2019 Insurance Coverage
Litigation Committee
CLE Seminar
February 27-March 2, 2019
Loews Ventana Canyon Resort
Tucson, AZ

ONSITE GUIDE
### Schedule

#### Wednesday, February 27

<table>
<thead>
<tr>
<th>Time</th>
<th>Event Title</th>
<th>Room</th>
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<tbody>
<tr>
<td>3:30 PM – 6:30 PM</td>
<td>Registration</td>
<td>Tortolita</td>
</tr>
<tr>
<td>5:30 PM – 6:30 PM</td>
<td>Managing Editors of Coverage Meeting</td>
<td>Sonora</td>
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<tr>
<td></td>
<td>Managing Editors of Social Media Meeting</td>
<td>Sabino</td>
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<tr>
<td></td>
<td>Managing Editors of Website Meeting</td>
<td>Santa Rita</td>
</tr>
<tr>
<td>6:30 PM – 7:30 PM</td>
<td>Happy Hour Honoring Diversity &amp; Inclusion in the Profession, In-House Counsel, and Young Lawyers (All attendees welcome)</td>
<td>Upper Terrace</td>
</tr>
<tr>
<td>10:00 PM – 11:30 PM</td>
<td>Hospitality Suite 2205 &amp; 2211</td>
<td>Hospitality Suite 2205 &amp; 2211</td>
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#### Thursday, February 28 (Continued)

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<thead>
<tr>
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<tbody>
<tr>
<td>5:00 PM – 6:00 PM</td>
<td>Subcommittee Expo</td>
<td>Grand Ballroom Foyer</td>
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<tr>
<td>6:00 PM – 7:30 PM</td>
<td>Welcome Reception</td>
<td>Bill’s Grill &amp; Cascade Terrace</td>
</tr>
<tr>
<td>10:00 PM – 11:30 PM</td>
<td>After Hours Hospitality &amp; Margaritas Hosted by Section of Litigation Chair-Elect Barb Dawson</td>
<td>Presidential Suite 4271</td>
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#### Friday, March 1

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<thead>
<tr>
<th>Time</th>
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<th>Room</th>
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<tbody>
<tr>
<td>6:30 AM – 2:30 PM</td>
<td>Registration</td>
<td>Tortolita</td>
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<tr>
<td>7:00 AM – 8:00 AM</td>
<td>Breakfast</td>
<td>Grand Ballroom Foyer</td>
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<tr>
<td>8:00 AM – 9:10 AM</td>
<td>CLE Plenary: Changing Climate: Changing Risks and Policies</td>
<td>Salon B</td>
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<td>9:20 AM – 10:30 AM</td>
<td>CLE Plenary: #MeToo and the Coverage Risks Presented: From EPL to D&amp;O</td>
<td>Salon B</td>
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<td>10:30 AM – 10:45 AM</td>
<td>Networking Break</td>
<td>Grand Ballroom Foyer</td>
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<tr>
<td>10:45 AM – 11:45 AM</td>
<td>CLE Breakout: Artificial Intelligence Part II: A Paradigm Shift for Insurance</td>
<td>Salon A</td>
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<td>CLE Breakout: How Could That (Not) Be Covered?: Truthiness and Coverage for False Claims Act Liability</td>
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<td>CLE Breakout: The Allocation Game: A Practical Look at Who Wins Under All Sums, Pro Rata, and the New ALI Restatement</td>
<td>Catalina Ballroom</td>
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<td>11:55 AM – 12:55 PM</td>
<td>CLE Breakout: Data Breach Claims: From Class Actions to Shareholder Lawsuits to Governmental Investigations and How D&amp;O Insurance Can Provide Proper Cover</td>
<td>Salon B</td>
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<td>CLE Breakout: The Growing Trigger Dispute for Civil Rights Claims</td>
<td>Salon C</td>
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<td>CLE Breakout: Life on the B Side: Hot Topics in CGL Coverage B</td>
<td>Catalina Ballroom</td>
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<td>CLE Breakout: Arbitration: Friend or Foe to the Insurance Coverage Litigator—and Their Client?</td>
<td>Salon A</td>
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<tr>
<td>1:05 PM – 2:20 PM</td>
<td>NON-CLE Roundtable Luncheons 1–4 (Ticketed: $55)</td>
<td>Coronado</td>
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<td>Roundtable Luncheons 5 (Ticketed: $55)</td>
<td>Rincon</td>
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<td>Roundtable Luncheons 6–8 (Ticketed: $55)</td>
<td>Santa Rita</td>
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<td>Roundtable Luncheons 9 &amp; 10 (Ticketed: $55)</td>
<td>Sabino</td>
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<td>Roundtable Luncheons 11 (Ticketed: $55)</td>
<td>Sonora</td>
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<td>Roundtable Luncheons 12–15 (Ticketed: $55)</td>
<td>Executive Boardroom</td>
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<tbody>
<tr>
<td>2:45 PM – 4:30 PM</td>
<td>Tennis (Pay on own)</td>
<td>Tennis Courts</td>
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<tr>
<td>2:45 PM – 5:00 PM</td>
<td>Golf Tournament (Ticketed: $100)</td>
<td>Canyon Course</td>
</tr>
<tr>
<td>6:00 PM – 7:00 PM</td>
<td>Women’s Reception (All attendees welcome)</td>
<td>Ventana Dining Room</td>
</tr>
<tr>
<td>7:00 PM – 10:00 PM</td>
<td>Reception &amp; Dinner: “Denim &amp; Diamonds” (Ticketed: $85)</td>
<td>Coyote Corral</td>
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<tr>
<td>10:00 PM – 11:30 PM</td>
<td>Hospitality Suite 2205 &amp; 2211</td>
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### Saturday, March 2

