTE

The **21st Annual Insurance Law Institute** is a unique forum for practitioners of all experience levels to interact with bench, bar, risk managers, adjusters and policyholders to discuss the latest developments in the insurance law industry. 2016 highlights include:

- Explore the insured’s right to independent counsel following the Texas Supreme Court’s ruling in *Davalos*.
- The *View from the Appellate Bench* featuring **Hon. J. Brett Busby**, Fourteenth Court of Appeals, **Hon. Tracy Christopher**, Fourteenth Court of Appeals, and **Hon. Gregg Costa**, U.S. Court of Appeals for the Fifth Circuit and moderated by **Robert M. (Randy) Roach Jr.**, Roach & Newton, L.L.P.
- Practical advice and tips for handling coverage litigation from the insured’s perspective.
- The *Anatomy of an Insurance Claim in Bankruptcy* and what the insurance practitioner needs to know when an insured or insured person goes into bankruptcy.
- An *Update on Removal, Diversity Jurisdiction and Improper Joinder* with **Andrew R. Kunau**, The Travelers Companies.
- Survey *Decades of Unexpected, Accidental, and Wild Changes in Insurance Law Practice* with **J. Mark Lawless**, McGuireWoods LLP, **Brian S. Martin**, Thompson Coe, and **Michael Sean Quinn**, Attorney at Law.
- Examine potential losses and liability arising out of product recalls and similar incidents in *Total Recall: The Ins and Outs of Coverage for Product Recalls and Chipotle-Like Incidents*.
- **Dr. William J. Chriss** presents the meaning of, and etymology behind, numerous terms of art commonly found in insurance policies.