

2011 Fundamentals of Insurance
October 12, 2011 • Hotel ZaZa • Houston, TX
November 2, 2011 • AT&T Conference Center • Austin, TX

Wednesday Morning, Nov. 2, 2011

8:00 am In Austin Only	Registration Opens Includes continental breakfast.
8:50 am In Austin Only	Welcoming Remarks
9:00 am 0.83 hr	The Structure and Context of Insurance Contracts: How to Read and Interpret the Policy Insurance policies come in many different forms, but they typically have the same key structural elements. Understanding these elements is the first step in understanding the coverage. This session examines the anatomy of an insurance contract, including declarations, insuring agreement(s), definitions, conditions and duties, exclusions and endorsements. This session also highlights some basic concepts for those new to insurance, including the differences between first-party and third-party coverage; the special interpretive rules for insurance contracts; the duties explicitly contained in the policy versus those found in statute or common law; insurance documents and agreements found outside the policy, such as certificates of insurance; and the differences between primary, excess and umbrella insurance policies.
9:50 am 0.50 hr	Understanding the Players: Who Are They? What Are Their Roles? How Do They Operate in Practice? Insurance disputes can involve a number of players whose roles and classification are important in determining the discoverability of their work, their potential status as parties, their duties and liabilities, and whether their actions fall under the Texas Insurance Code or DTPA. The goal of this session is to leave you not only with a good understanding of the players, but also a practical knowledge of how such parties are typically involved in real-world disputes. The most commonly encountered players in insurance disputes include: insurance carriers (including underwriting and claim personnel), brokers and agents, and outside adjusters and claim consultants.
10:20 am In Austin Only	Break
10:35 am 0.75 hr	The Claim Handling Process: The View from Both Sides Providing notice of a claim to the insurer typically is a prerequisite to obtaining proceeds under the applicable policy or policies. This session provides practical guidance, including descriptions of documents and information that should be gathered and reviewed before making a claim. It also addresses the carrier's response, including strategies for assessing the claim's submission, compliance with claim handling deadlines and other obligations, and the various options a carrier has in response to a claim.

11:20 am 0.75 hr	<p>Litigating Insurance Claims, Part I: Jurisdiction, Parties and Pleadings</p> <p>When it's time to file suit, a host of strategic considerations must be considered. This session identifies the available and proper forums for litigation, whether by contract or statute, and examines the option whether to concede to the forum or challenge it.</p> <p>Having reviewed the players in insurance disputes earlier in the day, this session looks at those entities involved in insurance disputes as potential parties to litigation and at theories of their possible liability; examines how to plead and prove issues in insurance disputes; and introduces the use of declaratory judgments and other mechanisms to obtain early coverage determinations.</p>
12:05 pm In Austin Only	<p>Break to Pick Up Lunch</p> <p>Included in conference registration fee.</p>

Wednesday Afternoon, Nov. 2, 2011

In Austin Only	Luncheon Presentation
12:20 pm 0.75 hr ethics	<p>The Tripartite Relationship and <i>Tilley</i> Obligations</p> <p>The Texas Supreme Court's 1973 <i>Tilley</i> decision defined the obligations of the defense counsel hired by insurance companies to defend insureds, but those relationships continue to be a source of friction and confusion. This session examines the ethical obligations of so-called "<i>Tilley</i> counsel," the impact on the attorney-client relationship and privilege, and the question of who has the right to choose counsel.</p>
1:05 pm In Austin Only	Break
1:20 pm 0.50 hr	<p>The <i>Stowers</i> Case: Introduction</p> <p>The <i>Stowers</i> doctrine, which addresses when an insurer is obligated to settle a claim against its insured, was born more than 80 years ago. This session explores the fascinating history behind this landmark case, including the participants, the theories advanced by the parties and the rulings from the various courts.</p>
1:50 pm 0.50 hr	<p><i>Stowers</i>, Continued: Understanding and Working with <i>Stowers</i> Issues Today</p> <p><i>Stowers</i> now refers to an ever-growing body of case law, and knowing what is meant by "<i>Stowerize</i>" is critical to anyone involved in litigation as it continues to be the subject of heated disputes among policyholders, insurers and claimants.</p> <p>This session focuses on the current state of the law by addressing the circumstances that trigger it (and those that don't), examines the strategic considerations for the policyholder and the insurer in dealing with settlement demands, and applies the <i>Stowers</i> doctrine to more complicated scenarios involving multiple claimants, multiple insureds or multiple policies.</p>

2:20 pm 0.75 hr 0.50 hr ethics	Expert Witnesses in Insurance Cases Disputes with insurance companies frequently require the use of expert witnesses. The insured may need experts to prove the viability of the claim when it involves scientific, medical or engineering evidence, or to address financial, legal or organizational matters. In <i>Stowers</i> cases, experts may be needed to establish the reasonableness of the Plaintiff's settlement demand. The insured frequently hires an expert to testify that the insurer's handling of the claim was unreasonable or untimely. Of course, the insurer itself may need expert witnesses on each of these topics in rebuttal. All of those experts may be the subject of <i>Daubert</i> challenges. This session addresses the circumstances when experts may be necessary, and the <i>Daubert</i> and other considerations involved in using them.
3:05 pm In Austin Only	Break
3:20 pm 0.50 hr ethics	Key Discoverability and Privilege Issues involving Insurance Disputes Can I have the adjuster's file? If a lawyer conducts the investigation, can I get her file? Can the lawyer communicate with the insured and the insurer without waiving privilege? These questions are frequent issues in insurance litigation.
3:50 pm 0.75 hr	Litigating Insurance Claims, Part II: Rights, Remedies and Outcomes This session examines the rights and remedies available in insurance litigation, including injunctive relief, pleading and calculating amounts recoverable under common law, the Texas Insurance Code or the DTPA, and addresses how to collect attorney's fees. It also addresses the various methods of resolving insurance disputes, including appraisal, summary judgments, trial, arbitration and other forms of alternative dispute resolution.
4:35 pm 0.42 hr	What I Know Now that I Wish I Knew Then Lessons learned from a recent entrant in the field.
5:00 pm In Austin Only	Adjourn In Houston only, please join us for a networking reception immediately following the conference.
5:05 pm 0.00 hr ethics	Fundamentals of Insurance Faculty In Austin: J. James Cooper, Gardere Wynne Sewell LLP - Houston, TX Jacob Cortez Esparza, Hall Maines Lugin, P.C. - Houston, TX Mark L. Kincaid, Kincaid & Horton L.L.P. - Austin, TX Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX Michael Sean Quinn, Attorney at Law - Salado, TX David H. Timmins, Gardere Wynne Sewell LLP - Dallas, TX Allyson Lind Wilkinson, Hall Maines Lugin, P.C. - Houston, TX In Houston: J. James Cooper, Gardere Wynne Sewell LLP - Houston, TX Jacob Cortez Esparza, Hall Maines Lugin, P.C. - Houston, TX Mark L. Kincaid, Kincaid & Horton L.L.P. - Austin, TX Vincent E. Morgan, Pillsbury Winthrop Shaw Pittman LLP - Houston, TX Michael Sean Quinn, Attorney at Law - Salado, TX David H. Timmins, Gardere Wynne Sewell LLP - Dallas, TX