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<tr>
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<td>CLE  Plenary: I Will Survive!: Overcoming Oubert Challenges</td>
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<td>5:25 PM – 6:25 PM</td>
<td>Breakout: A View from the Other Side: Making the Underwriting Connection</td>
<td>Catalina Ballroom</td>
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<tr>
<td>6:25 PM – 7:25 PM</td>
<td>Plenary: Ethical Issues Arising Out of Sharing Information</td>
<td>Salon B</td>
</tr>
<tr>
<td>7:25 PM – 8:25 PM</td>
<td>Farewell Happy Hour</td>
<td>Flying V</td>
</tr>
<tr>
<td>8:25 PM – 9:25 PM</td>
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## PROGRAMMING

### Thursday, February 28

#### Plenary:
**The Top Ten Coverage Decisions of 2018: Their Impact and Implications for 2019 and Beyond**

**Moderator:** Frank Winston, Jr., Steptoe & Johnson LLP, Washington, D.C.

**Panelists:**
- **Nancy A. Brownstein,** Davis Wright Tremaine LLP, Seattle, WA
- **Mary Craig Calkins,** Kilpatrick Townsend & Stockton LLP, Beverly Hills, CA
- **Koorosh Talieh,** Perkins Coie LLP, Washington, D.C.

**General CLE:**
10:15 AM – 11:30 AM

#### Salon B
**Plenary: What Every Coverage Lawyer Should Know About Preserving Error at Trial and on Appeal**

**Moderator:** J. James Cooper, Reed Smith LLP, Houston, TX

**Panelists:**
- **Hon. Jennifer Walker Erod,** U.S. Court of Appeals for the Fifth Circuit, Houston, TX
- **Hon. James E. Graves, Jr.,** U.S. Court of Appeals for the Fifth Circuit, Jackson, MS
- **Jodi S. Green,** Nicolaides Fink Thorpe Michaelides Sullivan LLP, Los Angeles, CA

**Salon A**
**Breakout: GDPR Made Them Do It: The Response to Updated Privacy Terms and Other Implications of GDPR**

**Moderator:** Latosha M. Ellis, Hunton Andrews Kurth LLP, Washington, D.C.

**Panelists:**
- **Michelle M. Carter,** Hays Companies, Minneapolis, MN
- **Andrew Deutsch,** nVent, St. Louis Park, MN
- **Laura Foggan,** Crowell & Moring LLP, Washington, D.C.
- **Colleen M. Yuschak,** Ankura, Washington, D.C.

**Salon B**
**Breakout: Complex and Emerging Issues with Claims-Made Coverage**

**Moderator:**
- **Mary Craig Calkins,** Kilpatrick Townsend & Stockton LLP, Beverly Hills, CA
- **Jodi S. Green,** Nicolaides Fink Thorpe Michaelides Sullivan LLP, Los Angeles, CA

**Panelists:**
- **Michaela M. Carter,** Hays Companies, Minneapolis, MN
- **Andrew Deutsch,** nVent, St. Louis Park, MN
- **Laura Foggan,** Crowell & Moring LLP, Washington, D.C.
- **Colleen M. Yuschak,** Ankura, Washington, D.C.

**Salon C**
**Breakout: Two fascinating TED-style talks. First, lawyer/author Ken Berman (Reinventing Witness Preparation) shows how easily a crafty cross-examiner can lead a witness, even expert witnesses, into giving terrible answers and how changes in witness preparation can turn the tables in the witness’s favor. Then, star litigator Victor Vital shows the difference between a good cross-examination and a great one and how to achieve the latter. Learn how Berman would prepare a witness to deal with someone like Vital and how Vital would deal with a witness prepared by someone like Berman.**

**Speakers:**
- **Kenneth R. Berman,** Nutter McElhenney & Fish LLP, Boston, MA
- **Victor D. Vital,** Barnes & Thornburg LLP, Dallas, TX
**Thursday, February 28, 2019 (Continued)**

**Breakout:**
- **Insidious and Increasingly Common: Lawyers Struggling with Addiction and Mental Illness—How Can We All Help?**
  - **Substance Abuse and Mental Illness CLE**
  - **1:25 PM – 2:25 PM**
  - **Catalina Ballroom**

- **Lose Sleep Over Bad Facts Make Bad Breakout:**
  - **Salo 4:00 PM – 5:00 PM**

**Plenary:**
- **The Industrial Internet of Things (IoT): Insuring the Cyber Apocalypse**
  - **General CLE**
  - **2:35 PM – 3:45 PM**
  - **Salon B**

- **Doesn’t Resulting Losses (or Insurance Covers Gone Phishin’: How Breakout:**
  - **Salo 2:35 PM – 3:45 PM**

**Salon B**
- **Breakout:**
  - **Gone Phishin’: How Insurance Covers Resulting Losses (or Doesn’t)**
  - **General CLE**
  - **4:00 PM – 5:00 PM**

- **Breakout:**
  - **What Would You Do?: An Environmental Coverage Battle of Wits**
  - **General CLE**
  - **4:00 PM – 5:00 PM**

- **Breakout:**
  - **Bad Facts Make Bad Dreams and Bad Law: Coverage Nightmares We Lose Sleep Over**
  - **General CLE**
  - **4:00 PM – 5:00 PM**

**Catalina Ballroom**

The ABA has recommended that every state require a substance abuse and mental health CLE requirement for licensed attorneys. A New York Times article about one lawyer’s lengthy and ultimately fatal struggle with addiction shocked many who knew him. A mental health professional, a professional liability insurer, and two lawyers will discuss these challenges and what our profession is doing about them.

**Moderator:** Laura J. Hanson, Meagher & Geer PLLP, Minneapolis, MN

**Panelists:**
- James M. Davis, Reed Smith LLP, Chicago, IL
- Dan Payne, OneBeacon Insurance Group, Plymouth, MN
- Alice M. Sherren, Minnesota Lawyers Mutual Insurance Company, Minneapolis, MN

The Industrial Internet of Things (IoT) connects the internet to factories, subways, pipelines, power grids, and other critical infrastructure. But who pays when hackers exploit that connectivity to wreak havoc? This panel examines the cyber-physical risks of the IoT and how to cover them.

**Moderator:** John G. Buchanan III, Covington & Burling LLP, Washington, D.C.

**Panelists:**
- Mary E. Borja, Wiley Rein LLP, Washington, D.C.
- Geoffrey J. Miller, Saxe Doenmberger & Vita PC, Trumbull, CT
- Ronald Sung, Aon, Chicago, IL

Cyber criminals have changed their focus again, phishing countless businesses and causing unwitting victims to wire millions of dollars to fraudsters. What have courts said about this developing area of law? Are there insurance products available for the risk? Have insurers been covering?

**Moderator:** Scott N. Godes, Barnes & Thornburg LLP, Washington, D.C.

**Panelists:**
- Stephanie V. Corrao, Crowell & Moring LLP, Washington, D.C.
- E.J. Kim, Clyde & Co, San Francisco, CA
- Alexander J. Suarez, Glaser Weil Fink Howard Avench & Shapiro LLP, Los Angeles, CA

In this session, the audience will have the opportunity to give their opinions to the panel in an interactive discussion of coverage issues for environmentally contaminated sites. We will explore insurance implications of emerging contaminants, historic contamination, natural disasters, brownfields, and everything in between.

**Moderator:** Nicole B. Weinstein, Beveridge & Diamond PC, New York, NY

**Panelists:**
- Brian Lu, JLT Specialty USA, New York, NY
- Brian Margolies, Traub Lieberman Straus & Shrewsberry LLP, Hawthorne, NY

This course highlights troubling coverage issues faced by claims professionals in construction matters. We will focus on a select group of court decisions that can cause severe consequences for an insurer if the adjuster fails to comply.

**Moderator:** Jannea S. Rogers, Adams and Reese LLP, Mobile, AL

**Panelists:**
- Kenneth A. Bloom, Gartner + Bloom PC, New York, NY
- Rachel K. Ehrlch, Jutricade West, San Francisco, CA
- Steve Lukas, Navigators Group Inc., Danbury, CT

**Friday, March 1, 2019**

**Plenary:**
- **Changing Climate: Changing Risks and Policies**
  - **General CLE**
  - **8:00 AM – 9:10 AM**
  - **Salon B**

- **#MeToo and the Coverage Risks Presented: From EPL to D&O**
  - **General CLE**
  - **9:20 AM – 10:30 AM**
  - **Salon B**

- **Artificial Intelligence Part II: A Paradigm Shift for Insurance**
  - **General CLE**
  - **10:45 AM – 11:45 AM**
  - **Salon A**

- **How Could That (Not) Be Covered?: Truthiness and Coverage for False Claims Act Liability**
  - **General CLE**
  - **10:45 AM – 11:45 AM**
  - **Salon B**

**Breakout:**
- **Ethical Advocacy in Mediation. As Distinct From What You May Be Doing?**
  - **Ethics CLE**
  - **4:00 PM – 5:00 PM**
  - **Salon A**

- **#MeToo and the Coverage Risks Presented: From EPL to D&O**
  - **General CLE**
  - **9:20 AM – 10:30 AM**
  - **Salon B**

- **Artificial Intelligence (AI) is disrupting the insurance industry. This panel will review recent developments, including blockchain insurance policies, smart contracts, insurance coverage for robots and autonomous vehicles and drugs developed through AI. The legal and commercial implications of these developments will be explored from the viewpoints of policyholders, insurers, and brokers.**
  - **Moderator:** John M. Sylvester, K&L Gates LLP, Pittsburgh, PA
  - **Panelists:** Mina Matin, Norton Rose Fullbright LLP, New York, NY
  - **Satish Narayan, Marsh, Phoenix, AZ**
  - **Noel Pearlman, XL Catlin, Hamilton, Bermuda**

- **False Claims Act (FCA) coverage disputes can involve any number of hot issues, including “occurrence” and intentional acts, disgorgement/restitution, and investigation coverage. Recent cases move us closer to the truth on the nature and existence of coverage for FCA liability.**
  - **Panelists:**
  - **Caroline Hurtado Ford, Haynes and Boone LLP, Costa Mesa, CA**
  - **Jeffrey A. Kiburtz, Covington & Burling LLP, Los Angeles, CA**
  - **Agelo L. Reppas, Bates Carey LLP, Chicago, IL**
  - **Christine Cusick Ross, Duane Morris LLP, San Francisco, CA**
  - **Arden B. Levy, Arden Levy PLLC, Alexandria, VA**
PROGRAMMING

Friday, March 1, 2019 (Continued)

General CLE
10:45 AM – 11:45 AM
Salon C
In a country where millions of policyholders own guns, should firearms be considered in underwriting? In risk management? Can insurance play a role in abating gun violence in the United States? This panel of insurance professionals, lawyers, and actuaries will explore these questions and more.

Moderator: Suzan F. Charlton, Covington & Burling LLP, Washington, D.C.
Panelists: Clarence Izzard, Marriott Vacations, Orlando, FL; Kristen Moore, University of Michigan, Ann Arbor, MI; Anna D. Torres, Torres Law Group, West Palm Beach, FL

Breakout: The Allocation Game: A Practical Look at Who Wins Under All Sums, Pro Rata, and the New ALI Restatement
General CLE
10:45 AM – 11:45 AM
Salon C
Got environmental or asbestos claims? Which allocation methodology best serves your client? Do deductible or settlements with primary insurers change the equation? In this interactive session, test your skills allocating longtail claims in California, New York, New Jersey, Connecticut, and under the ALI Restatement. The results may surprise you.

Moderator: Marilyn B. Fagelson, Murtha Cullina LLP, New Haven, CT

Breakout: Data Breach Claims: From Class Actions to Shareholder Lawsuits to Governmental Investigations and How D&O Insurance Can Provide Proper Cover
General CLE
11:55 AM – 12:55 PM
Salon B
Notification of large data breach claims has been followed by consumer class actions. More recently, corporate boards and companies have also faced shareholder lawsuits and derivative claims as well as government investigations following large-scale cybersecurity incidents. Find out the latest developments on how D&O insurance may provide cover for these lawsuits and investigations.

Moderator: William T. Um, Jassy Vick & Carolan LLP, Los Angeles, CA

Breakout: The Growing Trigger Dispute for Civil Rights Claims
General CLE
11:55 AM – 12:55 PM
Salon C
The modern accessibility of DNA testing has led to an unprecedented rise in exonerations of the wrongly-imprisoned and a surge in civil rights lawsuits against public officials and municipal entities. These lawsuits present complex indemnification issues, including trigger of coverage under liability policies. This program addresses the hotly litigated issues.

Moderator: Lisa Jaye, JAMS, San Francisco, CA
Panelists: William G. Beck, Lathrop Gage LLP, Kansas City, MO; Edward J. Currie, Currie Johnson & Myers PA, Jackson, MS; Emma Freudenberger, Neufeld Scheck & Brustein LLP, New York, NY

Saturday, March 2, 2019

Plenary: I Will Survive!: Overcoming Daubert Challenges
General CLE
8:00 AM – 9:10 AM
Salon B
The panel will address admissibility of expert opinions in coverage cases, including coverage, bad faith, engineering, and accounting experts. The panel also will address the need for an expert, qualifications, whether an expert will even be allowed to testify, and other Daubert issues.

Moderator: Jay M. Levin, Offit Kurman Attorneys at Law, Philadelphia, PA
Panelists: Sylvia L. BERNSTIEL, Rebar Bernstiel, Blue Bell, PA; Ryan Chancey, Nelson Forensics, Plano, TX; Anthony B. Crawford, Reed Smith LLP, New York, NY; Colleen S. Vallen, Citrin Cooperman, Philadelphia, PA

Breakout: Unchained and Decrypted: Coverage Issues Concerning Blockchain and Cryptocurrencies Explained
General CLE
9:20 AM – 10:20 AM
Salon A
This program will explore insurance coverage issues arising from the use of blockchain technologies and cryptocurrencies, including discussion of first-party and third-party issues.

Panelists: Joe DePaul, Willis Towers Watson, Short Hills, NJ; Rikke Dierssen-Morice, Fagre Baker Daniels LLP, Minneapolis, MN; Thomas Sra!l, Willis Tower Watson, Cleveland, OH
A moderated panel will address bad faith trends across the nation, including the prosecution and defense of actions against individual adjusters and insurance company personnel. These claims vary broadly across the jurisdictional spectrum, and the panel will provide insight on viable claims, strategies for recovery and defense, and key case law.

**Moderator:** Christina Phillips, Merlin Law Group, Chicago, IL

**Panelists:** Daniel W. Berglund, Grotefeld Hoffmann Schleiter Gordon Ochoa & Evinger LLP, Minneapolis, MN; Adina R. Bergstrom, Sauro & Bergstrom PLLC, Oakdale, MN; Patrice A. Gore, Anderson McPharlin & Conners LLP, Los Angeles, CA

**Breakout:**

The Restatement of the Law of Liability Insurance cites as an “emerging majority rule” that an “insurer does not have a right of recoupment of defense costs.” But The Restatement (Third): Restitution and Unjust Enrichment provides that an insurer “may recover” defense costs once it is determined that no coverage exists “by a claim in restitution.” This presentation examines the critical recurring issues that bear on the recoupment of defense costs, recent developments in the law, and whether a majority rule exists.

**Panelists:** Shattuck Ely, Fellows LaBriola LLP, Atlanta, GA; Terrance J. Evans, Duane Morris LLP, San Francisco, CA; Ezra S. Gollogly, Kramer & Graham PA, Baltimore, MD; Erin L. Webb, T Many Lane Chaverri LLP, Washington, D.C.;

**Breakout:**
**Proving Exhaustion of Underlying Limits: A Minefield of Legal and Evidentiary Issues**

The exhaustion of policy limits sets up a minefield of issues for the policyholder, underlying insurer, and excess insurer. The obligations, strategy, and approach of each stakeholder has profound implications. This panel examines legal hurdles, evidentiary issues, and practical considerations related to direct claim payment or settlement-induced functional exhaustion.

**Moderator:** Anna P. Engh, Covington & Burling LLP, Washington, D.C.

**Panelists:** Clinton E. Cameron, Clyde & Co., Chicago, IL; Erin Doran, Meagher & Geer PLLP, Minneapolis, MN; Patrick J. McGrath, Ankura, Chicago, IL; Evy M. Wild, Reed Smith LLP, Los Angeles, CA

**Breakout:**
**Understanding VCAP: Venture Capital Liability Insurance and Its Role in the Rising Tide of Private Shareholder Litigation**

The plaintiffs’ bar is increasingly targeting private companies, exploiting legal theories that allow them to sue not just the company and its officers and directors but its venture capital backers as well. We’ll discuss these litigation trends, the key features of the insurance product created to respond to them, and the future of the VCAP liability insurance market.

**Moderator:** Erica Villanueva, Farella Braun + Martel LLP, San Francisco, CA

**Panelists:** Dan Berry, Woodruff-Sawyer & Co., San Francisco, CA; Maggie Gialessas, CNA Insurance, Chicago, IL; Laurie Carr Mims, Keke Van Nest & Peters LLP, San Francisco, CA

**Breakout:**
**Don’t Appraise Me, Bro!: Navigating the Hows and Whys of the Appraisal Condition**

Appraisal is a common provision in property policies. This panel will explore the pitfalls and advantages of invoking appraisal and discuss the types of claims for which appraisal is appropriate.

**Moderator:** Christopher Meeks, Lewis Brisbois Bisgaard & Smith LLP, Atlanta, GA

**Panelists:** Kristin C. Davis, Thompson Hammmon Davis LLP, Washington, D.C.; Peter J. Georgiton, Dinsmore & Shohl LLP, Columbus, OH; Shavon J. Smith, The SJS Law Firm PLLC, Washington, D.C.

**Breakout:**
**Underwriting Connection**

This program will explore the prevalent “gap” between a carrier’s repositories of institutional underwriting knowledge and its claims practices. Specific examples of wordings and disputes will be provided together with pragmatic advice concerning revised wordings. It is designed to appeal both to reinsurers and insurance coverage practitioners and professionals.

**Moderator:** David A. Attianzi, Choate Hall & Steward LLP, Boston, MA

**Panelists:** Allison Kiene, Sompo International Holdings Ltd., Purchase, NY; Jane A. Mandigo, Swiss Re Group, Overland Park, KS

**Plenary:**
**Ethical Issues Arising Out of Sharing Information**

Complex cases give rise to complicated relationships among insurers, insureds, lawyers, and experts, to name just a few. In the typical situation, information has to be shared in order to allow all parties to do their jobs and protect their respective interests. This panel will discuss the ethical as well as evidentiary concerns that are implicated by these situations.

**Moderator:** Neil B. Posner, Much Sheil PC, Chicago, IL

**Panelists:** Ann Ching, State Bar of Arizona, Phoenix, AZ; Michael Early, Old Republic Professional, Chicago, IL; Marialuisa S. Gallozzi, Covington & Burling LLP, Washington, D.C.

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**SAVE THE DATE!**

2020 Insurance Coverage Litigation Committee CLE Seminar
March 4-7, 2020
1. The Data Driven Lawyer: Causation, Genomics, and the Impact on Insurance Coverage

The issues of injury causation and genomics are significantly impacting strategies for defending and settling cases, and the resulting potential for insurance recovery. We will use real-world examples to outline these complexities and address how to confront them through improved gathering, maintenance, and interpretation of critical data.

Speakers: Daniel Maloney, Nathan Associates Inc., Arlington, VA; Andrew W. Miller, Broussard McDowell LPA, Toledo, OH

2. Workers Compensation: Disruption Is the Only Cure to Saving a Broken System

The workers compensation industry has devolved into an annuity for plaintiffs’ firms and is mired with rampant fraud and abuse. Employers are paying the price with increased premiums and defense costs. This program will discuss necessary disruption of the system and proposed aggressive insurance claims handling to reduce enterprise risk.

Speakers: Karen P. Layng, M.A.I.T. Co., Riverside, IL; J. Brad Young, Harris Dowell Fisher & Young LC, Chesterfield, MD

3. Active Shooter: Managing and Insuring Against Mass Shootings

Any organization can be impacted by a mass shooting. We’ll discuss “Active Shooter/Active Assailant” coverage, addressing how risk managers can plan for and respond to the unpredictable, how carriers underwrite these new coverages, and what organizations who purchase this specialized coverage can expect in the aftermath of a mass shooting incident.


4. Ordinance or Law Exclusion: How It (Might) Bar Claims Following Property Loss

Rebuilding damaged or destroyed property so that it is up to code can increase costs by as much as half. Insureds are often shocked to learn that the “Ordinance or Law” exclusion in their property insurance policy will prevent a full recovery—even when they have replacement cost coverage. This roundtable will discuss the ins and outs of the “Ordinance or Law” exclusion.

Speakers: Mindy M. Medley, Clausen Miller, Chicago, IL; John S. Vishneski III, Reed Smith LLP, Chicago, IL

5. Insurability of Disgorgement Claims After TIDAA, Kokesh, and Bear Stearns: Does an Insured Defendant Give Up Coverage Too?

Since the Seventh Circuit’s Level 3 decision, the struggle over insurability of disgorgement claims has ranged from broad public policy pronouncements to close reading of exclusions. This roundtable will address how recent Federal and Delaware Supreme Court decisions affect this issue.

Speakers: Dominic Rupprecht, Reed Smith LLP, Pittsburgh, PA; David E. Schoenfeld, Shook Hardy & Bacon LLP, Chicago, IL

6. War (Exclusion): What Is It Good For?

Join us for a roundtable discussion focused on the often overlooked War Exclusion. We will cover the history and more traditional appearance of the exclusion, as well as its modern resurgence in connection with increasing political and ideological conflicts around the world. In particular, we will examine the interplay between the War Exclusion and cyber incidents of various forms (e.g., data breaches, ransomware, malware, etc.). The characteristics of these cyber incidents upon which potential application of the War Exclusion may depend include the presence or absence of warlike actions, physical loss, state-sponsorship, and evidentiary issues linked to causation. We will also look at the potential impact of other terrorism-related exclusions on the War Exclusion.

Speakers: Christina A. Culver, Thompson Coe Cousins & Irons LLP, Houston, TX; Jan A. Larson, Jenner & Block LLP, Washington, D.C.

7. Insuring Instability in a Time of Trade Wars

With an ever-escalating trade war, unprecedented tariffs levied by and against the United States by its trading partners, and other global political uncertainty rampant, what can policyholders and insurers expect from political risk insurance or trade credit coverage? This presentation will provide an overview of these risk transfer tools in the context of the current geopolitical environment, with a focus on what coverage is available to companies for loss of income resulting from the present turmoil over trade.

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

8. Classification of Claims Within a Particular Hazard: Who Bears the Burden of Proof?

This roundtable will focus on effective strategies to implement during the investigation of potentially fraudulent insurance claims involving the technology tools now available throughout the process, including the use of such tools prior to and during the Examinations Under Oath.

Speakers: Michael Huntsman, CrossXamine Investigations, Northville, MI; John P. Nicolucci, Foster Swift Collins & Smith PC, Lansing, MI

9. Who Is Operating the Vehicle?

We will discuss what credit, offsets, or reductions apply when a policyholder settles with one insurer and seeks recovery from a non-settled insurer, either in a pro rata or all sums regime, and also will discuss the ability of non-settled insurers to seek contribution from settled insurers.

Speakers: Brian S. Scarborough, Jenner & Block LLP, Washington, D.C.; Margaret Thomas, Wiley Rein LLP, Washington, D.C.

10. Examinations Under Oath and Fraudulent Claims Investigations in the New World of Technology

This panel will discuss coverage issues with sexual abuse claims, including definition of occurrence and BI/PI, allocation, trigger, named and additional insureds, and expected or intended exclusions. The panel will explore coverage implications of extended retroactive statutes of limitations for underlying claims and the coverage challenge of who knew what when.

Speakers: Adrian C. Azer, Haynes and Boone LLP, Washington, D.C.; Elizabeth Hanke, KCIC, Washington, D.C.

11. Offsets, Reductions, Settlement Credits, and Contribution: What Happens When a Policyholder Settles With One Insurer and Seeks Recovery from Another Non-Settled Insurer

This panel will discuss coverage issues with sexual abuse claims, including definition of occurrence and BI/PI, allocation, trigger, named and additional insureds, and expected or intended exclusions. The panel will explore coverage implications of extended retroactive statutes of limitations for underlying claims and the coverage challenge of who knew what when.

Speakers: Adrian C. Azer, Haynes and Boone LLP, Washington, D.C.; Elizabeth Hanke, KCIC, Washington, D.C.

12. Current Coverage Challenges with Sexual Abuse Claims

This panel will discuss coverage issues with sexual abuse claims, including definition of occurrence and BI/PI, allocation, trigger, named and additional insureds, and expected or intended exclusions. The panel will explore coverage implications of extended retroactive statutes of limitations for underlying claims and the coverage challenge of who knew what when.

Speakers: Adrian C. Azer, Haynes and Boone LLP, Washington, D.C.; Elizabeth Hanke, KCIC, Washington, D.C.


Although the actual process is dogged by uncertainty and complexity, one thing (at least at the time of this writing) is simple and certain: On March 29, 2019, the UK leaves the EU. In advance of Brexit, we will look at (1) what is happening already in the UK insurance market and (2) some likely future issues for the market, including the redomicile of many leading insurance groups and the impact of that on U.S. policyholder and insurer lawyers alike.

Speaker: Richard J. Leedham, Mishcon de Reya LLP, London, UK


Some jurisdictions hold that there is no duty to settle unless the claimant makes a demand within limits. Others do or may impose an insurer duty to initiate negotiations. And, even where the rule is that the claimant must make a demand, there are exceptions. This roundtable will review the current state of the law and arguments for and against each approach.

Speakers: William T. Barker, Dentons, Chicago, IL; Linda Young Lankford Rollins, Hancock Daniel & Johnson PC, Richmond, VA
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MCLE
This course is expected to qualify for **14.25** CLE credit hours (including **2.16** ethics hours and **1.0** substance abuse and mental illness hour) in 60-minute states, and **17.1** CLE credit hours (including **2.6** ethics hours and **1.2** substance abuse and mental illness hours) in 50-minute states.

THANK YOU

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